

In computing the estate tax under this new provision the expatriate's estate is allowed the credit for State death taxes, the credit for gift tax, and the credit for tax on prior transfers.

The new section excepts from its application certain expatriates whose loss of U.S. citizenship occurs under circumstances which would make the application of the special taxing provisions inappropriate. These are the same exceptions provided with respect to the income tax expatriation provision (see No. 3(c) above).

The new provision, like the comparable income tax provision, contains a special rule dealing with the burden of proving the existence or nonexistence of U.S. tax avoidance as one of the principal purposes of the expatriation. Under this provision, the Secretary of the Treasury or his delegate must establish that it is reasonable to believe that the expatriate's loss of U.S. citizenship would (but for the application of this new provision) result in a substantial reduction in the estate, inheritance, legacy, and succession taxes.

If this is established, then the administrator of the expatriate's estate must carry the burden of proving that the loss of citizenship did not have as one of its principal purposes the avoidance of U.S. income, estate, or gift taxes.

*Effective date.*—This new provision is effective with respect to estates of decedents dying after November 13, 1966. It does not apply, however, to expatriates who lost their citizenship on or before March 8, 1965.

*g. Application of pre-1967 estate tax provisions (sec. 108(f) of the act and new sec. 2108 of the code)*

The unilateral reduction of estate tax rates applicable to nonresident aliens by this act may have the effect of making it more difficult to negotiate estate tax treaties. This is comparable to the similar problem arising from the revision of the income tax provisions applicable to nonresident aliens. As in the case of the income tax provisions therefore, the act has added a new provision which gives authority to the President to apply certain provisions of the estate tax law relating to estates of nonresidents not citizens without regard to the amendments made to these provisions by this, or any subsequent, act in the case of estates of residents of any country which imposes more burdensome death taxes with respect to estates of U.S. citizen decedents, not residents of that country, than does the United States on estates of residents of such a country, not citizens of the United States.

The new provision gives special authority to the President where he finds that:

- (1) Under the laws of a foreign country a more burdensome tax is imposed on the estates of U.S. citizens, not residents of the country, than is imposed on the estates of residents of that country by the United States;
- (2) The foreign country, when requested so to do, has not revised its taxes to eliminate this extra burden; and
- (3) It is in the public interest to reimpose the pre-1967 estate tax provisions.

Where these conditions exist the President may proclaim that the U.S. tax on estates of residents of the foreign country is to be determined under certain provisions of U.S. estate tax laws (secs. 2101, 2102, 2106,