whatever. (There is no income tax treaty between the United States and th National Government of the Republic of China.

3. In addition, by virtue of the provisions of Sec. 864(c)(4)(B) of the Code as added by Sec. 2(d) of the Bill, there would be included in the gross income of the New York agencies all of the income of the agencies derive from sources outside the United States, such as the Canadian and Japanes interest items referred to above, because this income would be deemed effec tively connected with the U.S. business of the Bank. (Of course at the sam time the related deductions, now disallowed, would become allowable so tha only the *net* income from these sources would be taxed at normal domesti corporate rates.)

4. New Code Sec. 906 as added by Sec. 6(a) of the Bill allows foreig corporations to credit against their U.S. tax the foreign income taxes pai on the foreign-source income referred to in ¶ 3 above, subject to the limita tions of the existing foreign tax credit provisions of the Code. According t subsec. (b)(1) of the new Code Sec. 906, this credit will not be allowed, how ever, with respect to any tax imposed by the country of the corporation' domicile unless the income is derived from sources in that country. Thi means, in the case of the foreign source income of the U.S. agencies of th Bank of China, that no credit would be allowed for any Chinese taxes an that to the extent that income from sources in other countries are subject t lower rates of tax than those paid in the United States, or to no tax at al the Bank will pay the full U.S. tax on such income as in the case of incom from sources within the United States.

By making the question of whether income is or is not "effectively connecte with the conduct of a trade or business within the United States" the decisiv factor in determining whether the income of a foreign corporation is to be taxe on its net income under Sec. 882 on its gross income under Sec. 881, and b including foreign source income in the measure of the tax under Sec. 882, tl Bill reflects a fundamental change in the basic concepts heretofore applicab to the taxation of foreign corporations.

According to its title the purpose of the Bill is "to provide equitable tax trea ment for foreign investment in the United States" or, as stated in the report the House Ways and Means Committee on the Bill (2d Session, 89th Congres House Report No. 1450, p. 8,) "to increase the equity of the tax treatment a corded foreign investment in the United States."

Whether or not these new concepts are reasonably calculated to achieve the stated purposes of the Bill if consistently carried out and implemented in tl Code in the majority of cases, it clearly appears that in the case of foreign banl with agencies or branches in the United States there is no apparent equity changes which result in drastic increases in a foreign bank's tax liabilities in tl United States and it is submitted that as the Bill is drawn, it fails to recogni certain obvious facts generally applicable in the case of ordinary banks ar furthermore contains provisions which, in certain cases at least, result in mo discriminatory treatment rather than less for the foreign banks and therefo lessens rather than increases the equity of the tax treatment accorded foreig investment in the United States.

In the first place, interest constitutes by far the more important source of i come of such a bank and the funds invested by such a bank to produce suc income consist mainly of borrowed funds, including customers' deposits ar other obligations. Substantial expenses are necessarily incurred by the bar in obtaining the funds invested to produce its interest income. If these expens are not taken into account in determining the measure of the tax and if the ra of tax is higher than the bank's margin of profit, the result is simply co fiscatory. Such a system of taxation, far from encouraging foreign investmer in the United States, will effectively prohibit it in the case of more foreig banks, but this is the inevitable effect of taxing interest income from norm banking operations at 30% of the gross amount thereof.

In the second place, the inclusion of income from sources outside the Unite States in determining the tax of the local agency of the foreign ban represents a radical departure from any previous concepts embodie in our income tax law. Whatever logic this concept might have if a plied generally, it has been restricted in its application under this Bill so as apply only to the extremely limited groups of taxpayers referred to in new Cod Sec. 864(c)(4)(B)(i), (ii) and (iii) and to no other class of taxpayers. Th banking business is included in clause (ii). By singling out banks, havin agencies or branches in the United States for this treatment when other foreig