

to think in terms of whether a foreigner pays estate taxes at rates higher or lower than a U.S. citizen is unrealistic because the foreigner has the option of avoiding the tax entirely.

As matters now stand, the effective U.S. estate tax rates on estates of non-resident alien decedents are substantially higher than the corresponding rates on U.S. citizens utilizing the marital deduction. Mere reduction of the rates on nonresident alien decedents to a level comparable to those on U.S. citizens, such as H.R. 13103 proposes, provides no incentive to foreign investment. If Congress is unwilling to follow the Task Force recommendation for complete elimination of an estate tax on intangible personal property of nonresident alien decedents, then at the very least H.R. 13103 should be revised to provide an estate tax rate schedule certainly no higher than the 5-10-15% schedule proposed by H.R. 5916. This is the only way that the United States can hope to attract substantial investment by nonresident alien individuals. The annual estate tax revenue loss if the U.S. estate tax were made inapplicable to nonresident alien decedents' estates was estimated by the Treasury at \$5,000,000. The annual revenue loss under H.R. 5916 was estimated by the Treasury at \$3,000,000. These sums are negligible in comparison with the tremendous boost in foreign investment which could be expected by reason of elimination of the estate tax with respect to nonresident aliens' estates or a reduction of the rates to the levels of H.R. 5916.

THE LIKELY IMPACT OF ENLARGING THE ESTATE TAX BASE

Under the present law a nonresident alien may place his U.S. dollars in a U.S. bank account or place them in a foreign bank account and have the same estate tax consequences. If such deposits should become subject to estate taxes, it would be a simple matter indeed for the foreign depositor to avoid the tax by a transfer of funds. Undoubtedly this has been a principal reason why the exemption has existed since 1921. The international financial community has done business for years under the bank account estate tax exemption and the exemption of bonds located outside the country. Very large cash and bond balances have built up under these exemptions. Their elimination would certainly cause a dramatic exodus of capital from this country by simple transfers in the case of bank accounts and by tax-free sales and transfers of proceeds in the case of bonds. Removal of these long-standing exemptions would easily result in an immediate gold drain of hundreds of millions of dollars.

Furthermore, it cannot be the intention of H.R. 13103 to discourage foreign investment in U.S. bonds and savings accounts. This, however, is its effect. By removing the existing tax incentive, the efforts of the U.S. financial community to interest foreigners in such investments, to say nothing of retaining what is already invested here, would be seriously impaired.

It should be noted, incidentally, that H.R. 13103 purports to make one concession in determining the nonresident alien decedent's estate tax base. There would be excluded for an unlimited time "deposits in a foreign branch of a domestic corporation, if such branch is engaged in the commercial banking business and if such deposits are payable only in foreign currency". Correspondingly, interest income on such deposits would be treated as income from sources without the United States. These rules would apply regardless of whether the nonresident alien was engaged in business here. The significance, if any, of these provisions in attracting foreign investment has not been revealed either by the Ways and Means Committee or the Treasury. If it is believed that the provisions constitute such a marked liberalization of existing law as to require the severe estate tax rules of H.R. 13103 as a revenue loss counterbalance, then their revenue impact should be spelled out. It would appear, however, that these rather peculiar "concessions" have no real substance.

OTHER CONSIDERATIONS

The Task Force, in addition to recommendations for U.S. Government action, made a number of suggestions for action by the U.S. financial community. Testimony on H.R. 5916 brought out that the response by the private sector of the U.S. economy to the Task Force suggestions had been extremely encouraging. Failure by the Federal Government to respond directly and effectively to its challenge would create an extremely unfortunate picture. Enactment of § 8 of H.R. 13103 as now drafted would clearly indicate the Government's lack of confidence in the Task Force recommendations and a total failure to support