

which U.S. companies may finance the development of foreign ores and minerals in short supply in the U.S., the Interest Equalization Tax Act also exempts under Section 4914(d) of the Internal Revenue Code—as the equivalent of direct investment—loans made by U.S. institutional lenders to foreign subsidiaries producing such ores and minerals where the financing is secured by so-called “take or pay” contracts entered into between the foreign subsidiary and the U.S. parent. However, such loans become subject to tax under Section 4914(j)(1)(a) when and if they are subsequently transferred by the lender to another person, regardless of intent at the time of acquisition.

This “recapture” of tax on subsequent transfer of indebtedness applies generally to a number of exempted transactions in order to prevent abuse of the exemptions beyond their intended purpose, which might result from a transfer to a third party lender; but it is inappropriate to apply such “recapture” to the financing of “take or pay” mineral production contracts the exemption for which contemplated that a third party lender would participate in the transaction from the outset. In fact, “recapture” in the case of the “take or pay” exemption serves to defeat the purpose of the exemption—which was intended to facilitate loans from financial institutions for purposes consistent with the raw material requirements of the United States—since such institutional lenders always acquire negotiable instruments and may in fact subsequently sell them to other lenders, even though they have no present intent at the time of acquisition to do so.

Accordingly, we respectfully suggest that Section 4914(j)(1) should be amended to provide that subsequent transfers of indebtedness originally exempted under Section 4914(d) should not be subject to tax where such indebtedness was acquired without an intent to sell it to other U.S. persons.

Respectfully,

WARD C. HUMPHREYS,
Manager, Washington Office.

THE LAREDO NATIONAL BANK,
Laredo, Tex., June 28, 1966.

Senator RUSSELL LONG,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR LONG: We are interested in the hearings that your committee may conduct in connection with the Foreign Investors Tax Act (H.R. 13103), and particularly the provisions of the bill which propose to impose the U.S. income tax on interest paid by U.S. commercial banks to nonresident aliens and the U.S. estate tax on deposits in U.S. commercial banks of nonresident alien individuals.

Therefore, we respectfully request that you advise us when such hearings will be conducted by your committee, and whether it will be possible for a representative of this bank to submit a written statement.

Yours very truly,

MAX A. MANDEL, *President.*

THE LAREDO NATIONAL BANK,
Laredo, Tex., April 14, 1966.

The SECRETARY OF THE TREASURY,
Washington, D.C.

DEAR SIR: I would appreciate it if you will send me a copy of H.R. 11297 referred to as the Foreign Investors' Tax Act. I understand this legislation has been proposed by the Treasury Department and provides that in the future nonresident aliens will be required to pay income tax to the United States for interest received on time deposits in U.S. commercial banks. As you know, for many years the Internal Revenue Code has specifically exempted such income from the payment of income tax.

It occurs to us that if such legislation is enacted, it will result in the withdrawal of large sums now on deposit, and obviously this will be detrimental to the United States and increase its balance of payments problem.

Kindly send me a copy of the proposed bill and a statement of the Treasury's position with respect to the legislation.

Yours very truly,

MAX A. MANDEL, *President.*