

Presently there is an exemption from the interest equalization tax—as the equivalent to a direct investment—for loans made by U.S. lenders to foreign subsidiaries of U.S. corporations producing foreign ores and minerals in short supply in the United States where the financing is secured by a so-called “take or pay” contract entered into between the foreign subsidiaries and the U.S. parent. However, under prior law these loans became subject to the interest equalization tax when and if they were subsequently transferred by the lender to another U.S. person, regardless of the intent of the investor at the time of acquisition.

This amendment provides that transfers by the original lender, subsequent to the original acquisition of the indebtedness which is exempted under this provision, will not be subject to tax where the indebtedness was originally acquired by the lender without an intent to sell the indebtedness to other U.S. persons (such as a bona fide investment representation). However, where in fact more than one sale of the indebtedness occurs after the debt is held by the initial lender, then for each such sale to be exempt the indebtedness must be purchased without any intent to resell. This amendment is to be effective with respect to debt obligations acquired after November 13, 1966.

*14. Interest equalization tax; insurance company reserve funds (sec. 214 of the act and sec. 4914(e) of the code)*

The interest equalization tax provisions presently provide a limited exception for acquisitions of otherwise taxable securities made to maintain the reserve assets of a U.S. insurance company doing an insurance business in foreign currencies abroad in developed countries. In addition, an exception for investments generally is provided with respect to those in “less developed countries.” Under prior law, in order to claim the exemption for life insurance companies operating in developed countries a company must “establish” a fund of assets for each developed country for which it does business without exception. However, the establishment of such a fund could only be made under prior law during the “initial” designation period which was the 30-day period between the enactment of the act, September 2, 1964, to October 2, 1964.

This amendment permits a U.S. insurance company commencing activities in a developed country to establish a fund with respect to that country provided it was ineligible to make an initial designation prior to October 2, 1964. The amendment also permits the establishment of a fund for a country if the status of that country was changed from a less developed country by an Executive order.

*15. Interest equalization tax; dollar loans of foreign branches of U.S. banks (sec. 215 of the act and sec. 4931(a) of the code)*

Prior to this act only foreign currency loans and dollar loans of less than one year made by foreign branches of U.S. banks were exempt from the application of the interest equalization tax.

This amendment authorizes the President to exempt from the interest equalization tax U.S. dollar loans made by the foreign branches of U.S. banks (regardless of the maturities involved). To the extent that this authority is exercised, the President subsequently may withdraw or modify the exemption in the event he determines such with-