

because of the uncertainty as to the reaction which foreigners may have to such tax and the fact that a large number of bank deposits are held as working balances by corporations which do not bear interest and hence would not be affected by the bill. It was our feeling when the Ways and Means Committee considered the matter that the bill would not have a substantial current impact in view of the postponement until 1972 of tax on the interest on these deposits.

Your third question asked the additional revenues that would result from passage of the act. As indicated above, we are not in any position to estimate the estate tax revenues which might result if the bill were passed though the figure is not a large one. In 1963, our figures indicate that estates of nonresident aliens filed estate tax returns showing a total of less than \$5 million in U.S. bank deposits. However, some aliens whose only U.S. assets were bank deposits which were exempt from estate tax may not have filed a return.

Any estimate of the income tax which might result from the imposition of this tax must necessarily be based on numerous assumptions. These assumptions include the amount of time deposits which would be held by foreigners in 1972 when the tax went into effect, the interest rate that would then be paid on such deposits, and the rate of tax which would be levied on such income. At the present time, our statutory rate of withholding tax is 30 percent, but this is modified in many cases by treaty. If it is assumed that foreigners' time deposits in 1972 were to equal those held by them today, that the interest rate on such deposits is 4 percent, and that the same percentage of such deposits are held by foreigners subject to reduced rates of tax by reason of our tax treaties, the total revenue which would be derived from taxing such interest would be approximately \$22,500,000.

We trust that this answers your questions.

Sincerely yours,

STANLEY S. SURREY,
Assistant Secretary.

STATEMENT OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, SUBMITTED BY LAWRENCE F. CASEY, CHAIRMAN, COMMITTEE ON TAXATION

SECTION 2(d). DETERMINATION OF INCOME "EFFECTIVELY CONNECTED" WITH A UNITED STATES TRADE OR BUSINESS

H.R. 13103 would bring about two important new Federal income tax consequences affecting the income of nonresident aliens and foreign corporations:

First, certain income from sources without the United States would, for the first time, be subjected to United States taxation.

Second, the traditional "force of attraction" of a trade or business conducted by a nonresident alien or a foreign corporation in the United States, resulting in the taxation of nonbusiness as well as business income from United States sources at regular rates—meaning progressive rates for individuals and regular corporate rates for corporations—would no longer apply. Nonbusiness, or "passive," income would be subject, instead, to a flat 30% rate of tax (or a lower treaty rate if applicable).

H.R. 13103 would accomplish both foregoing results by introducing into the Code a new concept, derived from recent income tax conventions—that of "income effectively connected with the conduct of a trade or business within the United States."

This Committee strongly urges that the first of these effects—erosion of the traditional limitation of United States income tax to income from United States sources in the case of a nonresident alien or a foreign corporation—be eliminated from H.R. 13103. This Committee concurs in the elimination of the "force of attraction" doctrine as it affects passive income from United States sources.

A. Income from sources without the United States

One of the stated purposes of the original Foreign Investors Tax Bill was to promote and encourage investments in the United States. The adoption of a rule taxing non-United States source income is at cross-purposes with this purpose.

The Bill would introduce into the Internal Revenue Code complexities which would seem to outweigh any additional revenue which the concept might produce.¹

¹ We note that the Report of the Ways and Means Committee does not in its estimate of the revenue effects of the Bill reflect any increase of revenues due to the introduction of these particular provisions.