

represents a major revision of the U.S. tax laws as they relate to the treatment of nonresident alien individuals and foreign corporations. It is the first systematic reappraisal in this area of the tax law that has been undertaken in 25 years. While this title of the bill will have only a slight effect on revenue and will not directly affect U.S. citizens, it represents a carefully considered effort to bring up to date the part of our tax law which has an important bearing on our relations with other countries.

The primary objective of this title of the bill is to establish the equitable tax treatment by this country of nonresident aliens and foreign corporations who come within the jurisdiction of our tax laws. To achieve this objective, your committee and the House Ways and Means Committee have considered all the provisions of present law which affect foreign persons. I shall not attempt to discuss every provision of this title, although I shall ask to insert a summary of them in the RECORD at the close of my remarks. I believe the major provisions of the bill can be grouped under four major headings.

TAXABLE STATUS OF INCOME

The first part of this title deals with the taxable status of income. Undoubtedly, the most important proposal from the standpoint of tax policy is the amendment which separates the U.S. investment income from the U.S. business income of a nonresident alien or foreign corporation and taxes these two types of income on different bases.

Income of a foreigner derived from a U.S. business is to be taxed substantially in the same manner as if the business income were received by a U.S. citizen or a domestic corporation—that is, at the regular individual or corporate rates with all of the appropriate deductions.

On the other hand, investment income of a nonresident alien or foreign corporation, unless it is related to a U.S. business, is to be taxed at a flat rate of 30 percent or a lesser rate applicable where we have treaties with the foreign countries involved.

Your committee believes this method of taxing nonresident aliens and foreign corporations is more equitable and reasonable than the present law which taxes these persons at the regular rates or at a flat 30 percent on their U.S. source income, depending on whether or not they are engaged in trade or business in the United States. In other words, under present law, investment income of a nonresident alien or foreign corporation is taxed at the regular rates, with the attributable deductions, if the recipient is engaged in business in the United States whether or not there is any relationship between the U.S. business and the U.S. investment income.

Attention was also directed to the fact as a result of the interplay between the tax rules of certain foreign countries and

the United States, foreign corporations which carry on substantial business activities in the United States, in some cases, have been able to cast their transactions in a form which may avoid all or most United States and foreign taxes on income generated from U.S. business activities. The provisions provided by this legislation will subject certain income generated by the U.S. business activities of these foreign corporations to U.S. tax.

The benchmark used in determining whether or not income is related to a U.S. business and, therefore, taxable at regular rates rather than at the flat 30 percent rate, is whether or not the income is effectively connected with the U.S. business.

In the case of investment and other fixed or determinable income and capital gains from U.S. sources the income is to be treated as effectively connected with the U.S. business if the income is derived from assets used, or held for use, in the conduct of U.S. business or if the activities of the U.S. business were a material factor in the realization of the income. All other types of U.S. source income are to be considered to be effectively connected if there is a U.S. business.

The bill as approved by your committee adopts the general House provisions regarding the taxation of income from sources without the United States. Generally, this type of income will not be treated as effectively connected with a U.S. business and therefore subject to U.S. tax unless the nonresident alien or foreign corporation has a fixed place of business in the United States and the income is attributable to that place of business.

Moreover, even in such cases the only types of foreign source income which may be subject to U.S. tax under the bill are rents or royalties from licensing operations, income from banking and similar type operations, or certain types of sales income. An additional modification provides that neither "Subpart F" income nor dividends, interest or royalties derived from a foreign corporation more than 50 percent owned by the nonresident alien or foreign corporation will be considered effectively connected under any circumstances.

Although your committee adopted the foregoing House provisions regarding the taxation of foreign source income, your committee added certain specifying and clarifying amendments. In general, your committee's amendments provide specific rules regarding what activities of a foreign corporation are to be considered a sufficient connection for assertion of U.S. tax jurisdiction as well as the types and proportion of foreign source income to be subject to U.S. tax. Additionally, your committee amended the foreign tax credit provision of the House bill which ap-