

property is not "income from real property". A similar change should be made in proposed Section 882(d).

Proposed Sections 873(a) and 882(c)(1)(A), in providing for the allowance of deductions and credits in respect of United States income, limit the deductions to circumstances in which they are "effectively connected with the conduct of a trade or business within the United States." It is recommended that these proposed sections be changed by inserting "attributable to income" which is immediately preceding the phrase quoted in the preceding sentence, so that it is clear when an election is made to treat real property income as income connected with a United States business that such election effectively permits the non-resident to obtain the offsetting deductions, the purpose of the election in the first instance.

Finally, the Committee questions whether the election under Sections 871(d) and 882(d) should extend to gains described in present Code Section 631(b) or (c). Since such gains are also defined as periodic income, it would appear that a nonresident individual or corporation would always make the election in order to obtain a lower effective tax rate and possible use of such deductions against other business income.

Foreign corporations

Under Section 4, a foregoing corporation engaged in trade or business in the United States, like a non-resident alien similarly so engaged, would be taxed as if it were a resident on its taxable income which is effectively connected with the trade or business conducted here. Again, it appears that the concept of "effectively connected with the trade or business" is intended to be broader than the present concept of gross income from United States sources. For the reasons stated in the discussion of section 2 of the bill it is believed that this change is inadvisable.

Section 4(a). Tax on income not connected with United States business

The title suggested for proposed Code section 881, "Income of Foreign Corporations not Connected with United States Business," fails to indicate, as it should, that a tax is imposed by that section. Accordingly, it is recommended that the section's title be amended by the addition of "Tax on" at the beginning thereof.

Proposed section 881(a)(1), reflecting changes made in proposed section 861(a)(1)(A), would eliminate from the category of nontaxable interest, interest on deposits with persons carrying on the banking business. For the reasons stated in the discussion of section 2(a) of the bill, it is believed that this change is inconsistent with the purpose of the bill to encourage foreigners to invest in the United States.

Proposed section 881(a) also would expand the definition of periodic income from United States sources (income subject to 30% tax) to include income from the sale or liquidation of a collapsible corporation (section 341) and from original issue discount (section 1232). For reasons stated in the discussion of section 3 of the bill it is believed that this extension of the definition of "periodic income" is inadvisable.

Section 4(b). Tax on income not connected with United States business

It is recommended that the title to proposed section 882 be changed by adding at the beginning thereof the words "Tax on." It is recommended that subsection (a) of proposed section 882 be changed to read as follows:

"(a) Imposition of tax—A foreign corporation engaged in trade or business within the United States during the taxable year (or during any preceding taxable year beginning after December 31, 1965) shall be taxable as provided in section 11 or 1201(a) on its taxable income determined on the basis of its gross income as described in subsection (b)(2)."

The caption, "Imposition of Taxes," would be consistent with the caption to proposed section 881(a) and the intended limitation of taxable income can be accomplished without a separate paragraph.

Proposed section 882(c)(1)(A), in providing for allowance of deductions and credits in respect of United States business income, limits the deductions to circumstances in which they are "effectively connected with the conduct of a trade or business within the United States." For reasons already given in respect of the similar provision affecting non-resident alien individuals in section 3 of the bill, it is recommended that the proposed section 882(c)(1)(A) be changed by inserting "attributable to income" immediately preceding the phrase quoted in the preceding sentence.