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amendments

P. 102

(1) *Effectively connected foreign source income.*—The House bill provided that income from sources without the United States is not to be treated as effectively connected with a U.S. business 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. In general, only rents and royalties from licensing, certain income from banking, financial and similar businesses, and sales income are to be taken into account for this purpose. However, they are not to be taken into account if the income is “subpart F” income or income derived from a foreign corporation 50 percent owned by the nonresident alien or foreign corporation receiving the income. This amendment modifies the House bill to exclude (a) income derived from a transaction in which the U.S. office was not a material factor in the production of the income, (b) income not derived from the usual (as distinct from casual) business activities of the U.S. office, and (c) income not properly allocable to the U.S. office. Additionally, the definition of a U.S. office was refined to exclude the activities of an independent agent operating in the ordinary course of his business.

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(2) Technical and clerical changes.

(e) Effective dates. (Pp. 103–104.)

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Clerical changes.

Section 103. NONRESIDENT ALIEN INDIVIDUALS.
(Pp. 104–126.)

(a) Tax on nonresident alien individuals. (Pp. 104–112.)

Pp. 105,
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and
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(1) *Contingent intangible sales income.*—This amendment provides that gains realized on the sale of a patent or other intangible property, where the income from the sale is derived as a result of the use of the property in the United States, is not to be subject to U.S. tax as “fixed and determinable income” (which is taxed at 30 percent or lower treaty rate) unless a part of the income derived from the sale is contingent. If part of the profits from the sale are contingent, the amount subject to U.S. tax in any year is to be the contingent amount, or if this contingent amount exceeds 50 percent of the total amount paid in any 1 year, the total amount is to be taxed to the extent this amount represented gain realized on the sale of the property. This provision is to apply to gains derived from sales made after October 4, 1966. The provisions of existing law will continue to apply to transfers of patents made before that date.