

Mr. HENDERSON. There are many cases where goods come from abroad and are temporarily stored in the United States and then shipped abroad. These kinds of problems come up and there are many litigated cases involving this problem in connection with import taxes and State taxes, and this happens quite frequently.

Senator ANDERSON. I have listened to many hearings where enormous problems are outlined, and then somehow the bill would get passed and not a thing would happen.

Mr. HENDERSON. I do not know that this would be true of this provision.

Senator ANDERSON. You think this might be subject to some confusion?

Mr. HENDERSON. Yes, sir. These pages 22 to 28 we have just been talking about are one example.

The CHAIRMAN. I would just instruct the clerk to insert in the record, starting at subsection (c) on page 25 in this presentation through the middle of page 28. I think that illustrates the problem.

(The section referred to follows:)

(c) EXAMPLE OF RECORDKEEPING DIFFICULTIES

As a hypothetical example, take the case of a Spanish corporation which purchases sherry from Spanish vintners through an office in Spain, and sells it to customers throughout the world. Some orders are solicited and accepted by the Spanish headquarters office. Others are solicited by branch offices in major cities throughout the world, forwarded to Spain, and accepted or rejected there. Shipment is made either from Spain or from warehouse stocks in other countries. The New York branch office solicits orders in the eastern half of the United States, Canada and Mexico, but certain large accounts deal directly with the office in Spain.

The consequence of this operation under existing law would be the taxation of the net profits of those sales in which title passed in the United States. Record keeping would involve coding invoices with the numbers 1 or 2 to designate whether title passed in the United States or abroad.

Under H.R. 13103, it would be necessary to use a coding system that would reflect much more information. Perhaps the simplest system would involve coding each invoice with a four digit number, such as 1357, 2368, or 2457, which would convey the following information:

- 1—Title passage in United States.
- 2—Title passage abroad.
- 3—Attributable to United States office.
- 4—Not attributable to United States office.
- 5—Destination United States.
- 6—Destination abroad.
- 7—Material participation by office abroad.
- 8—No material participation by office abroad.

The four-digit numbers made up from these code would indicate taxability or nontaxability according to the following schedule:

Taxable:

1 - - -
2 3 5 -
2 3 6 8

Nontaxable:

2 4 - -
2 3 6 7

The codes would be placed on the invoices by clerks in the sales offices, working from instructions issued by the tax department. Those instructions would require a review by the coding clerk of all "activities" in *each* office of the foreign corporation to determine whether that office conducted substantial "activities" with respect to the sale being coded. At return filing time, the tax department would call for a report of all invoices coded 1—, 235—, and 2368, together with information about the cost of the goods sold, and the "expenses,