

problems of excess foreign tax credits of U.S. corporations, and then you come down to the point and suggest that we amend section 904 of the code providing—

Mr. SEATH. That is right, sir.

Senator CARLSON (continuing). That only expenses directly related to the production of the foreign income will be allocated against foreign income in determining the limitation on the foreign tax credits.

Now, that is not, of course, in the pending House bill, but it is your suggestion that we do that as we act on this legislation, is that it?

Mr. SEATH. That is right, sir.

The point is that if you try to amend section 862 you get into other ramifications of the code because it would hurt in other areas or do damage that should not be done. But section 904 is the section that governs the limitation of foreign tax credits and, by simply amending that to provide that only expenses directly allocated, directly related, to the earning of the income should be allocated against the income, then you do not do any damage to any other section of the code.

Senator CARLSON. It sounds very simple, so I suppose we had better look at it when we get to it.

Mr. SEATH. Thank you.

Senator ANDERSON. Senator Dirksen.

Senator DIRKSEN. Do you make the point that the Internal Revenue Code does discourage the repatriation of foreign income?

Mr. SEATH. Very definitely, sir; very definitely, sir. You see, when you have to allocate, for example, the cost of the general headquarters in New York against a dividend from some country, foreign country, in determining the amount of the foreign tax credit allowable, then you have to examine how much dividends you should bring in; so, you would have to balance the tax rate in country A, the tax rate in country B, versus the tax rate in country X, so that you can work out an average tax rate which will permit you to bring in a certain amount of income and not allocate so much expense against it that your foreign tax credits are lost.

Senator DIRKSEN. How does your proposed amendment operate to obviate that?

Mr. SEATH. What I propose, sir, is that we change the section of the code, 904, which governs the limitation on foreign tax credits, to provide that only expenses directly related to the production of the foreign income be allocated against foreign income in setting the limit on foreign tax credits.

Senator DIRKSEN. You think that the complicated rules to which you refer also discourage repatriation of foreign income?

Mr. SEATH. Well, they do not change what is the present rule. You see, in 1944 the courts decided that you should allocate all expenses against both domestic and foreign income, and ever since then that has been the rule.

These new proposed regulations of the Treasury that I referred to do not change the rule as far as we can understand them.

Senator DIRKSEN. Aside from this, what other provisions are there in the code that make it difficult for income to come back?

Mr. SEATH. Well, it is a pretty lengthy thing. The limitation is the primary one. The other thing that is more of a harassment than