

in a trade or business in the United States but also in the case of a nonresident alien with a larger gross income and also to one who is engaged in a trade or business in the United States.

*Reason for provision.*—Your committee agrees with the House that withholding at the 30-percent rate should only be required in the case of income which is taxed at that rate. Therefore, income which is effectively connected with the conduct of a U.S. trade or business should not be subject to withholding tax at a 30-percent rate. This is particularly important in the case of compensation paid a nonresident alien. Unlike domestic wage withholding, this 30-percent withholding does not, in most cases, take into account the personal exemptions to which the worker would be entitled if he were a U.S. citizen. Also, since the regular graduated rates on small incomes are less than 30 percent, this rate may result in substantial overwithholding in many cases where regular income tax rates apply. Although an alien may obtain a refund of the excess withholding when he files his return at the end of the year, overwithholding in these circumstances can create a substantial hardship for the alien.

*Explanation of provisions.*—To meet the problem outlined above, the bill adds a new provision to the existing nonresident alien withholding provisions. Under the new provision, withholding is not required on payments to nonresident alien individuals with respect to any item of income (other than compensation for services) which is effectively connected with the conduct of a trade or business within the United States. It is the understanding of your committee that the person required to withhold will be relieved of any liability for failure to withhold if the failure was in reliance upon information as to whether or not the income was effectively connected, furnished (in accordance with regulations to be issued) by the person entitled to the receipt of the income. Your committee amended the House bill so as to specifically provide for withholding on the following types of income: (1) the contingent income derived from the sale of patents and other intangibles (see A-3(a)(A)); (2) a foreign partner's share of the U.S. income of a domestic partnership which is not effectively connected with the partnership's business; and (3) amounts received on retirement or exchange of bonds issued after September 28, 1965, which are treated as gains from the sale of property which is not a capital asset (sec. 1232).

In the case of salary and wage income, the bill also correlates the 30-percent-withholding rate applicable to nonresident aliens with the domestic graduated withholding rates. Thus, the bill amends present law to provide that the Secretary of the Treasury or his delegate may, by regulations, exempt compensation for services performed by nonresident aliens from the 30-percent withholding. Also, to permit withholding at the domestic graduated withholding rates where an exemption is granted from the 30-percent-withholding provision, the bill amends the domestic wage withholding provisions to, in effect, permit the Secretary of the Treasury or his delegate to require withholding under those provisions.

The bill also makes amendments of a technical nature to conform the language of the withholding provisions to the language used in the other taxing provisions.