

purposes of determining whether or not income is effectively connected with the conduct of a trade or business in the United States, the rules discussed above in connection with the definition of effectively connected income apply.

(C) *Miscellaneous types of income receiving special treatment.*—Under prior law certain types of income were provided special treatment. The act revises and extends these categories as indicated below.

(i) *Participants in exchange programs.*—The act retains the rule in prior law which treated nonresident aliens temporarily in the United States as part of a cultural exchange or training program as engaged in a trade or business in the United States even though they are actually not so engaged. The provision was modified by the act, however, to provide in such cases that this type of income is effectively connected to a U.S. trade or business. The effect of treating these categories of income as effectively connected to a U.S. trade or business (or under prior law as derived from a U.S. trade or business) is to impose the regular U.S. income tax on these aliens on the taxable portion of their scholarship or fellowship grants and certain other amounts incident to these grants. In this computation one exemption (except in the case of residents or contiguous countries) and the deductions allocable to this income are allowed. In the absence of this special provision, these aliens would be taxed on these grants (and amounts incident thereto) at the flat 30 percent rate. In most cases the 30 percent tax would substantially exceed the regular tax on this income.

The types of income referred to under prior law and the act as scholarship or fellowship grants, if received by a nonresident alien individual temporarily present in the United States as a nonimmigrant (under subpar. (F) or (J) of sec. 101(a)(15) of the Immigration and Nationality Act) or received by a citizen or resident, are, subject to a dollar limitation, exempt from U.S. tax.

Prior law also excluded from gross income compensation paid by a foreign employer to a nonresident alien for the period he was temporarily present in the United States as a nonimmigrant for the purposes of participating in a cultural or training program. Under prior law this was available where the “foreign employer” was a foreign person or a domestic corporation with an office in a foreign country or U.S. possession. The act extends this provision to cover an employee of a domestic partnership or a U.S. citizen or resident with such a foreign office.

(ii) *Income from real property.*—Under prior law, it was not clear what situations or arrangements for the ownership by a nonresident alien of real property located in the United States would cause the nonresident alien to be considered as engaging in a trade or business within this country. This, of course, was important since the question of whether or not the alien was engaged in a trade or business in the United States determined whether his U.S. source capital gains were subject to U.S. tax and whether his other U.S. source income was taxable at the regular individual income rates, with allocable deductions, or at the flat 30-percent rate on the gross amount. Taxing income on real property at a flat 30-percent rate without the allowance of allocable deductions—which in the case of this type of income may be relatively large—may have resulted in quite heavy tax burdens on this type of income.