

inhibit investment in U.S. corporate securities without generating material tax revenues”.

The Task Force's two key tax recommendations are (1) elimination (with respect to income not connected with the conduct of a trade or business) of graduated taxation of U.S. source income of nonresident alien individuals and (2) elimination of U.S. estate taxes on all intangible personal property of nonresident alien decedents. With respect to the estate tax recommendation, the Task Force has this to say:

“U.S. estate taxes, especially as applied to shares of U.S. corporations owned by nonresident alien decedents (which are subject to U.S. estate taxes irrespective of whether they are held in this country or abroad) are believed to be one of the most important deterrents in our tax laws to foreign investment in the United States. U.S. estate tax rates are materially in excess of those existing in many countries of the world and, despite the treaties in effect with several countries, the taxes paid on a nonresident alien decedent's estate, some portion of which is invested in the United States, generally would be greater than those paid on a nonresident alien decedent's estate, no portion of which is invested in the United States. We understand that the revenues received by the United States as a result of estate taxes levied on intangible personal property in estates of nonresident alien decedents are not large.”

H.R. 5916, introduced on March 8, 1965, was the administration's initial tax proposal based upon the Task Force recommendations. While proposing elimination of the graduated income tax on nonbusiness income of nonresident aliens, H.R. 5916 failed to follow the Task Force recommendation for complete elimination of the estate tax on intangible personal property. Instead, § 8 of H.R. 5916 substituted a new 5-10-15% rate schedule applicable to nonresident alien decedents. At the same time, however, § 8 made two adjustments to the nonresident alien decedent's estate tax base by (1) requiring the inclusion in the gross estate of all U.S. corporate and Government bonds and (2) treating all U.S. savings and loan deposits in the same manner as U.S. bank deposits, which under § 2105(b) of the Code are presently excluded from the nonresident alien decedent's gross estate.

Following hearings on H.R. 5916, at which the Treasury urged the Ways and Means Committee to support the bill and taxpayers argued for substitution of the Task Force estate tax recommendation for § 8, Congressman Mills introduced H.R. 11297 and then H.R. 13103, both of which were new versions of H.R. 5816.

Incredibly enough, H.R. 13103 might well be more appressive to nonresident aliens than is the case under existing law. While § 8 of H.R. 13103 proposes a new set of graduated estate tax rates for nonresident alien decedents ranging from 5% up to 25%, it also drastically broadens the estate tax base by requiring the inclusion, not only of U.S. corporate and Government bonds as proposed in H.R. 5916, but all U.S. bank deposits as well. The net results of H.R. 13103 would undoubtedly be the reduction of incentive to future foreign investment in the United States plus a withdrawal by nonresident aliens of substantial assets already invested here. These results would be the exact opposite of the stated purpose of the proposed legislation.

#### RATE SCHEDULE

It was made abundantly clear in the Task Force report and in Treasury testimony before the Ways and Means Committee on H.R. 5916 that the high U.S. estate tax rates currently in effect are a major deterrent to foreign investment in this country. Certainly nonresident aliens are not encouraged to invest in U.S. securities so long as U.S. estate tax rates are substantially higher than those prevailing in their own countries. Even the rates proposed by H.R. 5916 were conceded by the Treasury to be somewhat higher than those imposed upon resident estates in Switzerland, France, Germany, and the Netherlands. Any rate structure as high as the one proposed in H.R. 13103 would do little, if anything, to induce foreign investment, particularly from residents of the four countries mentioned above—the most prosperous countries in continental Europe. Foreigners are able to avoid high U.S. estate taxes entirely by not investing in this country or by investing indirectly through holding companies or foreign investment companies. If the goal of the Fowler Task Force is to be achieved, we must think in terms of inducing a substantial flow of capital to this country with less estate tax receipts per dollar of investment (though with substantially more capital paying a modest tax, the total estate tax receipts could well be higher). Trying