

income described in section 543(a)(7). In such a case the personal holding company tax is to be assessed on that personal service income. The second provides a de minimus rule under which foreign corporations with only 10 percent or less U.S. ownership are to be assessed the personal holding company tax only on the corporation's undistributed personal holding company income attributable to the U.S. shareholders' interest. The final refinement provides that a foreign corporation can claim all appropriate deductions in computing its personal holding company tax notwithstanding the general rule disallowing deductions where no return is filed. However, a 10-percent addition to taxes otherwise due is to be assessed.

Effective date.—This amendment applies with respect to taxable years beginning after December 31, 1966.

f. Foreign corporations carrying on insurance business in the United States (sec. 104(i) of the act and secs. 819, 821, 822, 831, 832, 841 and 842 of the code)

Prior law.—Prior law taxed a foreign life insurance company carrying on a life insurance business in the United States on all its income attributable to that business in substantially the same manner as a domestic life insurance company.³ Foreign insurance companies carrying on life insurance businesses in the United States generally interpreted this as providing they were not taxable on U.S. source income which was not income of the U.S. life insurance business of the company. However, a special rule was provided where the surplus of a foreign life insurance company held in the United States was less than a specified minimum figure. This figure was expressed as the same percent of the foreign life insurance company's liabilities on U.S. business as the average surplus of domestic corporations was of their total liabilities. The Secretary of the Treasury determined this ratio each year. If the foreign insurance company's surplus held in the United States was less than this proportion of the taxpayer's total insurance liabilities on U.S. business, then the policy and other contract liability requirements, and the required interest for computing gain from operations, were reduced by this deficiency multiplied by the rate of earnings on investments. This provision was designed to prevent foreign insurance companies doing business in the United States from avoiding tax that they would otherwise have had to pay to the United States merely by not holding a sufficient amount of surplus attributable to the U.S. business.

Explanation of provisions.—The act provides that a foreign corporation carrying on an insurance business within the United States is to be taxable in the same manner as domestic companies carrying on a similar business with respect to its income which is effectively connected with the conduct of a trade or business within the United States. The remainder of the U.S. source income of this type of a corporation is to be taxed in the same manner as income of other foreign corporations which is not effectively connected with a U.S. trade or business; that is, at a flat 30 percent (or lower treaty) rate. The determination of whether a foreign insurance company qualifies for the special domestic insurance treatment is to be made by considering only the income of the corporation which is effectively con-

³ A foreign life insurance company that is not carrying on a life insurance business in the United States is taxable under the provisions applicable to foreign corporations generally.