

losses, and other deductions properly apportioned or allocated thereto * * * Reg. § 1.861-1(a)(1). The tax department would then develop further information and, in some fashion, determine "a ratable part of any other expenses, losses, or deductions which cannot definitely be allocated to some item or class of gross income." Reg. § 1.861-8(a). The taxable income would be that computed from these figures.

The decisions required in coding the invoices point up the practical book-keeping problems presented by H.R. 13103. As explained earlier, the most troublesome choices would be in deciding whether a sale is to be coded 3 (attributable to a United States office) or 4 (not so attributable), and whether there is (7) material participation by a foreign office or (8) no such participation. In practice it would also be most difficult—and perhaps impossible—to determine whether the ultimate "use, consumption, or disposition" of the goods (5) is in the United States or (6) abroad, since goods consigned to a purchaser located in the United States could be reconsigned or reshipped by him to a destination in Canada or elsewhere; unless the taxpayer has unusual sources of information, he might be taxed on the income from such transactions even though the law does not require it.

For further discussion of problems of proof, see pages 50-51, *infra*. For recommendations to mitigate these problems, see pages 64-65.

The CHAIRMAN (reading):

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:

And then it is broken down in eight ways, and then a four-digit number would be made up from these codes to indicate taxability or nontaxability according to the following schedule which I will let the record show. The code would be placed for use by that department. This is no effort just to confuse. What you are saying here is that to try to arrive at a proper answer to a tax problem this would appear to be the simplest way that your people think that they could administer this particular provision of the law. This is not a matter of unduly confusing. This is just how they think they could best go about complying with this particular section of the bill before us.

Mr. HENDERSON. That is right, Senator. We tried to go through the mechanical steps in determining, if the bill were enacted, what the taxpayer would have to do in order to comply with the bill; how could he mechanically collect the data on the basis of which a tax return could be prepared; and it was our feeling this had to be done, this amount of detail had to be gone into.

The CHAIRMAN. That sounds like a complicated version of the problem we had with entertainment expenses. We came up with the conclusion that people were properly entitled to deduct certain entertainment expenses. Most folks, and that includes myself, do not