

that was the reason for making speeches, and not to explain how little we know.

Mr. AIKEN. All that the chairman has told me so far has not adequately informed me. Maybe I am particularly dense, but I have not learned much about this bill yet.

Mr. LONG of Louisiana. I regret to say to the Senator that I was not able to inform anybody of anything because I was stopped in my second sentence.

Mr. President, I understand this bill. I am the chairman of the committee. I have a staff member who is one of the finest tax authorities in America. He understands the bill. We have one of the members from the staff who is a very fine tax lawyer sitting beside the Senator. He can explain anything to the Senator, and I believe that I can explain anything in the bill.

Here is the committee report. The committee has been working and studying diligently. Some of the items in the bill are items that have been talked about for 6 or 8 years, until they have become associated in the public mind with the Senators who are sponsoring them.

Consider the Saltonstall amendment. It is in the bill. The Senator from Massachusetts has been trying, since I came to the Senate 17 years ago, to have enacted an accurate statement of the contingent liabilities of the United States. That subject is totally irrelevant to the bill. But there has not been any bill to which it would have been a relevant amendment, and I asked the Senator from Massachusetts not to offer it to five or six other bills. But eventually, if such a provision is to be enacted, it is necessary to propose it and have it explained.

If there is anything in the bill that a Senator is worried about, whether he agrees with the amendment or not, I will try to explain it to him. That is why we have debate on the floor of the Senate.

Senators have the committee report before them. If they do not understand the meaning of an item the first time, the committee will supply a staff expert, a qualified expert, to talk to them on the side or in the cloakroom.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

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Mr. PASTORE. Will the depletion-allowance provisions of the bill reduce the income to the Treasury?

Mr. LONG of Louisiana. Slightly.

Mr. PASTORE. How slightly?

Mr. LONG of Louisiana. The bill contains a proposal to allow the same percentage for Georgia clay, which is used to produce aluminum, that is allowed for bauxite. That will provide revenue

for the Government. Unless such a provision is enacted, such producers cannot go into the business. It will help our balance of payments and reduce the outflow of gold from the United States.

The bill also contains a provision to treat oyster and clam shells, when they are used to manufacture cement, in the same way that limestone is treated when it is used to manufacture cement. It is estimated that the revenue loss on that item would be less than \$1 million.

When the Senator from Delaware spoke about a loss of \$600 million, he was badly in error. The estimate of revenue costs of the bill in the first year of operation is about \$400 million.

The estimates of the revenue cost of the bill for the first year of its full operation would be about \$400 million. Where will it be? Three hundred and eighty-five million dollars of that is to help the old folks. Of the \$200 million to pay for drugs for the aged, \$100 million is to be paid by the old people themselves, who will put up 50 cents, and the Government will put up 50 cents also. That was an amendment by the Senator from Illinois [Mr. DOUGLAS], who has been interested in our aged folks for many years. Thus, out of the \$385 million, \$100 million is actually paid for by the old folks. So the revenue loss is \$285 million.

Mr. PASTORE. Then this is to provide relief for the aged who need drugs?

Mr. LONG of Louisiana. Yes.

Mr. PASTORE. Would the amendment offered by the Senator from Delaware [Mr. WILLIAMS] delete that provision?

Mr. LONG of Louisiana. Yes.

Mr. PASTORE. That is all I wanted to know.

Mr. LONG of Louisiana. Let me explain that revenue loss a bit more. There is another provision that aged people whose bills are not paid by medicare will be able to deduct fully medical expenses that they pay themselves. That is the tax treatment they have now, and they would lose it on January 1 unless we pass this bill. It has not even happened to the old people yet, but the Committee on Aging has bundles of letters from the old folks saying, "Please do not do this to us, Senators."

Let me say that this is the idea of the House to do that. We took that out of the medicare bill in 1965, and the House made us take it in conference. I believe that it will be the most unpopular measure enacted by Congress in 50 years. In the bill before us, we proceed to say that the old folks can continue to deduct all of their medical expenses.

Mr. PASTORE. Unless this bill is passed, that will expire?

Mr. LONG of Louisiana. After the first of January, the old folks will no longer be able to deduct all of these expenses.

Mr. PASTORE. I do not think that the Senator from Vermont [Mr. AIKEN] would want to do that. He has always been a great protagonist for young people, for elderly people, and for the distressed and the poverty stricken.

Mr. AIKEN. Let me say that if there is anyone more distressed over the pending legislation at this moment than the Senator from Vermont, I do not know who it could be. I am sure that this bill is not going to benefit him.

Mr. PASTORE. Does the Senator from Vermont feel a little more comfortable after listening to this explanation?

Mr. AIKEN. I do not feel much more enlightened than I was before. As for having a committee staff member, or a staff member of the chairman, available at any time for more explanations, I think he has spent much of his time working with the chairman.

Mr. LONG of Louisiana. Mr. President, furthermore, when we voted on this item that would let the old people continue to deduct medical expenses, when we voted on that in committee, even though the point was made that it was not relevant to the bill—the point the Senator from Delaware has made already—the vote was overwhelming. Why? Because who among us would want to tell these poor old people that they have got to pay taxes on the money which they spent just trying to stay alive, just trying to hold hide and hair together?

Mr. SYMINGTON. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. SYMINGTON. Two of the amendments are on the amount of money which would be lost having to do with the old people?

Mr. LONG of Louisiana. Yes.

Mr. SYMINGTON. The able assistant majority leader has explained that to my satisfaction, but could I ask what remaining amount of money will be lost to the Treasury, in addition to the two that he has just explained—and explained to my satisfaction—what additional amount of money will be lost?

Mr. LONG of Louisiana. What I have just described costs about \$385 million out of the \$410 million revenue loss of the bill. Another item that would cost money is the one we voted on just now, the financing of presidential campaigns. That will not show up until the presidential election of 1968—in September, October, and November of 1968. It will cost us no money this year.

Mr. SYMINGTON. How much of that cost is a component part of the remaining \$30 million?

Mr. LONG of Louisiana. About half of it—about \$15 million. So, with all the rest we are talking about now—the ideas of Senator on the committee, and Senators not on the committee—all the rest of it put together, will cost \$5 million.

Mr. SYMINGTON. Only \$5 million. What does the Senator have in mind would be done with the one-third, or most of the remaining \$5 million?

Mr. LONG of Louisiana. It is hard to say. In other words, probably no one provision remaining would cost as much as \$1 million. It would be hard to say.

Mr. THURMOND. What are they?

Mr. LONG of Louisiana. With a bill of this size I cannot break down the \$5 million, but the items are listed.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that the items in question be printed in the RECORD covering the \$5 million.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Other amendments to the Internal Revenue Code-----

Application of investment credit to property used in U.S. possessions (sec. 201 of the bill and secs. 48(a) (2), 48(a)(5), and 48(d) of the code)-----

Basis of property received in the liquidation of subsidiary (sec. 203 of the bill and sec. 334(b) (2) and (3) and sec. 453(d) of the code)-----

"Swap funds" (sec. 204 of the bill and sec. 351 of the code)-----

Minimum amount treated as earned income for retirement plans of self-employed persons (sec. 205 of the bill and sec. 401(c) (2) (B) of the code)-----

Treatment of certain income of authors, inventors, etc., as earned income for retirement plan purposes (sec. 206 of the bill and sec. 401(c) (2) of the code)-----

Exclusion of certain rents from personal holding company income (sec. 207 of the bill and sec. 543 of the code)-----

Percentage depletion rate for certain clay bearing alumina (sec. 208 of the bill and sec. 613 of the code)-----

Percentage depletion rate for clam and oyster shells (sec. 209 of the bill and sec. 613 of the code)-----

Sintering and burning of shale, clay, and slate used as lightweight aggregates (sec. 210 of the bill and sec. 613 of the code)-----

Income from lapsing of straddle options (sec. 211 of the bill and sec. 1234(c) of the code)-----

Tax treatment of per-unit retain allocations (sec. 212 of the bill and secs. 1382, 1383, 1385, 1388, and 6044 of the code)-----

Excise tax rate on hearses (sec. 213 of the bill and sec. 4062 of the code)-----

Interest equalization tax; loans to insure raw material sources (sec. 214 of the bill and sec. 4914 of the code)-----

Interest equalization tax; insurance company reserve funds (sec. 215 of the bill and sec. 4914(e) of the code)-----

Interest equalization tax; dollar loans of foreign branches of U.S. banks (sec. 216 of the bill and sec. 4931(a) of the code)-----

Miscellaneous provisions-----

Treasury notes payable in foreign cur-

rency (sec. 401 of the bill) -----
Reports on Government contingent liabilities and assets (sec. 402 of the bill) -----

Mr. SYMINGTON. Mr. President, at the risk of being repetitious, let me ask again if the \$385 million of the expenses lost by the old folks out of the \$410 million, if this means that, a, Congress will provide 50 percent of the drugs needed by elderly people and, b, will continue to give them the same tax rights in the future that they have had in the past. Is that correct?

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Mr. LONG of Louisiana. We are actually only talking about \$310 million because the aged people will pay for half of the drug costs themselves. That takes \$100 million out. So what we are talking about is roughly \$310 million. Out of that \$310 million, all but about \$25 to \$30 million is to help the old people with drugs and medical expenses.

Mr. SYMINGTON. I thank the Senator for what, to me, anyway, is a lucid and intelligent and well thought out explanation.

Mr. LONG of Louisiana. I thank the Senator.

Mr. COTTON. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. COTTON. I was much interested in this explanation which the distinguished chairman of the committee has given, but as I understand his last statement, that portion of the loss of revenue in this bill which is for the benefit of elderly people in the matter of drugs, and in the matter of continuing tax consideration, is now only \$300 million roughly. Is that correct?

Mr. LONG of Louisiana. \$100 million will be collected for drug expenses from the aged people who are covered by part B of medicare, on the basis of 50 cents a month. So we will pick up \$100 million in revenue to offset part of the \$385 million gross loss for items for the aged.

Mr. COTTON. I have a great deal of sympathy with the statement of the Senator from Vermont [Mr. AIKEN]. He comes from the same part of the country that I do, and perhaps we were both equally dense in understanding when the Senator from Louisiana started to shed so much lucid light on this whole matter in order to inform the Senate as to just what is in the bill. He started out by saying vehemently, as he always does, and most forcefully, that of the \$410 million lost in this bill, \$385 million is for the old folks. So that they will pick up \$85 million, which will leave \$300 million. Therefore, the total figure is \$410 million, is it not?

Mr. LONG of Louisiana. This bill will both raise revenue and cost revenue. The answer would have to depend on whether we are talking about net or gross figures.

Mr. COTTON. Give us the net figure. I think even I can understand that.

Mr. LONG of Louisiana. The net figure is \$310 million, because, if this bill is passed, the old people who will be paying half the cost of providing drugs under medicare will pay in about \$100 million.

In addition to that, we would lose \$180 to \$185 million in revenue starting on January 1, on a calendar basis, for the expense of allowing aged people to deduct all of their medical expenses instead of being able to deduct only that which exceeds 3 percent.

Mr. COTTON. The Senator is working much too hard. If he will simplify his statement so that a high school sophomore can understand it, I am sure the Senator from New Hampshire will understand it. The Senator from New Hampshire would like to make sure he understands. All the Senator from New Hampshire is interested in is the net loss or the net gain. The Senator from Louisiana need not go all over the road as he just did. How much will this bill give to the old folks and how much will it get back?

I would like to know, in approximate figures, one, how much this bill will cost—net, not gross—and how much of that amount will be for the old folks.

I think it ought to be possible to get a simple answer to that question.

Mr. LONG of Louisiana. In terms of net revenue loss to the Treasury, it is \$310 million. That is the cost of the bill. So the net revenue loss is \$310 million. Of that net loss in revenue to the Treasury the old folks, the people of over 65 in this country, will have a net gain in benefits of \$280 million. Their gain is a loss of Federal revenue. Of the loss to the Treasury of \$280 million for the old folks, one is for medical attention for those whom medicare does not cover, and the other is to provide drugs.

Mr. COTTON. When do they get that?

Mr. LONG of Louisiana. Now.

Mr. COTTON. They do not get that until 1968.

Mr. LONG of Louisiana. They would not get the drugs until 1968, but the provision continuing the tax deduction of all medical expenses will go into effect January 1, 1967.

Mr. COTTON. They get the tax consideration as of 1967. How much does the tax consideration cost?

Mr. LONG of Louisiana. \$180 million.

Mr. COTTON. What is the cost of the drugs?

Mr. LONG of Louisiana. On a net basis, \$200 million.

Mr. COTTON. But they do not get that until 1968?

Mr. LONG of Louisiana. Yes.

Mr. COTTON. We went through all this when medicare was passed. We were told that one title of it would cost \$136 million. It now turns out that it is go-

ing to cost more than \$1 billion, and it is an open secret that a committee will come forward with a recommendation to plug that loophole.

Mr. LONG of Louisiana. That was medicaid.

Mr. COTTON. The Senator may call it medicaid, but it was one of the titles of the medicare bill.

Mr. LONG of Louisiana. It was in the bill. The bill was known as the Social Security Amendments of 1965.

Mr. COTTON. I think I am justified in referring to any other bill by the name by which it is known, the medicare bill. If the Senator from Louisiana wants to split hairs, that is all right. There was one title in it called medicaid. If the Senator wants to treat us as if we were children, go ahead.

If \$100 million of this loss is to benefit the old people in 1968, why wait a year? If the Senator is going to propose this as an aid to old people, why not make it effective in 1967? Let us help the old people. If they need help, let us start upon it immediately. Otherwise, what is the reason for all the hurry about ramming this bill through?

Mr. WILLIAMS of Delaware. The year 1968 is a presidential election year. Could that be a reason?

Mr. LONG of Louisiana. It is estimated that it will take a little time to set up the administrative part of it.

Mr. COTTON. That means it is only window dressing because there will be a presidential election in November of that year.

Mr. LONG of Louisiana. The Senator—

Mr. COTTON. The Senator says he was getting it worked up simply enough to satisfy the intelligence of the Senator from New Hampshire. He assumes that the Senator understands.

Will the Senator from Louisiana accept an amendment to give the \$100 million to buy drugs for old people, for which they are to pay on a 50-50 basis, and make it effective January 1, 1967, instead of 1968, or does the Senator's solicitation for the Treasury go that far?

Mr. LONG of Louisiana. Whatever the Senate wants to do is all right with me.

Mr. COTTON. But the Senator said we had to take his explanation—

Mr. LONG of Louisiana. No.

Mr. COTTON. We were supposed to listen to his exposition—

Mr. SYMINGTON. Mr. President—

Mr. LONG of Louisiana. Mr. President, who has the floor?

Mr. SYMINGTON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. LONG of Louisiana. Mr. President, I try not to impugn the motives or ability of any Senator. If I have, I make a contrite apology. I simply said that if the Senator does not understand my

explanation, I will try to find someone who can explain it. Some of these amendments have been proposed many times. The Senator from Massachusetts [Mr. SALTONSTALL] has been working on one for a lifetime.

If the Senator wants to offer his amendment, I will take it. We may have some administrative difficulties.

Mr. COTTON. I thank the Senator for agreeing to do what I thought was my privilege as a Member of the Senate.

I asked the Senator a direct question. If my references were unduly vehement, I, too, regret it, but it did seem to me that the Senator seemed to be a little complacent about the remarks of the Senator from Vermont.

I do not think the Senator from Vermont was out of order in suggesting it is a very poor method of trying to push through a 231-page bill at this time of the session, when we have had no time to consider it. Of course, we depend on committees. No one in the Senate has a greater respect for the Finance Committee than I. I served on it for one session of Congress. I respect the Senator from Louisiana. I consider him one of the most hard-working and diligent Members of the Senate. In my own estimation, there is no committee which works harder than that committee.

However, we have our obligations, even though we do not serve on the committee and, though we must rely on it in great measure. I still have a duty to know what we are doing, if I wish to live up to my oath of office.

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If I made an insinuation that sounded political, I will take full responsibility for that, because that implication is justified. I rarely take the floor to talk about partisan politics—certainly when we are outnumbered 2 to 1. But in this particular case, we have all these additions. Now we are told those additions are for the old people. Up in New Hampshire and Vermont we have auctions, and we are familiar with the way they work. The auctioneer says, "Do I have a bid? Do I have a bid?" If he does not have a bid, he adds something attractive to the trash, and then he tries to get a bid. If he does not succeed in getting a bid, he adds something else that is attractive.

We have the same thing here. There is trash until someone says it is for the old folks. If there is something for the old people, the elderly—and God knows we want to help them—let us have it take effect, not in 1968, but January 1, 1967. Let us go the whole way, if that is to be the lump of sugar that will lead us down the pathway to pass the bill with its accessories.

I merely asked the Senator if he would accept such an amendment. I judge he will not.

Mr. LONG of Louisiana. I said I would accept it. I said if the Senator would offer the amendment, I would accept it. I will ask one of the staff to prepare it.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. MAGNUSON. Of course, we wish to help the old people, but it is possible to be cruel to them, too. If we have this take effect, when the testimony shows that they will not be ready to administer it by January 1967, then it is a hoax and a cruelty upon the old people. It ought not to take effect until they are ready to administer it, so that it will be of help to the old people. I do not know whether a year is needed or not. Perhaps 6 months will be sufficient. But I know they could not be ready, from reading the testimony, to put this provision into effect, administratively, in the next 2½ months; therefore, I think to provide an effective date of January 1967 would be wrong. We would hold out a lump of sugar, and it would not be there for them. That is worse than postponing it, to hold it out as if it were there for them.

Mr. LONG of Louisiana. That is the problem. The people who would administer it said they need that much time, because there is a lot of detail involved here. May I say, this amendment to help old people with drugs does not come to us as an administration amendment. The administration did not ask for it. It was offered by the Senator from Illinois; and if he had tried to play politics by it, he would have had it take effect right now, because he is running for office right now.

But he asked, from an administrative point of view, how soon did the responsible administrative agency think it would be able to handle it. They said they thought it would take until about 1968, because they have to make a careful study of which drugs would be made available, and all that.

Mr. COTTON. The Senator certainly would not consider this an amendment that would be cruel to old people, would he?

Mr. LONG of Louisiana. I am willing to do whatever the Senate wants to do.

Mr. MAGNUSON. I said only if they cannot do it.

Mr. COTTON. I do not think it would be such a terrible thing for the old people if we said it would take effect on the first day of January 1967, and they could not get it going until March. They would lose 3 months on it; but to say it would be a hoax and a fraud, I think that is a little bit farfetched.

Mr. LONG of Louisiana. I would be willing to take the amendment, because the House is not going to agree to it unless they think it can be worked out, anyway. We could talk about it in con-

ference. So as far as I am concerned, I would be willing to make it 6 months from now.

Mr. AIKEN. Mr. President, will the Senator yield for two clarifying questions?

Mr. LONG of Louisiana. I yield.

Mr. AIKEN. As I said earlier, I have not had time to read a 250-page bill since 10 o'clock this morning. But on the provisions relating to the deduction of full medical expenses for the old people, the bill states, "This section shall apply to taxable years beginning after December 31, 1966." That means they could not take deductions for medical expenses incurred in this year of 1966; the first opportunity would be in the year 1967, would it not?

Mr. LONG of Louisiana. No; the Senator is in error. The way the law stands today, they can deduct it all. But starting—

Mr. AIKEN. They can deduct all of it?

Mr. LONG of Louisiana. Yes; all of it. But the Medicare bill—and I am going to refer to it as Medicare also; I will explain later why I made the distinction a few moments ago—the so-called Medicare bill, in trying to find ways to finance that program, said that in 1967, starting in January, the aged people would no longer be permitted the favorable tax treatment they have been allowed for deductions for medical expenses. That was a House provision. We took it out in the Senate committee, and the Senate sustained us. But in conference, we had to yield on it.

So we are now doing what we did in 1965, in the Senate committee, voting that they are not going to have to deduct only in excess of 3 percent. My guess is that if Congress wants to insist that those old people pay taxes on their medical expenses, it is going to be a very unpopular thing, starting in January, and I know we will change it then.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. THURMOND. I wonder how many old people are involved in each of those categories, and about how much money is involved in each category.

Mr. LONG of Louisiana. Every old person would be benefited by about \$6 a year for the drugs, because we would be paying half of the cost of providing drugs for the aged people and they would be paying the rest at a rate of about 50 cents a month.

Some old folks do not make enough money to pay any taxes, and it would not benefit those; but as to those it would benefit, calculated on the assumption that about the same number of people would be eligible as for medicare, and averaging it out, it would average out to roughly a benefit of about \$10 for every old person.

So, as a practical matter, if you want to vote for that amendment, the average old person is going to be \$16 a year worse off than if we leave it in.

Mr. THURMOND. And how many people would be involved, in each category?

Mr. LONG of Louisiana. There are about 17½ million aged people, over 65, and practically all of them would be benefited by one of the two provisions. Practically all of them would be benefited by one provision.

Mr. THURMOND. By one or the other?

Mr. LONG of Louisiana. Yes. Potentially, practically everybody would be benefited by the drug provision.

Mr. THURMOND. That is, those over 65?

Mr. LONG of Louisiana. Those over 65 would be benefited—

Mr. THURMOND. Those over 65 would all be benefited by one category or the other?

Mr. LONG of Louisiana. I think it would be fair to say that virtually all of them who have any medical expenses would be benefited by the tax provision, which is the most expensive from the Government's point of view. All those who pay taxes would be benefited if they have medical expenses. And out of those who are under medicare, all of them would be benefited, potentially, by the drug provision.

Mr. THURMOND. I wonder if the Senator could get the actual figures. I am not trying to be unduly inquisitive, but if the Senator could furnish that for the record, if we could get the figures in each category, I would appreciate it.

Mr. LONG of Louisiana. There are about 17,500,000 aged people, over 65, in this country. Potentially, these two provisions could benefit every one of them.

Mr. THURMOND. I might say to the Senator that I have introduced proposals in this Congress similar to this. My proposal would allow complete deductions without the 3 percent and 1-percent limit to any taxpayer who pays medical expenses for a dependent over age 65. I was just wondering what the Senator's most recent figures were.

Mr. AIKEN. If I may ask my final question, I am interested in the provision for the furnishing of drugs, to old people because I offered a drug amendment to the medicare bill, 2 years ago, and the committee turned me down. It seems they have had a change of heart. But as I understand, the provisions relative to the furnishing of drugs under medicare take effect July 1, 1968. Is that correct?

Mr. LONG of Louisiana. A member of my staff was speaking to me at the same time the Senator was speaking.

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Will the Senator please repeat his question?

Mr. AIKEN. The provisions of the bill relevant to the furnishing of drugs takes effect on July 1, 1968.

Mr. LONG of Louisiana. The Senator is correct.

Mr. AIKEN. Mr. President, as I said when the Senator was engaged in conversation with a member of the staff, I offered an amendment to provide drugs for old people 2 years ago when medicare was before the Senate. I was turned down rather abruptly by the committee.

I am glad that there has been a change of heart. However, I do not see why this provision could not take effect on July 1, 1968, whether the bill is passed this week or next February.

I thank the Senator for answering my question.

Mr. LONG of Louisiana. Mr. President, as far as I am concerned, the bill will be in conference and if the Senator wants to offer an amendment to move the date forward, I would be willing to accept it.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. MURPHY. Mr. President, is there any reason why the suggestion of the Senator from Vermont cannot be accepted? I respect the gracious conduct of the Senator from Louisiana who said that he would accept such an amendment. However, it would seem at this point that there would be no reason why that particular date should be in the bill.

Mr. LONG of Louisiana. Mr. President, I regret to say that I was somewhat in error. The chief counsel of our committee staff has refreshed my recollection on this matter.

If the Senator will look at page 230 of the bill he will see that it reads as follows:

The amendments made by this section shall be come effective on whichever of the following occurs first: (1) the first day of the first month with respect to which the rate of the monthly premium or participation is raised, pursuant to section 1839(b) of the Social Security Act, after the date of enactment of this Act, or (2) July 1, 1968.

It could become effective any time in 1968, as soon as the part B premium rate was adjusted.

Mr. MURPHY. The statement about raising the social security would have no effect on this.

Mr. LONG of Louisiana. It would be effective no later than July 1, 1968, but it could be effective earlier.

Mr. MURPHY. Mr. President, I read from page 79 of the report as follows:

A formula committee would be established—

The report then continues, at the bottom of page 79:

The formulary committee would promulgate a schedule of allowances payable for given quantities of covered drugs.

On page 80 of the report it reads:

That would constitute the allowance for tetracycline. The allowance thus determined would be payable on a generic basis for Achromycin, a brand name for one company's tetracycline, or for any other brands of this drug.

Does that indicate that the formulary committee will fix the wholesale price of drugs?

Mr. LONG of Louisiana. It does not. It says that we will use the wholesale prices in calculating allowances.

Mr. MURPHY. I have just read what it says. It is my understanding that it provides that they would fix the wholesale price of the drugs.

Mr. LONG of Louisiana. Mr. President, I point out that we are willing to pay for the cost of the drugs on a generic name basis. We are not willing to pay the much higher price which is occasioned when one buys a drug by a brand name.

Mr. MURPHY. The formulary committee which this provision would set up would decide the price that the Government would pay for the drugs.

Mr. LONG of Louisiana. We would decide how much we would pay, but if one wants to pay a lot more than that allowance, he can go ahead and do it. That would be all right.

Mr. MURPHY. Will the Senator yield further?

Mr. LONG of Louisiana. I would like to answer the question, if I may.

Mr. MURPHY. The Senator has answered my question.

Mr. LONG of Louisiana. I would like to explain it then, if I may.

Mr. MURPHY. The Senator may explain it.

Mr. LONG of Louisiana. If a person has an infectious disease and needs Tetracycline, we would pay him so much for it.

Tetracycline is a wonder drug that one can buy in a great number of places for 5 cents a pill. It costs 1.5 cents a pill to manufacture.

We are willing to pay 5 cents for each of 16 pills. Every bacteria would be killed by the time a person took all 16 capsules. But if one wants to buy Panalba, which is nothing but Tetracycline, manufactured by Pfizer Co., it will cost 30 cents a pill. It used to cost 50 cents a pill.

Our Government can buy the same drug for 2 cents a pill. We provide it for our own servicemen in our hospitals. It is provided for Congressmen in the Capitol. We are willing to pay 80 cents for 16 capsules of Tetracycline.

If one goes to the drug store and buys

Panalba and pays 30 cents or 50 cents a pill or buys the Squibb product at a cost of 30 cents a pill, he can pay that much. If one wants to buy Achromycin, he can do so and pay 30 cents a pill.

The Government can buy the same drug for 1.5 cents a pill and we are willing to allow the wholesale price of 5 cents a pill for it. A person can go to the druggist and if he wants to buy a product by its generic name, that is all right. It is the same product as the 30-cent product. We will pay a nickel for that product. However, if one wants to buy the same drug by the trade name because he feels better about using a Pfizer product or a Squibb product, thinking that is the best company on earth, he can do so and pay more. That is his privilege.

Mr. MURPHY. Mr. President, I thank the Senator for his explanation. Would it be possible to get a simple yes-or-no answer to this question? Would this in effect indirectly help to set the wholesale price of drugs?

Mr. LONG of Louisiana. I do not think so.

Mr. MURPHY. I can answer from my experience as a business executive that if this were done by a business firm, it would be referred to as unfair business competition.

Mr. LONG of Louisiana. All we provide is that we would simply look at the regular wholesale prices to determine what we think we ought to pay.

Mr. MURPHY. We would tell the manufacturer what we would pay for it and the Government would be in the position of being the biggest customer. I would say this practice would be one by which the Government could be charged with attempted price fixing.

Mr. LONG of Louisiana. I understand the situation well. I know that some people would like to see the Government pay for drugs for old people at four or five times more than the actual cost. It would cost our Government hundreds of millions more than the Douglas amendment.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I shall be through in a moment. This would cost the Government and the old people would put up an equal amount. They would put up about 50 cents a month and the Government would match that money.

We can provide all of the drugs the people need. We have a formulary committee composed of the finest people in the Government, from the Surgeon General on down. They are the finest professional people that we can find. They are people who can make sure that the drugs will not cost more than they should. However, if we want to run the cost of this thing up to \$500 million, all we have to do is to let the drug companies have their say about it.

We would then be required to buy the drugs at the prices these companies set on a trade-name basis. They would charge anywhere from 5 to 100 times the cost of production, even though other quality producers sell the same product for a fraction of that price.

I can cite one example, and it does not involve trade names. A person can go into a drugstore and buy a bottle of aspirin tablets.

I bought some the other day. A person can get a product manufactured by a firm and approved under its generic name. He can buy the aspirin tablets at a very nominal cost. If one wants to buy a name brand aspirin, it is exactly the same product. It may be advertised that there is none better. They are right. There is none better and there is none worse. It is all aspirin. That is all it is.

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So one can buy the same size tablets and call them by a name brand. If he buys a large bottle, on a bulk basis, he will pay about a penny apiece. Why should we, as a government, pay a penny apiece for aspirin tablets, when there are bottles of them in every drugstore at seven for a penny—the same size and the same quality. It makes no sense.

We could provide all the aspirin tablets necessary, but we think we should provide them in the same way that we provide them for the President of the United States, the Members of the House of Representatives, the Members of the Senate, and the generals of the Army at Bethesda Naval Hospital and Walter Reed Army Hospital. Buy them for the quality we want, require that they be the proper quality; but so far as we are concerned, we will pay what the article is worth.

If you want to let them charge you 10 times that much, go ahead and pay the high price. I am not criticizing those people.

My father at one time was a patent medicine salesman. He had two medicines. One was named High Poplarlorum, and the other was named Low Poplarhirum. Both bottles were the same size. One bottle sold for 50 cents, the other for a dollar. The people practically always bought the dollar bottle. The difference between these two products was that the High Poplarlorum was made from the bark that had been skinned down the tree, and the Low Poplarhirum was made from the bark that had been skinned up the tree.

I cannot criticize them for charging a dollar for a 50-cent bottle, when I know that my dad did the same thing, as a boy. But we have no business making the old people pay two or three times more than they should to get these products.

Mr. COTTON. Mr. President, because I am due downstairs at the con-

ference committee on truth in packaging, the Senator from California [Mr. MURPHY] has, subject to the approval of the Senator from Louisiana, allowed me to interpolate one question at this point.

Is that satisfactory?

Mr. LONG of Louisiana. That is satisfactory.

Mr. COTTON. I note that the effective date on the drugs is not January 1, but July 1, 1968.

Also, having had my attention drawn to it—and I thank the Senator—I note the contingency dates that might come ahead of that.

After the amendment of the Senator from Delaware is voted on, I would like to offer an amendment simply changing the date of July 1, 1968—leaving the contingency in—to January 1, 1968, 6 months. If that is done, would the Senator accept it and take it to conference?

Mr. LONG of Louisiana. Yes, I will.

Mr. COTTON. Of course, I have been in the Senate too long not to know exactly what is meant when the chairman of a committee says that he will take an amendment to conference. It usually means "out the window." But if the Senator from New Hampshire only advances that date 6 months and leaves all the contingencies in, would the Senator from Louisiana feel that the amendment had merit enough so that he really would attempt to keep it in the bill?

Mr. LONG of Louisiana. Yes.

Mr. President, so far as I am concerned, I would like to see the old people be able to get these drugs just as soon as it can be arranged. I would be happy to accept the amendment, when it is in order. I do not believe it is in order at this time.

Mr. COTTON. I shall not offer it now.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. GORE. Mr. President, I desire the attention of the Senate for a very brief period.

Ever so often a tax measure comes along which serves as a catchall for special interest amendments. The word is out that this is it.

Mr. President, unless the Senate moves to strip from this bill unworthy amendments entirely extraneous to the measure, there will be many more. Every time I go out the door, I see someone else drafting another amendment. H.R. 10 is in the works to be offered. Further depletion amendments will be offered. And why not? Why does not everyone offer everything he wishes, if we are to take a bill to encourage foreign investment in the United States and then use it as a vehicle to give a 200-percent increase in the percentage depletion allowance to the gatherers of clamshells?

That brings up a question, Mr. President. A goodly number of Senators—at least, some who have expressed them-

selves—seem to be laboring under the misapprehension that percentage depletion is in some way related to the wasting, disappearance, or depreciation of the asset. It is not in any way so related.

In the tax laws, we have depreciation, we have cost depletion, and we have percentage depletion. How could a taxpayer be given depletion on the clam shells on the Continental Shelf?

Who owns the clam shells? God Almighty. We may as well give a 200 percent increase in a depletion allowance for the sands of the seas and the air we breathe.

Mr. LAUSCHE. What about the fish of the sea?

Mr. GORE. Well, I see little difference, really, between the fish of the seas and the mollusks of the seas.

I am attempting to make two points:

First. This legislation would arbitrarily increase the percentage depletion for mollusk shells from 5 to 15 percent—15 percent of what? Not of the cost of the shells that the taxpayer has bought.

Second. There are cutoff points for various minerals and materials. I recall that we once had an amendment in the Senate to prevent the steel industry from taking their percentage depletion allowance based on the retail value of finished nuts and bolts—instead of the ore. Where is the cutoff point on these shells?

What is the excuse for percentage depletion? I really do not wish to provoke a debate on this matter. One of these days, we will have to have a debate, when the time is ripe. Percentage depletion has no relationship whatsoever to the cost of the natural resource, the depletion of the natural resource, or the depreciation of the natural resource. It is merely a formula for tax reduction. What does this bill do for mollusk shells? It gives a 200-percent increase in that formula.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. LONG of Louisiana. Are any mollusk shells being used to manufacture cement?

Mr. GORE. I should think the answer would be "yes"; but that is not the point I am making. I am not talking about the use to which they are being put; I am talking about an increase of 200 percent in the formula for tax reduction for those taxpayers concerned.

What I really rose to plead for is to strip from the bill the special interest items. Unless that is done, we shall be here all night, if the majority and minority leaders hold us here. We shall be voting on H.R. 10 and more depletion allowance amendments. If this is to be a grab-all bill in the closing days of the session, then I think we shall be in for a lot of unwarranted amendments.

I hope the Senator from Delaware will modify his amendment. So far as the use of drugs for old people is concerned, that is an entirely different matter. I wish he would move to strike from the bill the tax provisions which are unrelated and nongermane to the original bill as introduced.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. LAUSCHE. With respect to the depletion allowance, to whom do the shells of clams and oysters belong when they are in the sea? Whose property are they, and how can it be claimed that the person who takes oysters and clams out of the sea has suffered a depletion of his capital property?

Mr. GORE. Only the uninformed would make such a claim. Percentage depletion is not based upon that. This is but a canard that is fostered.

Mr. LAUSCHE. Suppose I am the owner of a coal mine. I take the coal out of the earth and deplete my capital resources. That is completely different from a harvester of clams and oysters, who takes them out of the sea and has no ownership in them. How does the Senator reconcile the two principles?

Mr. GORE. The owner of a coal mine would, as I understand it, have a choice between taking cost depletion or percentage depletion. Coal owners are the beneficiaries of this magic formula of percentage depletion, also.

Mr. LAUSCHE. They have a 10 percent depletion.

Mr. GORE. As a matter of fact, I know of hardly any natural resource that does not have some formula for percentage depletion associated with it, except air, sand of the seas, and the dirt that the farmer cultivates. There is just as much reason, and perhaps more, for giving a farmer percentage depletion.

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Mr. LAUSCHE. There is more reason because the farmer owns the land and the fisherman of clams and oysters does not own them. He takes them from the public domain.

Mr. GORE. But this bill gives to those people a 200 percent increase—an increase from 5 percent to 15 percent.

Mr. President, I hope that the Senator from Delaware [Mr. WILLIAMS] will modify his amendment and let us vote to strip the extraneous tax measures from this bill.

Mr. WILLIAMS of Delaware. The Senator from Tennessee made a valid point. There are 23 amendments in the bill which were nongermane, only two of which deal with the elderly of the country, and they would not go into effect until 1968.

Much of the argument—

Mr. LONG of Louisiana. Mr. Presi-

dent, will the Senator yield for a question?

Mr. WILLIAMS of Delaware. I yield.

Mr. LONG of Louisiana. Who was the Senator who offered the first nongermane amendment and got it agreed to in committee? I believe it was the Senator from Delaware [Mr. WILLIAMS].

Mr. WILLIAMS of Delaware. The Saltonstall amendment which was offered was not germane; but would not in any way affect revenue this year, next year, or the years after.

Mr. LONG of Louisiana. I am not talking about revenue. I am talking about who offered the first nongermane amendment.

Mr. WILLIAMS of Delaware. The Senator should be thinking about revenue. The Senator from Louisiana offered the first nongermane amendment on clam shells to reduce taxes.

Mr. LONG of Louisiana. No. Who offered the first nongermane amendment?

Mr. WILLIAMS of Delaware. The Saltonstall amendment calls for an annual accounting for the assets and liabilities of this Government. Why blame the Senator from Massachusetts for the sins committed upon this bill in all of these depletion and campaign amendments?

Mr. LONG of Louisiana. Wholly nongermane.

Mr. WILLIAMS of Delaware. Yes; the 23 amendments we are speaking of here are the amendments that lose revenue in the bill. They account for not \$310 million as the Senator from Louisiana claims, but a loss of \$500 million to \$600 million. The committee estimate was \$410 million.

Mr. President, I ask unanimous consent that an excerpt of the committee report reflecting that figure be printed at this point in the RECORD.

There being no objection, the excerpt from the report was ordered to be printed in the RECORD, as follows:

The amendments added to the bill by your committee, other than those relating to the Foreign Investors Tax Act, are expected to result in an annual revenue loss (or expenditure increase) of slightly over \$400 million. Two hundred million dollars of this is attributable to the medicare amendment making provision for drugs under the supplementary benefit program. The provision making medical expenses deductible in full with respect to most persons over age 65 is expected to result in an annual revenue loss of \$180 million. An expenditure of approximately \$70 million every 4 years also is expected from the Presidential Election Campaign Fund Act. The remaining provisions added by your committee are expected to result in a further revenue loss of approximately \$10 million a year.

Mr. WILLIAMS of Delaware. Mr. President, the estimate in the committee report shows \$410 million as the lowest estimate. The estimate given to our committee by the Treasury was between \$500 million and \$600 million.

Mr. LONG of Louisiana. Mr. President, would the Senator yield at that point?

Mr. WILLIAMS of Delaware. I yield. Mr. LONG of Louisiana. That is not the net figure.

Mr. WILLIAMS of Delaware. What is the difference?

There are several sections in titles II, III, and IV, none of which are related to the elderly. In spite of all of the argument that has been made here, parading the elderly around and boasting of what is going to be done for them in 1968, there are only two sections dealing with that subject.

All of the other 21 sections represent special tax treatment for some group.

Mr. President, in order to get a clear vote on this matter I am going to comply with the request of the Senator from Tennessee [Mr. GORE] and confine this amendment to eliminating all of titles II, III, and IV except those two sections, sections 202 and 403, which deal with the elderly.

Mr. President, I ask unanimous consent to so modify the amendment.

Mr. LONG of Louisiana. Mr. President, I object.

The PRESIDING OFFICER (Mr. Russell of South Carolina in the chair). Objection is heard.

Mr. LONG of Louisiana. Mr. President, the Senator asked for the yeas and nays on the amendment. He should remember that he has to vote on it.

Mr. WILLIAMS of Delaware. The Senator is correct.

Mr. President, I send to the desk a substitute amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Mr. WILLIAMS of Delaware proposes in lieu of his amendment: Beginning on page 184, strike out sections 201, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, and 216.

Beginning on page 214 strike out title III. Beginning on page 222 strike out sections 401 and 402.

Mr. GORE. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I yield. Mr. GORE. Does the substitute amendment do what the Senator sought to do by unanimous consent?

Mr. WILLIAMS of Delaware. Exactly. I checked with the Parliamentarian. It is in order.

Mr. GORE. If this substitute is agreed to—

Mr. WILLIAMS of Delaware. It would knock out all of titles II, III, and IV except sections 202 and 403.

Mr. President, I ask for the yeas and nays on this amendment.

Mr. President, I ask that the amendments be considered en bloc.

The yeas and nays were ordered.

Mr. WILLIAMS of Delaware. Mr. President, I ask that the amendments be considered en bloc. Is that request agreed to?

The PRESIDING OFFICER. Yes.

Mr. WILLIAMS of Delaware. Mr. President, the adoption of this amendment would strike out all of titles II, III, and IV, except those on which there has been so much argument here with respect to what they are going to do for the elderly in 1968.

Mr. President, so that there will be no misunderstanding, I shall outline just what is in these other sections. I start with section 201, which is the application of investment credit to property used in possessions of the United States.

Section 202 would be left in the bill. That is the deduction of medical expenses of individuals age 65 or over.

Section 204 deals with transfers of stock and securities to corporations controlled by transferors. This is the section we voted on earlier which the Treasury Department identified as the most glaring loophole ever proposed by any congressional committee in the history of the Congress. Under this proposal a man could completely bypass the capital gains structure as far as diversification of his stock holdings. It would strike that section out.

Mr. LAUSCHE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. WILLIAMS of Delaware. Next is section 205; it deals with the minimum amount treated as earned income for retirement plans of certain self-employed individuals. This is with reference to H.R. 10.

Section 206 would be stricken. That is treatment of certain income of authors, inventors, and so forth, as earned income for retirement plan purposes. This would be stricken.

These sections do not deal with elderly who have been paraded here this afternoon and for whom so many crocodile tears have been shed.

Section 207 is the exclusion of certain rents from personal holding company income.

Section 208 is percentage depletion rate for certain clay-bearing alumina.

Section 209 would be stricken—that deals with the percentage depletion rate for clam and oyster shells.

Section 210 deals with the sintering and burning of shale, clay, and slate used as lightweight aggregates.

Section 211 deals with tax treatment on stock transactions and options, and so forth.

Section 212, deals with tax treatment of per-unit retain allocations.

Section 213, excise tax rate on ambulances and hearses.

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Section 214, applicability of exclusion from interest equalization tax of certain loans to assure raw materials sources.

Section 215, exclusion from interest equalization tax for certain acquisitions by insurance companies.

Section 216, exclusion from interest equalization tax of certain acquisitions by foreign branches of domestic banks.

Title III would be stricken. This is section 301, which deals with financing presidential election campaigns out of the Federal Treasury. These would be stricken along with all the other proposals in these three titles except those two sections of the bill over which so many crocodile tears have been shed this afternoon.

The committee amendment dealing with the so-called drug amendment should be delayed until next year, when it can be prepared and presented to the committee in a workable form. We would have ample time to consider and act on it long before the 1968 so-called effective date. But, no, they want to put it in this year, ahead of the election of 1966, promising the voters something that they will get in the election year of 1968.

Such action is like the President's speech in Baltimore today. Just ahead of the 1966 elections he is promising a 10-percent increase on all social security checks to become effective on January 1, 1968, ahead of the presidential elections. Significantly, the tax to pay for these increases goes into effect in January 1969, after the election.

It is time this administration stopped playing politics with the elderly. If it plans to do something for them go ahead and do it; and if not let us stop talking about it.

We have got a clean-cut vote here which will not affect either of two sections dealing with the elderly, about whom so many crocodile tears have been shed here this afternoon.

Mr. LONG of Louisiana and Mr. LAUSCHE addressed the Chair.

Mr. WILLIAMS of Delaware. I will yield first to the Senator from Louisiana and then to the Senator from Ohio.

Mr. LONG of Louisiana. Does the Senator propose to delete his own amendment?

Mr. WILLIAMS of Delaware. The Saltonstall amendment? Yes.

Mr. LONG of Louisiana. I am pleased to hear that.

Mr. WILLIAMS of Delaware. Let us take them all out. The amendment of the Senator from Massachusetts [Mr. SALTONSTALL] is being reported in the House anyway. It has passed five times in the Senate unanimously. There is no objection to it, but I am deleting it, and I am now asking the Senator from Louisiana to join the parade and support us in deleting his nongemane amendments.

Mr. LAUSCHE. Mr. President, if the amendment offered by the Senator from Delaware is accepted, will it leave the bill in the following form: one, that part of the bill which was recommended by the President and the administration dealing with equitable tax treatment for foreign investors in the United States, and two, the relief that is sought to be given to the aged, and beyond that, all of the provisions of the bill will be eliminated?

Mr. WILLIAMS of Delaware. That is correct.

Mr. LAUSCHE. The Senator makes this proposal because he believes that the provision which he asked to be stricken should not be in the bill and because he knows that before we get through tonight we will have a half dozen more proposals to reduce taxes and give special benefits to special groups; is that not correct?

Mr. WILLIAMS of Delaware. That is correct. I want to make this clear, I think that these titles should be deleted in their entirety.

Let the administration get its eyes off the election. There has been so much said here about opposing the amendment I had pending because they wanted to help the elderly. All right, we now have a clean-cut vote here to strike out the other 22 proposals which as the Senator from Tennessee has pointed out, are just special tax deductions for special groups.

Mr. President, I yield the floor.

Mr. McCARTHY. Mr. President, I think the point has been made that nearly everything that the Senator from Delaware is proposing to strike out, with the exception of the amendment on which we voted, plus the limited depletion allowance, everything else in the legislation he proposes to strike out was approved by the Treasury, recommended by the Treasury, not objected to by the Treasury or by any other department of Government which was involved. So we do not have just in these 18 or 19 proposals propositions representing some kind of outside special interest, but we have proposals which were, as I said, with the exception of those four, not objected to or recommended to the House, or supported by the Treasury. We are not trying to put through the Senate here today 18 or 19 special interest bills that the administration is not interested in at all. The Treasury people examined these proposals with the exception of the one amendment which we voted on plus the three amendments relating to depletion allowance. We had Treasury support of this and administration support of this, too.

Mr. AIKEN. The Senator from Minnesota just referred to "outside special interests." Let me ask, outside what?

Mr. McCARTHY. I do not know

whose special interests they are. They are all Americans, so far as I am concerned.

Mr. AIKEN. The Senator is assured that they are not inside special interests?

Mr. McCARTHY. I did not raise the point.

Mr. WILLIAMS of Delaware. "Special groups" was mentioned.

Mr. AIKEN. Yes. I know that. I just point out by what line of reasoning can we justify depletion allowances on clam shells and oyster shells any more than we can on clams and oysters, or of fish. Where are we going to stop in the depletion of fish from the sea? Where are we going to stop? That is the point I am raising.

Mr. LONG of Louisiana. Mr. President, clam shells are every bit as subject to depletion as limestone. When these two products are used for a similar purpose, they are treated the same. Limestone gets the depletion allowance of 15 percent if it is ground into a powder or made into cement. If it is crushed and thrown onto the highway as gravel, it gets only a 5-percent depletion allowance. That was the judgment of Congress. The limestone people explained the problem, and Congress acted. Subsequently, oyster shells began to be used to make cement.

Perhaps some of us may think that oyster shells belong to God, but they belong to the U.S. Government when they are found on the Continental Shelf and to the States within 3 miles from their coastlines, except for Texas, Florida, and California which are favored with boundaries extending 10 miles out to sea.

When a lease is obtained from the U.S. Government on a bid basis, and the lessor may pay \$1 million for it, he goes out and digs up the oyster shells and brings them in, and that product is competitive with limestone. It should get the same depletion allowance that limestone gets.

We can use calcium carbonate, if we grind it out, to make chicken feed, but it is still calcium carbonate. This amendment will help the chicken farmers in Delaware because they will be able to produce chicken feed a little bit cheaper with oyster shells, if they get the depletion allowance.

Mr. McCARTHY. That is a special group.

Mr. LONG of Louisiana. Yes, that is a special group, the chicken farmers in Delaware. The products—oyster shells and limestone—are competitive because they are chemically the same.

All this amendment provides is that the oyster shell people will get the same tax treatment that the limestone people do. Why has not that been the case before? Because when we passed the law on depletion allowances, no one was using oyster shells for the same purpose as limestone.

How about Georgia clay? It takes 2 tons of Georgia clay to manufacture aluminum that can be made with 1 ton of bauxite. If the Georgia clay is used to make aluminum, it is in competition with bauxite. If this bill is approved, they will get similar tax treatment.

Some people cannot understand depletion. If Senators cannot understand depletion, I wish they would make a study of it, because if they do not understand what depletion is, they cannot understand the depletion allowance.

Mr. LAUSCHE. Mr. President, will the Senator yield for a question?

Mr. LONG of Louisiana. I yield.

Mr. LAUSCHE. To whom do the oysters and clams with the shells belong when they are out in the ocean?

Mr. LONG of Louisiana. One million dollars is paid—

Mr. LAUSCHE. No. I asked to whom they belong.

Mr. LONG of Louisiana. They belong to the U.S. Government if they are beyond the 3-mile limit, except in Texas,

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Florida, and California, where they must be beyond 10 miles. If they are inside the 10-mile or 3-mile limits, they belong to the States.

Mr. McCARTHY. Mr. President, I have the floor. I will clarify the question for the Senator from Ohio.

The Senator wants to know who owns them when they are still alive; does he not?

Mr. LAUSCHE. I want to know to whom they belong, on the shelf, in the ocean, and to whom they belong when they are on the shelf but within the boundary of the State.

Mr. McCARTHY. On the shelf, but within the shelf?

Mr. LAUSCHE. Let us not be childish.

Mr. McCARTHY. The Senator does not understand the problem.

Mr. LAUSCHE. I do. Could the Senator answer the question objectively?

Mr. McCARTHY. What is the question?

Mr. LAUSCHE. The question is if they belong to the United States.

Mr. McCARTHY. The shell or the oyster?

Mr. LAUSCHE. Both of them.

Mr. McCARTHY. It is a different problem. The Senator answered that.

Mr. LAUSCHE. The Senator from Louisiana stated that the shells nor the oysters belong to the fishermen. How can it be argued that there shall be a right to have a depletion allowance on the use of a mineral or sea mollusk that does not belong to a person?

Mr. LONG of Louisiana. The shells that we are talking about—

Mr. LAUSCHE. They do not belong to a person. How can he claim a tax credit for exhausting the life of the sea?

Mr. LONG of Louisiana. The shells

we are talking about are the ones that have no oysters in them. They have been out there for thousands of years. The oysters have gone. The fishermen dig down there. They are exhaustible.

Mr. LAUSCHE. This is an example of exhausting property of the United States.

Mr. LONG of Louisiana. Let me explain.

Mr. LAUSCHE. The Senator will have a long time to do it.

Mr. LONG of Louisiana. I hope the Senator will stay that long.

To get a lease, a person must bid for it. It is very competitive. A person may bid \$1 million for a lease. Some of them are for more than \$1 million. After securing a lease, he has a right to take oyster shells out of the certain area covered by the lease. That is known as an economic interest. What he invests in is something that is known as a wasting asset. When that asset is gone, the person is out of business. It is somewhat like the example I gave earlier today. I know it does not impress the Senator, because he does not recognize depletion, but every accountant does.

Mr. LAUSCHE. Would the Senator say that the lobster fisherman in Maine should also have the right of a depletion allowance? Would the Senator from Louisiana say he should? The lobsters do not belong to him.

Mr. LONG of Louisiana. I have not studied the problem. I just do not know. That is the best answer I can give—I do not know.

I gave the example earlier of a man with whom I went to the bank in order to help him get a loan to start a flying school. On a cash basis, according to the figures, he made a profit every day. At the end of the year, he was broke and going out of business. Why? Because he had set aside no fund for depreciation. The airplane was wearing out. He had a lease from the airport. The lease was running out. He had no money to renew the lease. By the end of the year, he had had many costs, depreciation, overhead. When it came time to renew the lease, he was broke. He had an old, worn out airplane. He was worse off than when he started out, because he had used the airplane.

If a man has a great deal of oil, that oil is valuable in place. It might be worth \$1.50 a barrel in place. It might be worth \$3 a barrel when brought to the surface. When a person starts bringing the oil to the surface, and then runs out of it, he is out of business. I know many people who are getting out of the business.

I hope the Senator's amendment to the amendment will not be agreed to. I would like to have the Senate vote affirmatively on the provision having to do with the old folks. The Senator will have an opportunity to do so by agreeing with the committee. We would like to do

something for those old people. I would like to have the Senate vote on the question affirmatively. We will have a chance to do that if the amendment is not modified.

Mr. GORE. Mr. President, I support the substitute amendment. The one side effect of this discussion with which I am perfectly delighted is the provocation of some debate and understanding of what percentage depletion is.

The junior Senator from Louisiana said that mollusk shells and clam shells are depletable. I suppose so, in the same way as are the fishes of the sea. But what does the word "depletable" mean, and what does it imply? I should not think that the junior Senator from Louisiana would continue to leave such an implication, but one who has not studied the whole technical field might race to the conclusion that percentage depletion is based upon the depletability of a resource and is in some way related to it. It is not.

What does this amendment provide? Here is what it provides. Here is how it works out. The taxpayer who is selling clam and oyster and mollusk shells for, say, the manufacture of cement, would get a deduction from his taxable income of 15 percent of the cost of the product, in this case just before it goes into the kiln. Mind you, Mr. President, this cost is far different from the cost of gathering shells. The taxpayer gets this formula for reducing his taxable income. Under present law, he already is entitled to a percentage depletion, to which, in my opinion, he is not equitably entitled, of 5 percent of the cost of the calcium carbonate before it goes into the kiln. The bill would increase the depletion allowance by 200 percent. Why? All we have heard is that it is a depletable item and that it is used for the manufacture of cement.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. GORE. In just a moment, I will.

Mr. LONG of Louisiana. The Senator has just made a statement—

Mr. GORE. The Senator from Louisiana is a little impetuous. If he will wait, I will yield to him.

Of course, the big percentage depletion is for oil and gas—27½ percent.

Yes, I am delighted that this item has provoked some debate about percentage depletion. Some of these days, when the circumstances are ripe, the Senate will go to the mat on this issue. We can never have true tax reform unless we begin with the oil percentage depletion allowance, which is the granddaddy of tax favoritism.

But here, on a bill to encourage foreign investors to invest in the United States, is an amendment to give a 200 percent increase in the tax-reduction formula for the gatherers of mollusk shells. It is a big business. We are not thinking of or dealing with one man who

goes out with a shovel and a bucket to gather up a few shells. We are dealing here with a large business. We are giving taxpayers a tax break to which they are not entitled, in my opinion. So I rise to support the amendment.

I undertook in the committee, and I am undertaking now, to support the administration in this bill, which I think is a worthy bill. Our balance-of-payments problem is a severe and acute one. This measure is designed to help bring capital to the United States. Our outflow is severe. Our imbalance is dangerous. This bill is worthy in its purpose. I think it would have a good effect.

But why do we have to load it? And unless we dislodge this load from its back, I think before the night is over it will be much more heavily loaded. I hope the Senate will take this step, which to me is a realistic one.

I now yield to the Senator from Louisiana.

Mr. LONG of Louisiana. Mr. President, I have been meditating over the matter, and if it be the will of the Senate, in the interest of expediting the consideration of the bill, I ask that the Senator from Delaware be granted unanimous consent to modify his original amendment as suggested.

The PRESIDING OFFICER. Does the Senator from Delaware renew his request to modify the amendment?

Mr. WILLIAMS of Delaware. Yes. I think it would be easier. It would save two votes. We could do with one vote what would otherwise require two. My amendment, as modified, would strike out titles II, III and IV, with the exception of sections 202 and 403.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The amendment will be so modified.

Mr. LONG of Louisiana. The yeas have been ordered, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware, as

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modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Idaho [Mr. CHURCH], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Maryland [Mr. TYDINGS], are absent on official business.

I also announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Tennessee [Mr. BASS], the Senator from Illinois [Mr. DOUGLAS], the Senator from Mississippi [Mr. EASTLAND], the Senator from Arizona [Mr. HAYDEN], the Senator from New York [Mr. KENNEDY], the Senator from Montana [Mr. METCALF], the Senator from

Utah [Mr. MOSS], the Senator from Oregon [Mrs. NEUBERGER], the Senator from Rhode Island [Mr. PELL], the Senator from West Virginia [Mr. RANDOLPH], the Senator from Virginia [Mr. ROBERTSON], the Senator from Florida [Mr. SMATHERS], and the Senator from New Jersey [Mr. WILLIAMS], are necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. MOSS], the Senator from West Virginia [Mr. RANDOLPH], the Senator from Virginia [Mr. ROBERTSON], and the Senator from New Jersey [Mr. WILLIAMS], would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Colorado [Mr. ALLOTT], the Senator from New Jersey [Mr. CASE], the Senators from Kentucky [Mr. COOPER and Mr. MORRIS], the Senator from Nebraska [Mr. CURTIS], the Senator from Iowa [Mr. HICKENLOOPER], the Senator from New York [Mr. JAVITS], the Senator from Idaho [Mr. JORDAN], the Senator from Kansas [Mr. PEARSON], the Senator from Vermont [Mr. PROUTY] and the Senator from Texas [Mr. TOWER] are necessarily absent.

On this vote, the Senator from Colorado [Mr. ALLOTT] is paired with the Senator from Kentucky [Mr. MORRIS]. If present and voting, the Senator from Colorado would vote "yea" and the Senator from Kentucky would vote "nay."

On this vote, the Senator from Nebraska [Mr. CURTIS] is paired with the Senator from Kansas [Mr. PEARSON]. If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Kansas would vote "nay."

On this vote, the Senator from Idaho [Mr. JORDAN] is paired with the Senator from Texas [Mr. TOWER]. If present and voting, the Senator from Idaho would vote "yea" and the Senator from Texas would vote "nay."

The result was announced—yeas 30, nays 42, as follows:

[No. 298 Leg.]

YEAS—30

Aiken	Fong	Murphy
Bartlett	Gore	Muskie
Bennett	Harris	Nelson
Boggs	Hart	Pastore
Burdick	Hruska	Proxmire
Byrd, Va.	Kuchel	Simpson
Clark	Lausche	Symington
Cotton	McIntyre	Thurmond
Dominick	Monroney	Williams, Del.
Fannin	Mundt	Young, Ohio

NAYS—42

Bayh	Hill	Mondale
Bible	Holland	Montoya
Brewster	Inouye	Morse
Byrd, W. Va.	Jackson	Ribicoff
Cannon	Jordan, N.C.	Russell, S.C.
Carlson	Long, Mo.	Russell, Ga.
Dirksen	Long, La.	Saltonstall
Dodd	Magnuson	Scott
Ellender	Mansfield	Smith
Ervin	McCarthy	Sparkman
Fulbright	McClellan	Stennis
Griffin	McGee	Talmadge
Gruening	McGovern	Yarborough
Hartke	Miller	Young, N. Dak.

NOT VOTING—28

Allott	Hickenlooper	Pell
Anderson	Javits	Prouty
Bass	Jordan, Idaho	Randolph
Case	Kennedy, Mass.	Robertson
Church	Kennedy, N.Y.	Smathers
Cooper	Metcalf	Tower
Curtis	Morton	Tydings
Douglas	Moss	Williams, N.J.
Eastland	Neuberger	
Hayden	Pearson	

So the amendment of Mr. WILLIAMS of Delaware was rejected.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record at this point a statement on the bill prepared by the Senator from Florida [Mr. SMATHERS].

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT BY SENATOR SMATHERS

The bill we are now considering contains a provision which was inserted during deliberation on the bill by the Senate Finance Committee, at my request. This provision would continue full deductibility to medical and drug expenses of persons who are age 65 and over.

In enacting the Social Security Amendments of 1965, which is chiefly remembered for its medicare provisions, Congress incidentally enacted an amendment to the Internal Revenue Code which would limit full deductibility of such medical expenses for older citizens starting January 1, 1967.

The 1965 amendment requires that in computing Federal income tax deductions for medical and drug expenses of the elderly, the deduction must be limited to that portion of such expenses which, in the case of medical expenses, exceeds three percent of adjusted gross income, and which in the case of drugs, exceeds one percent of adjusted gross income. This amendment was enacted over the opposition of the Finance Committee, the full Senate, and its conferees.

Time has shown the fallacy of the arguments upon which that amendment was based. At the time, it was argued that with the enactment of medicare, there would no longer be any need to allow full deductibility of medical and drug expenses of the elderly.

This argument falls short of the mark, however. Different people often have different types of medical expenses, and many of these people find that medicare provides minimal or no help with their particular health costs.

For example, 4 out of 5 older people suffer from one or more chronic illnesses. Chronic illness often requires very expensive medication on a continuing basis. These drugs are not covered by medicare. These people frequently incur expenses related to their illness but which are not true medical expenses. The older woman who, because of her arthritis, has to pay a cleaning woman to do her housework is a good illustration of this. While we cannot pay for her cleaning woman, the least we can do is to permit her to deduct all of her out-of-pocket direct medical and drug expenses.

However, it is clear that the elderly can still incur large medical expenses which are not covered by medicare. Among expenses not so covered are drugs, dental bills, nursing home care which is not preceded by at least three days in a hospital, or which is beyond medicare entitlement, private duty

nursing, and hospitalization beyond medicare entitlement for one "spell of sickness." In fact, there are many of our older compatriots who can expect to receive no hospital benefit whatever from medicare because the only hospital or hospitals in their areas have not qualified under medicare, for one reason or another. In view of these considerations, it is clear that many senior citizens need full deductibility of medical and drug expenses as much as they ever did.

It was also argued that restricting the deductibility of medical expenses for Americans in this age group would raise revenue needed to finance medicare. However, it is inequitable to raise taxes upon this age group to finance medicare when taxes are not being raised on any other age group for this purpose.

Therefore my amendment in the bill which is before us would restore full deductibility to medical and drug expenses of those who are 65 and over, and would repeal the requirement that the deduction be limited to the portion of such expenses over certain percentages of adjusted gross income. I hope the House conferees this time will see the desirability of permitting full deductibility of these expenses, and that the Senate position on this issue will prevail.

Mr. HARTKE. Mr. President, I call up my amendment No. 955 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of the bill insert the following new section:

"SEC.—PERCENTAGE DEPLETION RATE FOR CLAY AND SHALE USED IN MAKING SEWER PIPE.

"(a) RATE.—Section 613(b) (relating to percentage depletion rates) is amended—

"(1) by striking out 'and clay used or sold for use for purposes dependent on its refractory properties' in paragraph (3)(B) and inserting in lieu thereof 'clay used or sold for use for purposes dependent on its refractory properties, and clay and shale used or sold for use in the manufacture of sewer pipe';

"(2) by inserting after 'shale,' in paragraph (5)(A) 'except shale described in paragraph (3)(B),'; and

"(3) by striking out 'sewer pipe,' in paragraph (5)(B).

"(b) TREATMENT PROCESSES.—Section 613(c)(4) (relating to treatment processes considered as mining) is amended by inserting after 'applies' in subparagraph (G) 'and of clay and shale used or sold for use in the manufacture of sewer pipe'.

"(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years ending after the date of the enactment of this Act."

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Mr. HARTKE. Mr. President, the amendment deals with the depletion-allowance schedule that was discussed in the committee. At that time the Senator from Kansas [Mr. CARLSON] offered a different amendment which involved clay.

I was informed at the time that the amendment of the Senator from Kansas covered the situation intended to be covered in my amendment when in fact it did not.

My amendment would simply provide that the 15-percent depletion allowance allowed for other products, but especially cement and other clay products, shall be allowed for clay used in sewer pipes. At the present time it is not only at a competitive disadvantage, but it is also treated in a different fashion than other clay products.

I understand that the Senator from Georgia [Mr. TALMADGE] proposes to offer an amendment to my amendment.

Mr. TALMADGE. Mr. President, the amendment of the Senator from Indiana refers to sewer pipe made from clay but not brick. Brick comes from the same category of material.

I ask the distinguished Senator from Indiana if he will modify his amendment as follows:

On page 2, line 2, after "sewer pipe" insert "and brick".

On page 2, line 6, insert "building or paving brick and" before "sewer pipe". On page 2, line 12 after "sewer pipe" insert "and brick".

Mr. HARTKE. Mr. President, I so modify my amendment.

The PRESIDING OFFICER. The amendment is accordingly modified.

Mr. HARTKE. Mr. President, I yield to the Senator from Kansas.

Mr. CARLSON. Mr. President, I associate myself with the distinguished Senator from Indiana on this amendment as amended by the Senator from Georgia [Mr. TALMADGE].

We agreed to an amendment in committee that I thought covered these items. However, it was discovered later that it did not.

I hope that the amendment will be accepted by the chairman of the committee.

Mr. HARTKE. The chairman of the committee has indicated that he has no objection to accepting the amendment.

The amendment was not acted on when it was considered in committee in conjunction with the amendment of the Senator from Kansas [Mr. CARLSON].

Mr. JORDAN of North Carolina. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment of the Senator from Indiana as amended by the Senator from Georgia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I make the same unanimous-consent request

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I commend the Senator from Indiana heartily for his thoughtfulness, research, and forethought in observing that this point was involved and in getting it in the form of an amendment.

I shall certainly heartily support the amendment.

Mr. HARTKE. Mr. President, I thank the Senator.

Mr. RUSSELL of South Carolina. Mr. President, I wish to commend the Senator from Indiana for offering this amendment. I am heartily in favor of it, and if there is no objection, I ask that I be made a cosponsor.

Mr. HARTKE. I shall be glad to have the name of the Senator from South Carolina added as a cosponsor.

Mr. LONG of Missouri. Mr. President, I also desire to commend the Senator from Indiana on this amendment, and I should like permission to be listed as a cosponsor.

Mr. HARTKE. I shall be delighted to add the Senator as a cosponsor.

Mr. COTTON. Mr. President, I wish to make the same request.

Mr. HARTKE. I shall be glad to add the Senator from New Hampshire as a cosponsor.

Mr. SPARKMAN. Mr. President, if the Senator from Indiana will be so kind, I should like him to place my name on the amendment as a cosponsor.

Mr. HARTKE. I shall be glad to add the Senator's name.

Mr. DOMINICK. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOMINICK. As I remember, some years ago we had a problem with the Internal Revenue Service in connection with the taxation of clay for these purposes, and after a meeting with the Internal Revenue Service, the regulations were revised in order to take care of the problem. Am I correct?

Mr. HARTKE. It was anticipated that that would take care of the problem, but it did not take care of this point. The matter could not be clarified with the Internal Revenue Service without legislation.

Mr. DOMINICK. Therefore, is this amendment that the Senator has offered designed to take care of the problem that was raised by a change in the Internal Revenue system policy a couple of years ago?

Mr. HARTKE. The Senator is correct.

Mr. DOMINICK. I am happy to join the Senator from Indiana. I am glad to have this background.

Mr. STENNIS. Mr. President, I ask permission to be added as a cosponsor of the amendment.

Mr. HARTKE. I shall be glad to do so.

Mr. LONG of Louisiana. Mr. President, the Senator had an amendment in the committee, and we had agreed to the amendment by the Senator from Kansas [Mr. CARLSON] which had something to do with clay. I believe that the Senator was informed in the committee that we thought perhaps the Carlson amendment took care of the problem. Unfortunately, the Senator discovered that it did not take care of the problem and that the Carlson amendment related to an entirely different problem. Had it not been for that situation, I should imagine that we would have agreed to the amendment in the committee.

Therefore, Mr. President, in view of all the cosponsors who are associated with the amendment, I have no objection to it. We will go to conference and see what we can work out.

Mr. LAUSCHE. Mr. President, I understand that this legislation expands into four new programs the depletion allowance principle that has become improperly, in my opinion, embedded in our law.

Mr. GORE. Mr. President, will the Senator yield?

Mr. LAUSCHE. I yield.

Mr. GORE. I hope the Senator will state it correctly. It is percentage depletion.

Mr. LAUSCHE. Yes, percentage depletion.

Until now, there have been three grants made in the expansion of the percentage depletion. This is a fourth.

We are today witnessing the repetition of what happened 2 years ago, when the tax bill was before us, and the Senator from New York started out by asking the removal of the excise tax on women's handbags. Then he came up with the fur tax. Then he came up with the jewelry tax. Then Senator HARTKE came up with the removal of the band instrument tax. Then another Senator came up with the removal of the excise tax on ball point pens. One after the other, there was this deluge of amendments offered. That is what is happening now.

I wonder whether this is the last amendment that will be offered, or whether others are in preparation. We are witnessing what could be called mob action. One grant has been made to one group. When that one grant was made, the second group stepped up with the label, and the third and the fourth and the fifth. It has now come to 13 or 14. I am interested to know what other demands will be made before we get through tonight.

I ask for the yeas and nays on this measure.

The yeas and nays were ordered.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment, as modified, of the Senator from Indiana.

Mr. **LONG** of Louisiana. Mr. President, while I have no interest in the amendment, I do think that there is a logical case for the amendment. The amendment that the Senator has offered involves clay used to manufacture sewer pipe. If the pipe is manufactured with cement, the limestone that goes into the cement is subject to a 15-percent depletion allowance. The argument of the clay people is that they should have the same allowance their competitor receives. That is the basis of the amendment.

If the Senate agrees to the amendment, that does not mean that it will survive the conference. The amendment has some merit, in my opinion, and I will be willing to take it to conference.

Mr. **GORE**. Mr. President, I am constrained to point out that this measure—
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ment of competition—competitive relativity—is not in keeping with the history of the development of percentage depletion. It started out as an estimate of discovery cost, not competitive relationship. Then it developed into a formula for tax deduction which is called percentage depletion.

If what the junior Senator from Louisiana says is a correct justification, then we would have no choice but to give to coal 27.5-percent depletion because it competes with gas as a fuel element. This is not a correct yardstick. In fact, the correct yardstick of depreciation or depletion is the relative use of and depletion, wear and tear, of the cost of a resource.

Percentage depletion has no relationship to this, nor does it have a relationship, to start with, to the competitive nature of the products.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment, as modified, offered by the Senator from Indiana and cosponsored. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **LONG** of Louisiana. I announce that the Senator from Idaho [Mr. **CHURCH**], the Senator from Arkansas [Mr. **FULBRIGHT**], the Senator from Massachusetts [Mr. **KENNEDY**], and the Senator from Maryland [Mr. **TYDINGS**] are absent on official business.

I also announce that the Senator from New Mexico [Mr. **ANDERSON**], the Senator from Tennessee [Mr. **BASS**], the Senator from Illinois [Mr. **DOUGLAS**], the Senator from Mississippi [Mr. **EASTLAND**], the Senator from Arizona [Mr. **HAYDEN**], the Senator from New York [Mr. **KENNEDY**], the Senator from Montana [Mr. **METCALF**], the Senator from Utah [Mr. **MOSS**], the Senator from

Oregon [Mrs. **NEUBERGER**], the Senator from Rhode Island [Mr. **PELL**], the Senator from West Virginia [Mr. **RANDOLPH**], the Senator from Virginia [Mr. **ROBERTSON**], the Senator from Florida [Mr. **SMATHERS**], and the Senator from New Jersey [Mr. **WILLIAMS**] are necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. **MOSS**] and the Senator from West Virginia [Mr. **RANDOLPH**] would each vote "yea".

Mr. **KUCHEL**. I announce that the Senator from Colorado [Mr. **ALLOTT**], the Senator from New Jersey [Mr. **CASE**], the Senators from Kentucky [Mr. **COOPER** and Mr. **MORTON**], the Senator from Nebraska [Mr. **CURTIS**], the Senator from Iowa [Mr. **HICKENLOOPER**], the Senator from New York [Mr. **JAVITS**], the Senator from Idaho [Mr. **JORDAN**], the Senator from Kansas [Mr. **PEARSON**], the Senator from Vermont [Mr. **PROUTY**], and the Senator from Texas [Mr. **TOWER**] are necessarily absent.

If present and voting, the Senator from Colorado [Mr. **ALLOTT**], the Senator from Nebraska [Mr. **CURTIS**], the Senator from Idaho [Mr. **JORDAN**], the Senator from Kentucky [Mr. **MORTON**], the Senator from Kansas [Mr. **PEARSON**], and the Senator from Texas [Mr. **TOWER**] would each vote "yea."

The result was announced—yeas 52, nays 19, as follows:

[No. 299 Leg.]

YEAS—52

Bartlett	Harris	Monroney
Bayh	Hartke	Montoya
Bennett	Hill	Mundt
Bible	Holland	Murphy
Brewster	Hruska	Ribicoff
Burdick	Inouye	Russell, S.C.
Byrd, Va.	Jackson	Russell, Ga.
Byrd, W. Va.	Jordan, N.C.	Saltonstall
Cannon	Kuchel	Simpson
Carlson	Long, Mo.	Sparkman
Cotton	Long, La.	Stennis
Dirksen	Magnuson	Symington
Dodd	McCarthy	Talmadge
Dominick	McClellan	Thurmond
Ellender	McGee	Yarborough
Ervin	McGovern	Young, N. Dak.
Fannin	McIntyre	
Gruening	Miller	

NAYS—19

Alken	Lausche	Proxmire
Boggs	Mansfield	Scott
Clark	Mondale	Smith
Fong	Morse	Williams, Del.
Gore	Muskie	Young, Ohio
Griffin	Nelson	
Hart	Pastore	

NOT VOTING—29

Allott	Hayden	Pearson
Anderson	Hickenlooper	Pell
Bass	Javits	Prouty
Case	Jordan, Idaho	Randolph
Church	Kennedy, Mass.	Robertson
Cooper	Kennedy, N.Y.	Smathers
Curtis	Metcalf	Tower
Douglas	Morton	Tydings
Eastland	Moss	Williams, N.J.
Fulbright	Neuberger	

So Mr. **HARTKE**'s amendment, as modified, was agreed to.

Mr. **COTTON**. Mr. President, I send

to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The assistant legislative clerk read the amendment as follows:

On page 231, line 3, strike out "July 1, 1968" and insert "January 1, 1968".

Mr. COTTON. Mr. President, if I may have the attention of the Senate, I can explain the amendment in 2 minutes. It is my hope that the Senator from Louisiana, the chairman of the committee, will accept it.

On this amendment, the effective date of the provision in the bill for the furnishing of drugs to the elderly is based on whichever occurs first, the first day of the first month with respect to the rate of the monthly premium for participation raised pursuant to section 1829(b) of the Social Security Act after the date of enactment of the act, or, two, July 1, 1968.

In other words, if certain matters are complied with and the machinery is set up, and so forth, it would take effect the first month after that; but, otherwise, as the bill now reads, it would go to July 1, 1968.

I stated in colloquy concerning the elderly that if they were going to receive this benefit, we should make it possible that they receive it sooner than July 1, 1968. Thus, my amendment simply moves the date forward 6 months, to take effect January 1, 1968, instead of July 1, 1968, which I understand is likely to be the approximate date to be triggered off by the machinery that would be in action.

I want to make sure of it, and I hope that the Senator from Louisiana will accept the amendment.

Mr. LONG of Louisiana. Mr. President, I said that I would accept the amendment, and I am glad to accept it. It is a worthy amendment and we will be glad to consider it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment was agreed to.

Mr. HARTKE. Mr. President, I send to the desk an amendment and ask that it be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD at this point.

The amendment submitted by Mr. HARTKE is as follows:

On page 189, after line 25 insert:

"SEC. 206. REMOVAL OF SPECIAL LIMITATIONS WITH RESPECT TO DEDUCTIBILITY OF CONTRIBUTIONS TO PENSION PLANS BY SELF-EMPLOYED INDIVIDUALS

"(a) REMOVAL OF SPECIAL LIMITATIONS.—Paragraph (10) of section 404(a) (relating to special limitation on amount allowed as deduction for self-employed individuals for contributions to certain pension, etc., plans) is repealed.

"(b)(1) Each of the following provisions of section 401 is amended by striking out '(determined without regard to section 404 (a)(10))' each place it appears:

"(A) Subsection (a)(10)(A)(ii).

"(B) Subparagraphs (A) and (B) of subsection (d)(5).

"(C) Subparagraph (A) of subsection (d)(6).

"(D) Subparagraphs (A) and (B) (i) of subsection (e)(1).

"(E) Subparagraphs (B) and (C) and the last sentence of subsection (e)(3).

"(2) Subparagraph (A) of section 404(e)(2) is amended by striking out '(determined without regard to subsection (a)(10))'.

"(3) Paragraph (1) and subparagraph (B) of paragraph (2) of section 404(e) are each amended by striking out '(determined without regard to paragraph (10) thereof)'.

"(c) DEFINITION OF EARNED INCOME.—Section 401(c)(2) (relating to definition of earned income for certain pension and profit-sharing plans) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) IN GENERAL.—The term "earned income" means the net earnings from self-employment (as defined in section 1402(a)), but such net earnings shall be determined—

"(i) only with respect to a trade or business in which personal services of the taxpayer are a material income-producing factor,

"(ii) without regard to paragraphs (4) and (5) of section 1402(c).

"(iii) in the case of any individual who is treated as an employee under sections 3121(d)(3) (A), (C), or (D), without regard to paragraph (2) of section 1402(c), and

"(iv) without regard to items which are not included in gross income for purposes of this chapter, and the deductions properly allocable to or chargeable against such items.

For purposes of this subparagraph, section 1402, as in effect for a taxable year ending on December 31, 1962, shall be treated as

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having been in effect for all taxable years ending before such date."

"(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to taxable years beginning after December 31, 1967."

Mr. HARTKE. Mr. President, this amendment is offered on behalf of myself, the Senator from Florida [Mr. SMATHERS], the Senator from Kentucky [Mr. MORTON] and the Senator from Kansas [Mr. CARLSON]. The Senator from Florida [Mr. SMATHERS] is unable to be present today.

This is a proposed amendment to further liberalize the Self-Employed In-

dividuals' Tax Retirement Act of 1962.

The proposed amendment which embodies the provisions of H.R. 10 as recently passed by the House of Representatives by a unanimous vote, is designed to improve the Self-Employed Individuals' Tax Retirement Act of 1962 by amending certain restrictive features of the act which have prevented the full utilization of it by the self-employed.

Briefly, the proposed amendment corrects two inequities in existing law. It would permit a self-employed to deduct the entire amount he contributes—but not in excess of \$2,500, of course—for his own retirement benefits—the same as he may do for contributions on behalf of his other employees.

The 50 percent limitation in the present law is neither fair nor logical. Originally, this limitation was designed to place the self-employed plans on a par with those plans in which the employee, as well as the employer, contributes to the cost of the benefits.

The fact is that, according to the reports of the Secretary of Labor, over 70 percent of the plans registered under the Welfare and Pension Plans Disclosure Act do not require contributions from the employee but are financed entirely by the employer.

Moreover, it is a rare case where the employee pays for one-half of his benefits. Thus, it is difficult to justify the limitation on the ground that only half of the contribution represents a contribution by the self-employed as an employee rather than as an employer.

Second, it would remove the 30-percent limitation on "earned income" to be considered for plan purposes. Since the allowable contribution for the self-employed is based upon his earned income, the existing limitation means that the individual's net earnings must be at least \$83,333.33 if he is to make the maximum contribution of \$2,500—30 percent of \$83,333.33 is \$25,000; 10 percent of \$25,000 is \$2,500.

The arithmetic alone demonstrates that it is highly unrealistic to attribute only 30 percent of the net profits of the business to personal services and that the act is of little help to small businessmen and farmers.

The new definition of "earned income" will continue to require that substantial personal services be devoted to the business if deductions are to be taken with respect to contributions for the self-employed individual's benefit. Deductions will not, therefore, be allowed for contributions based on income derived solely from capital.

It should be noted that the proposed amendment makes no change in the basic structure of the act. The more stringent requirements with respect to coverage of employees and the benefits which must be provided them will remain in effect to prevent discrimination in favor of the self-employed.

Let me explain in a little more detail why the proposed amendment is desirable to make the Self-employed Individuals' Retirement Act an effective one for the self-employed.

When the act was passed by the Congress in 1962, it represented the culmination of many years' effort to provide some means by which the self-employed could adopt pension plans for their retirement and deduct a part of the cost thereof in computing their Federal income tax liability. Although the self-employed were prevented from doing this, the tax laws for many years had permitted the corporate employer to establish pension plans and deduct the cost thereof, including the cost of pensions for employees who were also owners of business.

The 1962 act did not by any means equate the tax benefits of the self-employed and the corporate employers. While a step in the right direction, it imposed numerous limitations on the self-employed. Experience with the act since 1962 clearly demonstrates that the objectives of the act have not been fulfilled. In March of 1965, the distinguished Senator from West Virginia [Mr. RANDOLPH], chairman of the Subcommittee on Employment and Retirement Incomes of the Special Committee on Aging of the Senate, held hearings on the general problem of extending private pension coverage. Several witnesses testified to the fact that adoption of retirement plans by the self-employed had been small indeed.

When Congress considered legislation in 1962, it was estimated that some 6 million self-employed who pay income taxes would be permitted to establish retirement plans under the act. It is also estimated that these people employ about 9 million individuals. So there are approximately 15 million people who could be covered under pension plans for the self-employed. However, the Internal Revenue Service reports that as of March 31, 1966, only some 22,000 plans had been adopted, covering less than 40,000 people. In the same period qualified retirement plans were adopted by corporations which covered over 1,250,000 employers. It is obvious, therefore, that to date coverage of the self-employed and their employees has been negligible.

Additional evidence of the poor acceptance of the act by the self-employed is found in the fact that in 1962 the Treasury estimated the cost of the act would amount to around \$115 million for the first year, while the actual cost for 1964 was only some \$9 million. The Treasury Department estimates that only about one-half of 1 percent of the self-employed took advantage of the deduction for 1964.

The reason for the failure of the act

to accomplish its purpose is quite apparent when one examines the many limitations imposed on the self-employed. In addition to imposing requirements as to coverage of, and benefits for, employees not found in the requirements applicable to corporate plans, the act limits the amount which a self-employed may set aside for his own retirement to 10 percent of his earned income or \$2,500 whichever is the smaller. On top of this basic limitation are two restrictions which have proved to be particularly burdensome:

First. The act limits the amount which the self-employed may deduct for tax purposes to 50 percent of the amount contributed to the plan for his retirement benefits. Thus, the maximum deduction under the act is one-half of \$2,500 or \$1,250.

Second. The act also restricts the amount of earned income which will be recognized for contribution purposes where capital, as well as personal services, is a material factor in the production of income. In such a case, earned income cannot exceed 30 percent of the net profits from the business except that the amount of the individual's earned income cannot be reduced below \$2,500 by operation of this rule if the individual renders personal services on a substantially full-time basis.

Just recently, the Washington Post contained an editorial, under date of October 10, 1966, which I would like to read at this time. It is entitled "Parity in Pensions" and states as follows:

Under the Federal income tax laws self-employed persons are permitted to make pension fund contributions on their own behalf up to a limit of \$2,500. But since only half of that amount may be taken as a deduction, the tax treatment of the self-employed is not as favorable as that accorded corporate employees in the same income bracket.

The House of Representatives by a unanimous vote passed an amendment that would permit the self-employed to deduct 100 percent of their pension fund contributions. But the Senate Finance Committee rejected the measure. Even though the Treasury would suffer a modest loss of revenue, the Senate ought to go along with the House in putting the self-employed taxpayer on a parity with others.

There is just one other change made in the proposed amendment, and that is that it would make its provisions effective as of January 1, 1968.

Equality for 18 million self-employed and their employees is long overdue.

The revisions embodied in the proposed amendment are just and fair, and I urge the Senate to adopt them by an overwhelming majority, as did the House of Representatives.

I should like to read a partial list of associations endorsing H.R. 10 in the 89th Congress:

Contracting Plasterers' & Lathers International Association.

The American College of Radiology.
Society of American Florists.
American Dental Association.

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Association of Consulting Management Engineers, Inc.

The Authors League of America, Inc.
American Association of Life Underwriters.
American Farm Bureau Federation.
American Podiatry Association.
American Society of Landscape Architects.
American Association of Medical Clinics.
American Optometric Association.
National Wholesale Furniture Salesmen's Association.

American Bar Association.
American Hotel & Motel Associations.
National Association of Women Lawyers.
American Medical Association.
National Livestock Tax Committee.
American Veterinary Medical Association.
Society of Magazine Writers.

National Society of Professional Engineers.
American Society of Industrial Designers—
Industrial Designers Institute.
National Council of Dance Teachers Organization.

National Society of Public Accountants.
American Chiropractic Association.
National Milk Producers Federation.
National Association of Retail Grocers of the United States.

Bureau of Salesmen's National Association.

National Small Business Association.
National Food Brokers Association.
American Institute of Certified Public Accountants.

That is only a partial list of associations endorsing the measure.

I do not see any reason why the amendment should not be adopted. I think most of us are aware that it represents an equitable measure and should be adopted by a solid majority.

Mr. CARLSON. Mr. President, will the Senator yield?

Mr. HARTKE. I yield to the Senator from Kansas.

Mr. CARLSON. Mr. President, I wish to associate myself with the remarks of the Senator from Indiana. I also wish to state that the Senator from Kentucky [Mr. MORTON] has authorized me to state that he heartily endorses the amendment.

Mr. President, an inequity existed as to the tax treatment accorded self-employed persons who desired to establish private, retirement plans. Employer contributions to retirement plans have been tax deductible for some time and nontaxable to the employees until retirement benefits are actually received. The law discriminated against self-employed persons by requiring them to pay taxes on income they set aside for retirement. Farmers, ranchers, and other small businessmen make up a large portion of this group.

Congress recognized that discrimination did exist and enacted the Self-Employed Individuals Tax Retirement Act of 1962. This measure has tended to reduce the discrimination, but it has fallen

demonstrably short of achieving its objective.

Under the Self-Employed Individuals Tax Retirement Act of 1962, most farmers are classified as "owner-employees." Owner-employees are authorized to contribute up to 10 percent of their earned income, but not more than \$2,500 per year, to a retirement plan and to claim a Federal tax deferral for 50 percent of such contributions.

However, in the case of farmers, the benefits of this act are drastically limited by a restrictive definition of "earned income." If the earnings of an "owner employee" are a joint product of personal services and invested capital, as is the case with most farmers, not more than the larger of \$2,500 or 30 percent of the taxpayer's earnings from self-employment may be treated as "earned income."

Limiting the deferral to 50 percent of the contributions has retained a serious inequity with respect to self-employed retirement programs. Consequently, very few retirement programs have been established. The restriction that earned income must be arbitrarily computed at 30 percent of net earnings has made the program meaningless to farmers and other self-employed who must invest capital as well as labor in their enterprises.

If enacted, this proposal would remove both the 50 percent and 30 percent limitations. For example, self-employed individuals, professional and farmer, with a \$10,000 net income could contribute \$1,000 annually toward an authorized retirement program and deduct the full amount. This program would apply only to income where the self-employed individual's labor was a material income-producing factor.

There is a misconception that a provision included as an amendment to the Foreign Investors Act corrects the serious inequity and discrimination in our tax laws. This is not true. That provision simply states that the self-employed will not be discriminated against until his net income exceeds \$6,600 per year. It is clear that an individual, for all practical purposes, must earn more than that in any given year before he is able to set aside funds for retirement purposes. It is also true that the provision does nothing to remove the requirement that only 50 percent of his contribution can be treated as a tax deduction.

The provisions of H.R. 10, as passed by the House, correct the problem rather than confuse the situation. I believe that is the job we want to accomplish today.

Mr. WILLIAMS of Delaware. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. LONG of Louisiana. Mr. President, I hope the amendment is not agreed to. People have been lobbying

for 15 years that, because corporations have retirement plans and because an employee puts his money into it and has no vested interest in it until he retires and pays no tax on it until he starts drawing the money, doctors, lawyers, and others who do not have these plans should be protected and should have a deduction of \$2,500 to set up their own retirement funds.

If these employees are so protected, there is a loophole that should be closed. This measure moves in the opposite direction from closing that loophole. The pending amendment would discriminate by using that loophole as a precedent against every workingman who paid a social security tax. He cannot deduct the social security tax that he puts into the fund, although his employer can deduct his contribution as a necessary expense.

This amendment would discriminate against all Federal employees. Senators are under the Federal retirement system, and they know that the 7 percent that they contribute to their retirement fund, which is matched by 7 percent Government money, is money on which they have paid a tax. Here it is proposed that a doctor, making \$75,000 a year, should receive a better tax treatment than Members of Congress receive, or should be given preferential treatment over our own Federal employees who pay into the retirement fund money on which they have paid a tax.

The amendment would provide a deduction of \$2,500, on which a person would not have to pay a nickel of tax for what he puts up. It would be used mainly by doctors and lawyers and others who are making more than \$25,000 a year. It would be a complete deduction, above what they are allowed for their own expenses, for providing for their own retirement.

It would make better sense to allow a man to deduct the expenses of an insurance policy to provide for the living expenses for his wife and children in the event he should die at an early age. It would make better sense to deduct the expenses for an insurance policy to provide for food for that wife and children.

There are all kinds of expenses for which an argument for deduction would be more compelling. It would make more sense to deduct the expense of paying rent—

Mr. GORE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. GORE. How would the Senator compare the fairness in an act of the Senate to permit doctors, lawyers, and dentists, who, according to the Treasury, would receive 75 percent of these benefits, to deduct the cost of the premium of a retirement insurance policy, with giving to people who have a tragedy

in their families a deduction for hospital costs?

Yet this amendment provides a deduction for an investment for one's own retirement, but does not provide for a deduction for all the other expenses that are, as the Senator has said, more worthy and more emergent.

Mr. LONG of Louisiana. Mr. President, as among personal expenses, it would seem to me to make better sense to let a man deduct the cost of burying his wife than to deduct the cost of putting aside a large retirement fund for himself. As among personal expenses, this is one of the most unnecessary a person could have. It is entirely up to him whether he wants to do it. The adoption of this amendment would leave every workingman under social security paying taxes on every nickel he puts up for his retirement. He cannot deduct it. Yet the Senator would provide deductions for the lawyer and the doctor. We would pick out a few specially privileged people, a few wealthy

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individuals, and prefer them over the whole rank and file of Americans.

This amendment would attempt to enlarge an already existing loophole in the tax law. We ought to close the loophole rather than enlarge it. If I could get enough votes, I would close it now. I do not think I could get the votes; that is the only reason I am not trying to do it. We would save \$500 million a year if we could close that loophole.

Mr. RUSSELL of Georgia. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. RUSSELL of Georgia. Did the Senator's committee conduct any hearings on this question?

Mr. LONG of Louisiana. Mr. President, we did not conduct hearings on it this year, but we have voted on this matter many times. We have conducted hearings on it in years gone by, and never agreed to it.

We have agreed that we would treat these people the same as if they were both employer and employee, and let them deduct 50 percent of it, so that they could put aside \$2,500 for their own retirement, and could deduct \$1,250 of it.

It was contended that farmers and small businessmen did not get much benefit from the self-employment retirement plan, so the bill was amended to help them.

But as far as the 100 percent deduction part of H.R. 10, we would not buy that. Mr. President, in all fairness, I think the amendment should be rejected.

I yield to the Senator from Michigan.

Mr. HARTKE. Mr. President, I ask the Senator, is it not true that the secretaries who work for those doctors

and lawyers would be covered, and are not covered now, under the same pension plan?

Mr. LONG of Louisiana. They are not asking for it. They would like to have a pay raise. They need the money to pay their current expenses such as rent and food.

Mr. HARTKE. The argument which the Senator makes is really against pension plans in toto.

I think it is wrong to fail to provide coverage for a person who sacrifices himself in electing to go ahead as an individual, and try to make his own way as an individual entrepreneur, and not sacrifice his soul to a soulless corporation—because the lawyer in the corporation can be covered, and his counterpart in the outside world who makes his own way cannot; the doctor in the corporation will be covered, but the doctor on the outside is not; the secretary in the corporation is covered, but the secretary on the outside is not.

When we speak of equity, that is the type equality we are talking about. I think there is no question but that there is discrimination in all of this. If the Senator wishes to eliminate pension plans, and suggest that as a substitute, I will be glad to see what the vote will be on that question.

Mr. LONG of Louisiana. Mr. President, I yield to the majority leader.

Mr. MANSFIELD. This amendment would double the tax benefits now available for the retirement savings of doctors, lawyers, and other self-employed individuals. Under present law, a self-employed individual may contribute 10 percent of his earnings—up to \$2,500—to his pension plan and take a tax deduction for one-half of this contribution. The proposal—which was the main purpose of H.R. 10 passed by the House in June—would make the full contribution tax deductible.

This amendment would result in an estimated revenue loss for the first year it is effective of up to \$30 million. For the second year, the estimated revenue loss would be increased to about \$50 million.

This amendment would divert substantial Federal tax revenue to provide tax reductions for a very narrow group of highly paid professional people, at a time when the possibilities of a general tax increase are very much in the public mind. Revenue-losing measures such as this could well push the President and Congress closer to such a general tax increase.

In more detail—

The experience to date clearly indicates that self-employed pension plans represent a tax reduction arrangement for the better-off professional man, with doctors heading the list. Over 75 percent of the revenue loss involved in the

amendment would go to doctors, lawyers, and dentists. Indeed, one-half of the total revenue loss would go to individuals in these professions with incomes over \$25,000.

The amendment would represent an automatic tax reduction for those self-employed already making pension contributions since, without any change in their contributions, their tax deductions will double. Two-thirds of the revenue loss—about \$20 million—for the first year would be directed to this automatic tax reduction—of which \$15 million would go to better-off professional people.

For the future, it is likely that the increased tax benefits will only serve to attract more of the same class of high income self-employed into pension plans. These plans by their very nature can have only limited value to the plumber, the small shopkeeper, or the farmer—the savings of these people are needed for their businesses, to meet the social security tax on their self-employment income, and for their family obligations—and therefore are not generally available to be set aside in private retirement plans, and none at all for the ordinary laborer, the fellow we used to call the “working stiff.” It is apparent that self-employed pension plans are attractive only to a class with liquid assets and already possessing sufficient security so that some assets can be set aside permanently until retirement. The only class meeting these conditions is the better-off professional group. This has been borne out by the Canadian experience over more than 6 years under a similar pension arrangement for the self-employed. The benefits of this arrangement have been highly concentrated in the upper income groups.

I would suggest, with no disrespect to the distinguished Senator from Indiana, that if he wishes to pursue H.R. 10 as such, it ought to be considered separately, and not as a part of the measure pending before us.

Mr. LONG of Louisiana. Mr. President, the Senator from California had wanted me to yield for a question. I yield to the Senator from California.

Mr. MURPHY. Mr. President, I should like to say a word here in behalf of a group of self-employed people in a craft of which I was a member for about 30 years, the highly paid actors in Hollywood, most of whom survive for a career the average length of which is 7½ years. This is proved by statistics. Many of them have 2, 3, or 4 years of high earnings, and many, including the present junior Senator from California, have paid as high as 86 percent of their gross earnings in income taxes.

I was impressed by the statements made earlier by the distinguished Senator from Louisiana in behalf of older people. I should like to point out that we, the actors in Hollywood of my era,

are now joining those ranks. I shall be ready very shortly—on June 4 next year.

I should like to point out that we had, at our own expense some 20 years ago, to establish a home for our own indigent people. I would like the RECORD to show that we had in that home the actors and actresses who had signed contracts for the greatest number of dollars over the shortest period of time.

There are great athletes from time to time who have had tax troubles. Joe Louis, one of the great champions and one of the outstanding men of his race, has had tax troubles.

I could give a list of my colleagues in the motion picture profession who might have been saved embarrassment and might have been able to take care of themselves after the years of their productive capacity had passed by had there been such a bill.

I ask if the Senator from Louisiana has given any thought or concern to these people with high incomes over a short period of time who disappear to unknown places.

I know where they go because I made it my business to find out.

I ask if those people are entitled to consideration.

Mr. LONG of Louisiana. With regard to self-employed actors, for whom the Senator speaks, they are very fine people.

One of the finest things that I can say about them is that I did not see any of that group coming in to ask for any special advantage.

In the 1964 act we cut the top tax rate from 91 percent to 70 percent. If a person was actually paying 86 percent of his income in taxes, we probably doubled his take home pay as a result of the 1964 tax cut.

There was also an averaging provision in that bill. One could average his income over a several-year period.

Mr. MURPHY. I understand that it applies to writers but not to actors. I may be incorrect.

Mr. LONG of Louisiana. It applies to everybody. By averaging his earnings,

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a person can save a great deal of taxes that he would otherwise have to pay. This would be of help if he had to quit acting for some reason. A number of provisions are contained in the law in order to help such a person.

I am looking at the data that was provided to us by the Treasury. This was made available to the Ways and Means Committee.

Let us see who is taking advantage of what we have already done for the self-employed. With all the deductions and the money going into this program right now, 60 percent of this is from the returns of doctors, physicians, surgeons, optometrists, and other medical specialists, and 60 percent of the actual deductions benefit doctors.

I must say that lawyers do not use this provision as much as I thought they would. Perhaps they will later. Ten percent of the deduction taken is for lawyers. If we consider the two groups together, doctors and lawyers, that constitutes 70 percent.

When we do this for doctors and lawyers, can we in good conscience turn down a working man if he comes in and says, "You did it for them. Why not give us the same deduction on the money we put up in social security that you gave to the doctors and lawyers? We need it a lot more than they do."

How can we turn them down?

Mr. GORE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. GORE. How can we turn down the Government employee who wants a deduction from his taxable income for his contribution to the retirement system?

Mr. LONG of Louisiana. I do not see how we can do it.

If we do all of this, the cost would be absolutely fantastic. No one could imagine the cost of the program if we were to pursue this principle.

It is hard to explain to the folks back home why we did so much for the rich and so little for the poor.

Why should we discriminate against working people in favor of the rich?

It is difficult to explain.

I know that there will be great gratitude among those who are wealthy. However, I should think that more folks would resent it.

Mr. McCARTHY. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. McCARTHY. Mr. President, the records show that only 38,000 people take advantage of this provision. That means that only one two-hundredths of 1 percent of the people are benefiting from this provision in the law.

We are taking an inequity and enlarging upon it. When we enlarge upon an inequity, it does not make it more equitable. It increases the inequity against those who do not benefit from such a provision.

There is no reason to say that we should not go ahead and extend this provision to everybody and provide that everybody can put 10 or 20 percent of their income into such a fund.

Mr. LONG of Louisiana. According to the calculations of the Senator, the number involved is only one two-hundredths of 1 percent.

Mr. McCARTHY. Thirty-eight thousand taxpayers are taking advantage of this gimmick. If we extend this to other people, it might increase that number. We might be benefiting one-fourth of 1 percent of the wealthy taxpayers. It is estimated, as a high cost estimate, that

this involves \$60 million of special interest to benefit less than 1 percent of the people.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. HARTKE. Mr. President, what was the estimate of the Treasury Department in 1962 as to the cost of the 1962 law? It was \$115 million, and the actual cost was \$9 million. The answer is very simple. It did not do the job it was meant to do. It did not cover the poor employees. It did not cover the secretary working for a self-employed man, with one or two people in the office. The secretaries working downtown are not treated alike. If one works in an office in which there are pension plans, that is well and good, as long as he works for a big company.

Why should we discriminate against the little man and against the poor farmer who makes his own way through life and has the courage to stand up and not surrender to the big corporations? Why should all not be treated the same?

Mr. LONG of Louisiana. The reason it did not cost as much as the Treasury Department estimated was that only the rich took advantage of the provision. The same kind of people would take advantage of this provision. It is the rich people who will take advantage of it and get twice as much advantage as they are receiving at the present time.

Mr. BAYH. Mr. President, I should like to address a question to either the Senator from Louisiana or my colleague, the Senator from Indiana.

I do not want to make a speech because I do not know enough about the subject to make a speech.

I must say that I am not certain as to what the facts are. I would like to have one of the Senators try to set me straight on this matter.

Mr. LONG of Louisiana. I yield for a question.

Mr. BAYH. Mr. President, the statement was made a while ago, I thought, by the Senator from Louisiana that if a laboring man were working in a job covered under social security he would be making his social security contribution and the employer would likewise be making such a contribution. The employer would deduct his 50 percent of the contribution and the workingman would have to do the same and then pay taxes on his social security contribution.

Mr. LONG of Louisiana. The part that the employee contributes is not deductible.

Mr. BAYH. The contribution that a workingman makes to the social security deduction is taxable.

Mr. LONG of Louisiana. The Senator is correct. If the workingman puts up approximately 5 percent of his wages for social security, that is money on which he has paid taxes. The taxes have been

withheld from his income on the money that he must put up to pay for social security.

When the doctors and lawyers came in asking for a 50 percent deduction provision, I was willing to vote for the bill. We passed the bill at their request in order to let them deduct half of what they put up on the theory that, with respect to the employees, the boss would put up half and his half would be deductible.

The part that the employee puts up is not deductible. That is personal, on which he has paid a tax.

It was my theory—and it was my amendment to this proposal—to say that we would let them deduct half of it, so we would treat them the same as a workingman on social security, or parallel to our Government employee program, or just about the same as we treat a fellow working for the railroad. The railroad puts up half, and that is deductible for the railroad; and the workingman puts up half, and he pays taxes on it.

So we passed a law, with Senator SMATHERS managing it on the floor. He has sponsored this proposal for many years, and he agreed to this amendment. So we would treat the self-employed the same as we treat an employee. On the theory that if he is the boss, we will let him deduct the half that would be attributable to the employer if he were working for someone, and he would pay taxes on the half that would be attributable to him as an employee. So we will give him the same break as though he were working for an employer and each were putting up half. Well, they are not satisfied.

Mr. BAYH. May I ask a question, for clarification?

The fact is that the employee has already paid taxes on the amount that is deducted from his wage, which goes into social security?

Mr. LONG of Louisiana. The Senator is correct. So do the Government employees.

Mr. BAYH. May I ask my colleague, the Senator from Indiana, whether he agrees or disagrees?

Mr. HARTKE. There is no question about what happens in this situation. We are not talking about social security. We are talking about pensions. Everyone knows that in a pension it is simple—employees do not pay taxes on pensions. No employee pays taxes on a pension, but it is given to him in lieu of wages. When they sit down at the bargaining table and get those benefits, the benefits are in lieu of wages.

There are very few contributory plans any more. The contributory pension plan is being retired out of existence. Under the noncontributory pension plans, the employer pays the entire amount of the pension into the fund,

and the employee does not pay one penny of the tax on it.

I do not see any reason why a poor secretary, who works for a lawyer,

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should be treated in a manner different from that in which a secretary who works for Sunshine Corp., is treated.

Mr. GORE. Mr. President, there are three very good and specific reasons for rejecting this amendment.

First, H.R. 10 is a major piece of legislation, and ought to be considered separately and on its own merits. There are times when the Senate must proceed by amendment in tax matters, but this is not one of them. This bill has been passed by the House as a separate bill. It should be so treated here.

Second, this amendment provides substantial tax reduction when we are faced with the necessity for increasing, not reducing taxes. The war in Vietnam will apparently continue to require more and larger expenditures, and Secretary McNamara will undoubtedly have a further report on this when he returns from Saigon.

Third, the amendment favors unduly a small and select group of taxpayers. In this connection, I would like to read from a recent address by Assistant Secretary of the Treasury Surrey.

Perhaps—as respects H.R. 10 plans—the money should come from the taxpayer himself. Much as our doctor friends and we lawyers dislike to admit it, in actual practice the self-employed pension plan becomes a tax reduction arrangement for the better off professional man, with doctors heading the list. Over 75 percent of the present H.R. 10 deductions are taken by doctors, lawyers, and dentists, and they would thus obtain 75 percent of the tax revenue involved in the pending revision. Indeed, about one-half of the revenue lost would go to individuals in these professions with incomes over \$25,000. These plans are not for the plumber, the small shopkeeper, or the farmer—the savings of these people are needed for their businesses, to meet the social security tax on the self-employed, and for their family obligations—and therefore are not available for H.R. 10 plans.

A glance at Canadian experience with these plans—where there is full deduction up to \$2,500 without a 50-percent limitation and no employee coverage requirement—since their adoption in 1957 is instructive. The latest figures show that 6 years later—1962—the rate of participation exceeded an almost negligible figure—3½ percent—only in the professional group—where we find over 40 percent of the doctors and dentists and 24 percent of the lawyers participating. As respects incomes, the rate of participation is quite low—never above 6 percent—under \$10,000 income—but is

about 30 percent in the \$20,000 to \$100,000 class. It is apparent that H.R. 10 plans are attractive only to a class with liquid assets and already possessing sufficient security so that some assets can be set aside permanently until after age 65—and the only class meeting these conditions is the better off professional group.

This is not to say that the matter ends here, but it is rather to point out that it appears the H.R. 10 approach to problems of retirement has a distinctly limited usefulness to the great majority of self-employed persons, and that the very small group of professional persons which does benefit is not in such need that the present advantages must be expanded at once. Any change should at least await a resolution of issues in the broader area of pension plans.

In addition to these specific points, H.R. 10 is wrong in principle and runs counter to our basic philosophy of taxation.

Mr. President, one of the hallmarks of modern economic democracy is the graduated income tax. This is the one mechanism which, more than any other, places the burden of financing the country's defense and carrying out necessary services which the modern industrial State must render its citizens squarely on the shoulders of those most able to bear that burden. Without some such mechanism as this, it seems to me that economic democracy will not long endure. And, without economic democracy, political democracy as we know it is doomed.

Our tax laws are riddled already with provisions which constitute open attacks against our system of graduated income taxes. Many of the provisions relating to pension, profit sharing, stock option, stock purchase and deferred compensation plans constitute just such an attack. This amendment, the substance of H.R. 10, is now to be added to the arsenal of weapons of those who would batter down these walls which seek to guard economic and political democracy.

This is not to say that pension and profit-sharing plans have no place in our economy. They definitely do. But that place needs a close reexamination. On the basis of the need for extensive tax reform, today is surely not the time to act to widen the gap. We badly need to take a hard look at the whole area of pension and profit sharing and see what changes are in order. It is my feeling that many changes are in order and, in fact, badly needed.

In a complex economic order it seems impossible to avoid having complex tax laws. The definition of properly taxable income in any and all circumstances is not an easy matter. Therefore, we have exceptions, and exceptions to the exceptions when we come to define just how much and what kind of income is subject to tax at certain specified rates.

Perhaps this is something which we must accept. But we do not need to make matters worse every time some change is proposed.

I know of no Member of the Congress who is not in favor of encouraging, through proper means, the setting up of pension plans by employers for the benefit of employees. These plans now cover a great many employees—wage earners, ordinary salaried employees, and higher salaried executives—and this is, in my opinion, all to the good, provided proper restrictions are observed. In many instances, it is only through a pension and profit-sharing plan that a worker can gain a rightful share of the earnings of his employer, and have security and decent living standards for his old age. But there must be restrictions.

Today we are faced, not with the examination of a restriction which might correct some abuses, but with the broadening of a relatively new device which is to be brought in under the tent. This is pretty near the whole camel, because we now are, if this amendment is adopted, to allow the self-employed taxpayer, who already owns all of the profits of whatever business or profession he happens to operate, to remove more of this profit from current taxation, not for the purpose of seeing to it that his employees share adequately in the profits of the business, but for the sole purpose of reducing his current taxes.

It has been claimed that existing laws relating to pension and profit-sharing plans are inequitable in that the self-employed are discriminated against. It is proposed now to remove an alleged inequity by allowing the self-employed to operate more nearly like the owner-managers of corporations now operate in setting up pension plans for themselves. An alleged inequity is thus sought to be cured by the widening of another loophole rather than by closing off existing areas of favoritism. It never seems to occur to some that provisions of law can be "equalized" by taking away some benefits to which the recipients have no legitimate claim.

It is quite understandable that some self-employed citizens and many others look with envy at the tax advantages of their friends and neighbors who happen to be officers or employees of certain corporations. A quick glance at some of the tax advantages provided by law for corporate pension and profit-sharing plans will explain why this is true.

The law permits corporations fully to deduct from taxable income their contributions to qualified pension plans. Some corporations have pension plans only for their salaried employees. Others have plans for all employees but many of these have separate and less generous plans for hourly employees.

Moreover, the corporate contribution to the pension plan of which an employee

is, or may become, a beneficiary, is not currently taxable as income to the employee-beneficiary. Such benefits only become taxable income to the employee when an actual distribution is made to him.

So long as these benefits are within reasonable limits, they serve a useful social purpose and it is proper for the Government to encourage employers to assist in providing reasonable security for their employees during retirement, and for their participating more equitably in the profits of the business.

The proponents of H.R. 10 legislation claim a discrimination against the self-employed exists because the self-employed are unable to receive a tax benefit for accumulating and setting aside their own retirement funds for their own particular and peculiar benefit. It is conveniently overlooked that existing laws relating to pension and profit-sharing plans permit a tax deduction by the employer for setting aside funds for the benefit of his employees, a different matter altogether.

Provisions of existing law certainly do allow abuses in the field of pension and profit-sharing. The correct solution to [P. 25368]

the alleged inequity, however, lies neither in the creation of yet additional inequities nor in the wholesale condemnation of a proper pension plan philosophy with appropriate implementing laws and regulations.

Many questions are involved. The basic question is whether government, particularly the Federal Government should encourage employers to assist in the provision of economic security and decent living standards for their employees for the years in which these employees are no longer productive. This question has been answered affirmatively by the Congress. There are opportunities for abuse, however, and corrective legislation is needed. On the other hand, should the Federal Government reward a taxpayer for setting aside some of his own funds for his own use at some later date? So far as I am concerned, the answer to this question is an unqualified no.

So far as I am concerned, this negative answer should apply also to the owner-managers of closely held corporations. But I have made little progress over the years on this approach.

As an adjunct to social security, and in recognition of the fact that the corporate employee did not always receive in current compensation his fair share of the earnings of his corporate employer, the Federal Government quite properly began to encourage corporations to establish pension funds for the benefit of their employees. Unfortunately, the laws and regulations were not sufficiently detailed to prevent many

abuses by corporation owners and managers, while at the same time they did not require sufficient coverage for the lower salaried or hourly workers employed by corporations.

Although private pension plans of one kind or another have been in existence in this country since 1875, they did not reach significant proportions until after the enactment of the 1942 tax code. Since that time private pension and profit-sharing plans have grown rapidly both in numbers of individuals participating in such plans and in the assets represented by the accumulated reserves of such plans.

One of the real inequities or shortcomings now existing in the pension field is a lack of coverage for several million employees of corporate and other types of enterprises, plus a lack of definite and early vesting of rights in the assets of the various plans in which covered employees are participating. This is the real inequity in the pension field, and only by expanding and broadening coverage for the ordinary employees can such employees participate fully and equitably in the profits of the corporations and other enterprises for which they labor and produce. Only in this way can the ordinary employee be guaranteed decent living standards in his nonproductive years, unless Government programs are to be extended, broadened, and amplified.

The proposition that the Federal Government should give reasonable tax deductions to business enterprises for setting aside funds for reasonable benefits for the bona fide employees of those enterprises is well established and quite properly so. This principle should continue to be followed, and a greatly improved social security system is needed as well.

Rewarding the individual by reducing his own taxes merely because he sets aside funds out of his own current income for his own benefit during later years, however, is an altogether different matter. Under no philosophy of taxation except a taxation based on consumption rather than income could such a proposition be acceptable. The sales tax is based on this philosophy. To date, the Federal Government has not seen fit to adopt such a tax except to a limited degree in certain excises. We hope to eliminate these excises.

The ordinary employee of the corporation or other type of enterprise needs additional pension plan protection. This amendment does very little toward that end.

The individual taxpayers who comprise the effective management of the large corporations need to be considered. Strict limits should be placed on the tax deductions which corporations can receive for benefits to these employee-managers.

The self-employed, if they have sufficient income to be able to take full advantage of these provisions, are able, without benefit of the provisions of this bill, to provide for their own disability and retirement. The lawyer and doctor, for example, enjoy high compensation and a part of their current income, after taxes, can be set aside for future needs. Furthermore, they build up a practice which will bring them an income in later years. There is no enforced retirement for doctors and lawyers. The farmer, retailer, or other small businessman can build up an investment in his farm or business which will provide for himself and his family in his later, less productive years. This is the traditional way of building up an investment in this country and is still possible, despite the competition from large enterprises, so long as we have an expanding and growing economy.

Of course, there are several million self-employed individuals who are unable to set aside substantial sums of money out of current earnings. These people must spend all of their current earnings to maintain themselves and their families. These are the self-employed who are most in need of assistance in providing for their nonproductive years but this amendment is of no assistance whatsoever to this large group. A tax deduction for setting aside \$2,500 per year out of current income is worse than meaningless to the head of a family earning \$3,500 per year. It is meaningful, of course, to the lawyer or doctor earning upwards of \$25,000 per year. It is helpful to those who need little help.

H.R. 10 has a long history, but I do not propose to detail it here. In 1960 spokesmen for the Treasury Department objected to the enactment of the bill in the form in which it had passed the House of Representatives. The Treasury made a counterproposal. In effect, this counterproposal states, "We will go along with the creation of a loophole in the tax laws which will reduce our revenues at a time when we cannot afford such a reduction, and which will benefit certain of the well-to-do self-employed, if, in exchange, the Congress will give us some tools with which we can fight abuses which are rampant in the corporate owner-employee field."

This counterproposal of the Treasury, insofar as it relates to correcting abuses in present law, was, in some respects, admirable. Certainly there are abuses in the pension and profit-sharing fields, particularly when one individual is the owner of all or most of the stock of a corporation of which he is also the manager and the only highly compensated employee.

The net effect of this amendment is further to erode the tax base, thereby necessitating higher and higher tax rates if the necessary total revenues are

to be raised. The increased burden must be borne by the salaried taxpayer for whom there is no way of escape, or by the small enterprise, whether a corporation or not, of insufficient affluence to enable its owners and managers to take advantage of the many opportunities for tax avoidance now afforded by the tax laws.

Many abuses allowed, and even encouraged, by existing law have been brought to the attention of the Finance Committee. Among these abuses are:

First. Existing law provides for capital gains treatment under certain circumstances for lump sum distributions of the proceeds from pension and profit-sharing plans. Instances have been brought to the attention of the Finance Committee in which lump sum payments in excess of \$800,000 have been made to corporate executives and accorded the 25 percent capital gains tax rate. This type of income bears no relationship whatsoever to capital gains but is, instead, accumulated and deferred ordinary income. There is no equity involved in according such income the favorable capital gains treatment.

Second. One individual who is the owner-employee of several corporations can participate in pension and profit-sharing plans in each of his corporations, thereby converting much of the income of these corporations, which should be taxed at corporate rates, into tax-exempt or tax-deferred income for himself or his family.

Third. Large estates are being built up out of untaxed income and passed on to members of the beneficiary's family, escaping any tax whatsoever, either current income tax, deferred income tax, or estate tax. Pension rights should be subject to estate and gift taxes.

Fourth. Existing law places no practical limits on the amounts which a corporation can deduct for contributions to pension and profit-sharing plans for the benefit of the high salaried executive of the large corporation. Many corporations have pension plans which provide for pensions amounting to 50 percent or more of the employee's salary during his peak earning years.

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H.R. 10 is a thoroughly unjustifiable piece of legislation. This amendment would reduce revenues at a time when such a reduction can hardly be viewed with equanimity, and it would do nothing whatsoever to correct flagrant tax avoidance abuses.

For the present, it seems to me that the Senate ought to delay action on this amendment. Let us at least consider it separately and on its own merits.

I hope the Senate will reject this amendment. As I said in the beginning, it represents an attack on the graduated

income tax—on the principle of ability to pay.

But, whatever the fate of this amendment as it now stands, the Congress must soon take a big fork into the Augean stables and clean up pension tax laws. The longer we wait the more difficult will be the task and the more adjustments will there be for more and more taxpayers.

Mr. DIRKSEN. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a statement prepared by the Senator from Nebraska [Mr. CURTIS].

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR CURTIS

I have always favored legislation which would provide incentives to the self-employed who wish to build private retirement income for themselves and their employees. This group is composed of our farmers and cattlemen, our individual craftsmen and our professional people. The self-employed in this country number around 6 million and it is estimated that they employ about 9 million people. Certainly they are entitled to the same benefits in providing for their own retirement as has been extended to both corporation executives and employees for many years.

The Self-Employed Individuals Tax Retirement Act which passed in 1962 provided only a partial answer. The original intent was that a self-employed individual could set aside a limited portion of his income for retirement and have the entire amount tax deductible and have the earnings on the retirement savings tax deductible. There was opposition to this from the Treasury and elsewhere and the result was that Congress had to pass a compromise. It limited the amount that could be set aside to ten percent of an individual's income of \$2,500 per year, whichever is the lesser. But, instead of allowing the full amount to be tax deductible, only fifty percent was allowed. No provision was made for income earned from capital invested by the self-employed person in his business. Only income from his personal services was permitted. These limitations made the law impractical and unsatisfactory and as a result at the present time less than one-half of 1 percent of all the self-employed workers are covered.

This year the House passed a bill, H.R. 10, which would ease the tax rules for self-employed pension plans. This bill would allow a one hundred percent tax deduction up to \$2,500 and in addition would lift the 30 percent ceiling on earned income allowed to those who must use capital in their business. To enact these provisions into law would go a long way toward assisting the self-employed in saving their own money for retirement. This is right and just and encourages thrift. It would give the self-employed equal opportunity with both executives and the employees of corporate employers. It would encourage people to provide for some of their additional wants and needs through their own savings from money they have earned.

I stated many months ago that I would fully support this bill and that I hoped it would be reported from the Senate Finance Committee and passed by the Senate. I

would likewise favor an amendment embodying these provisions, I think such a step is important for our future aged.

The PRESIDING OFFICER (Mr. BYRD of Virginia in the chair). The question is on agreeing to the amendment of the Senator from Indiana.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON (after having voted in the negative). On this vote, I have a pair with the senior Senator from Kentucky [Mr. COOPER]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. WILLIAMS of Delaware (when his name was called). On this vote, I have a pair with the junior Senator from Kentucky [Mr. MORTON]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. BENNETT (after having voted in the negative). On this vote, I have a pair with the junior Senator from Nebraska [Mr. CURTIS]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. LONG of Louisiana. I announce that the Senator from Idaho [Mr. CHURCH], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Maryland [Mr. TYDINGS], are absent on official business.

I also announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Tennessee [Mr. BASS], the Senator from Illinois [Mr. DOUGLAS], the Senator from Mississippi [Mr. EASTLAND], the Senator from Arizona [Mr. HAYDEN], the Senator from New York [Mr. KENNEDY], the Senator from Montana [Mr. METCALF], the Senator from Utah [Mr. MOSS], the Senator from Oregon [Mr. NEUBERGER], the Senator from Rhode Island [Mr. PELL], the Senator from West Virginia [Mr. RANDOLPH], the Senator from Florida [Mr. SMATHERS], and the Senator from New Jersey [Mr. WILLIAMS], are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia [Mr. RANDOLPH], and the Senator from Florida [Mr. SMATHERS], would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Colorado [Mr. ALLOTT], the Senator from New Jersey [Mr. CASE], the Senators from Kentucky [Mr. COOPER and Mr. MORTON], the Senator from Nebraska [Mr. CURTIS], the Senator from Iowa [Mr. HICKENLOOPER], the Senator from New York [Mr. JAVITS], the Senator from Idaho [Mr. JORDAN], the Senator from Kansas [Mr. PEARSON], the Senator from Vermont [Mr. PROUTY], and the Senator from Texas [Mr. TOWER] are necessarily absent.

If present and voting, the Senator from Colorado [Mr. ALLOTT], and the Senator from Texas [Mr. TOWER] would each vote "yea."

The respective pairs of the Senator from Nebraska [Mr. CURTIS], the Senator from Kentucky [Mr. COOPER], and that of the Senator from Kentucky [Mr. MORTON] have been previously announced.

On this vote, the Senator from Kansas [Mr. PEARSON] is paired with the Senator from Idaho [Mr. JORDAN]. If present and voting, the Senator from Kansas would vote "yea" and the Senator from Idaho would vote "nay."

The result was announced—yeas 39, nays 31, as follows:

[No. 300 Leg.]

YEAS—39

Bayh	Griffin	Mondale
Bible	Gruening	Mundt
Brewster	Harris	Murphy
Byrd, Va.	Hartke	Nelson
Byrd, W. Va.	Holland	Proxmire
Cannon	Hruska	Ribicoff
Carlson	Inouye	Saltonstall
Cotton	Jordan, N.C.	Scott
Dominick	Magnuson	Smith
Ervin	McClellan	Sparkman
Fannin	McGovern	Talmadge
Fong	McIntyre	Thurmond
Fulbright	Miller	Young, N. Dak.

NAYS—31

Aiken	Jackson	Muskie
Bartlett	Kuchel	Pastore
Boggs	Lausche	Robertson
Burdick	Long, Mo.	Russell, S.C.
Clark	Long, La.	Russell, Ga.
Dirksen	Mansfield	Stennis
Dodd	McCarthy	Symington
Ellender	McGehee	Tower
Gore	Monroney	Young, Ohio
Hart	Montoya	
Hill	Morse	

NOT VOTING—30

Allott	Hayden	Pearson
Anderson	Hickenlooper	Pell
Bass	Javits	Prouty
Bennett	Jordan, Idaho	Randolph
Case	Kennedy, Mass.	Simpson
Church	Kennedy, N.Y.	Smathers
Cooper	Metcalf	Tower
Curtis	Morton	Tydings
Douglas	Moss	Williams, N.J.
Eastland	Neuberger	Williams, Del.

So Mr. HARTKE's amendment was agreed to.

Mr. HARTKE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ERVIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

[P. 25371]

EQUITABLE TAX TREATMENT FOR FOREIGN INVESTMENT IN THE UNITED STATES

The Senate resumed the consideration of the bill (H.R. 13103) to amend the Internal Revenue Code of 1954 to provide equitable tax treatment for foreign investment in the United States.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, there have been some conversations going on in the Chamber between various interested parties for the past hour. I am about to propound a unanimous-consent request, as follows:

Mr. President, I ask unanimous consent—first, I know that there are only two more amendments coming up and there may be others—but I ask unanimous consent that at the conclusion of a 10-minute morning hour tomorrow that the amendments then be considered on a 10-minute basis, one-half of the time to be under the control of the distinguished Senator from Louisiana [Mr. LONG], the manager of the bill, and the other half to be under the control of the proposer of the amendment; and when these two amendments and any others are disposed of, that we have a vote on final passage.

Mr. LAUSCHE. Mr. President, reserving the right to object, will there be an opportunity for Senators to speak on the merits of the bill as it pertains to final passage, on the basis of the proposal made by the Senator from Montana?

Mr. MANSFIELD. How much time would the Senator desire?

Mr. LAUSCHE. I would want 3 minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be one-half hour on the bill.

Mr. LONG of Louisiana. Mr. President, the Senator, of course, includes the usual requirement that all amendments be germane?

Mr. MANSFIELD. The Senator is correct.

The PRESIDING OFFICER. The request is for one-half hour on the bill, to be equally divided.

Mr. MANSFIELD. That is correct.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The unanimous-consent agreement, subsequently reduced to writing, is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That, effective on October 13, 1966, at the conclusion of routine morning business, not to exceed 10 minutes, during the further consideration of the bill (H.R. 13103), an act to amend the Internal Revenue Code of 1954 to provide equitable tax treatment for foreign investment in the United States, debate on any amendment, motion, or appeal, except a motion to lay on the table, shall be limited to 10 minutes, to be equally divided and controlled by the mover of any such amendment or motion and Senator LONG of Louisiana: *Provided*, That in the event that he is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or some Senator designated by him: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of

the final passage of the said bill debate shall be limited to one-half hour, to be equally divided and controlled, respectively, by the majority and minority leaders: *Provided*, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal.

Mr. LONG of Louisiana. Mr. President, I hope that we might be able to dispose of a few amendments that may be called up, by voice vote.

AMENDMENT NO. 959

Mr. YARBOROUGH. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The legislative clerk read the amendment as follows:

On page 88, beginning with "Effective" in line 24, strike out all through "apply," in line 2, page 89.

On page 89, line 18, beginning with "(other)" strike out all through "business)" in line 21.

On page 90, line 7, beginning with "(other)" strike out all through "business)" in line 10.

On page 174, beginning with "With" in line 17, strike out all through "United States," in line 21.

Mr. YARBOROUGH. Mr. President, I wish to pay tribute to the distinguished chairman of the Finance Committee [Mr. LONG] and to the members of the committee for the fine work which they have done on a very technical and very complex piece of legislation. I support the original intent of the bill as a whole, but there are two provisions which I think the record indicates are ill advised, and my amendment would strike these sections from the bill.

Mr. LONG of Louisiana. Will the Senator from Texas yield at that point?

Mr. YARBOROUGH. I yield.

Mr. LONG of Louisiana. Mr. President, I understand the amendment which the Senator from Texas is offering. I know that there is opposition to the provision in the bill. The judgment of the committee was that the tax on foreigners who invest here both as to the estate tax and to the income tax would go into effect in 1972.

We could, of course, extend that date beyond 1972 or perhaps take it off the books by 1972. Otherwise we could, if we decided we wanted to tax this money, vote to tax it next year.

I understand the Senator's arguments. He contends that many people are taking their money out of the United States, particularly out of Texas banks, insofar as Mexican investors are concerned, because they are being told that their money will be taxed. It would not be taxed until 1972, anyway, but if it is causing a substantial outflow of money

then, perhaps, we should not impose a tax.

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This is a matter we will vote on tomorrow, in any event, as I understand it, because then the yeas and nays will be requested. That being the case, there will be a rollcall vote. Therefore, if the Senator from Texas will make his position clear at this time, Senators will be able to read it in the RECORD tomorrow morning.

Mr. YARBOROUGH. I know that is the agreement, that a ye-and-nay vote will be demanded.

Mr. LONG of Louisiana. We will obtain the yeas and nays on it tomorrow, if the Senator will leave his amendment at the desk.

Mr. YARBOROUGH. I understood the majority leader to say that there were two or three amendments which might be passed on by voice vote tonight, that there would be no rollcall votes, so that I thought we might dispose of this amendment on a voice vote.

Mr. LONG of Louisiana. We cannot vote on it tonight, Senator, because some Senators may want to ask for a rollcall vote on it.

Mr. YARBOROUGH. In that event, I will make my position clear in a few minutes.

Mr. LONG of Louisiana. I thank the Senator.

Mr. YARBOROUGH. Mr. President, under present law, interest on deposits with U.S. banks paid to foreigners not doing business within the United States is not subject to U.S. income tax and the deposit is not subject to estate tax. This bill would impose a U.S. income tax on interest paid by U.S. banks to non-resident aliens. It would also subject the deposit to the estate tax. Both provisions would become effective in 1972.

These provisions were added by the House Committee on Ways and Means. They were not included in the original administration proposal. Nor were they a part of the report of the Fowler task force which was the basis for the bill.

They were opposed by the American Bankers Association, and by bankers all across the country.

In an effort to arrive at an estimate of the effect of the income tax provision, I wrote Mr. Stanley S. Surrey, Assistant Secretary of the Treasury, on August 2, 1966, asking for the amount of the deposits which would be affected, the amount of deposits that would be withdrawn if the provision were enacted, and the additional revenue that would be generated by enactment.

Mr. Surrey replied that the total amount of time deposits covered is approximately \$2,250 million.

In reply to my second question Mr. Surrey replied:

We do not feel that we are in a position

to give you any such estimate because of the uncertainty as to the reaction which foreigners may have to such tax and the fact that a large number of bank deposits are held as working balances by corporations which do not bear interest and hence would not be affected by the bill.

In response to the third question Mr. Surrey replied that, making numerous assumptions, a rough estimate of the total revenue which would be derived from taxing the interest would be \$22,500,000. However, inasmuch as one of the assumptions he made was that foreigners' time deposits held in 1972—the date when the provision would go into effect—would be equal to those held by them today, and he had already stated that the effect on foreigners' holdings of time deposits was unknown, this estimate would appear to be of little reliability.

Let us, then, examine what we know. We know that the amount of deposits affected totals \$2,250 million. But we do not know how much additional revenue would be generated, nor how many dollars worth of deposits would be withdrawn. It would seem, then, that we are legislating in the dark.

We can speculate on human nature, however. It is obvious that if a country suddenly imposes an income tax on the interest received by someone who is neither a citizen nor a resident of that country, he is going to look for another place to put his money. So we can most surely assume that there will be large-scale withdrawals of funds. At a time when we are still in a period of difficulty over our balance of payments, it is unwise to look for new troubles in this regard. This money from foreign countries on deposit in American banks is used in America; this capital helps relieve our money shortage. Its withdrawal would worsen our tight money problems. In my opinion it is fiscally unsound to drive this money out of the country. Many other countries would welcome these deposits within their boundaries.

One of the principal arguments given in justification of the change is that we would then be adopting the policy followed by other countries.

But when questioned on this point, Secretary Fowler said, at page 39 of the Senate hearings, that no such taxes are imposed in France, Germany, and the Netherlands. In the United Kingdom, although the law appears to impose a tax, in practice the United Kingdom apparently exempts interest on bank deposits, a tribute to the British talent to muddle through, no doubt. Secretary Fowler says that taxes are imposed in Italy, Switzerland—although at only a 5-percent rate—Canada and Japan. So there appears to be a 50-50 split in the policies of the other major countries with sizable foreign bank deposits. Thus the argument that we should act this

way in order to follow the practice of other countries does not appear sound, since the other major countries are about equally divided.

All the financial experts who testified on this part of the bill were opposed to it. I am unable to find any support for it in the hearings.

Mr. John H. Perkins, senior vice president of the Continental Illinois National Bank & Trust Co., representing the American Bankers Association, testified as follows:

We believe that enactment of the two provisions in the act referred to above will do irreparable injury to the economic position of the United States. If these provisions are enacted, undoubtedly there will be a widespread withdrawal of foreign dollar balances from this country. This will add to the problems brought on by our balance-of-payments position and will result in substantial additional outflow of gold from the United States. Any assumption that delay in the effective date in the imposition of income taxes until after 1971, postpones immediate concern is erroneous. I think I would like to emphasize that, that the very passing of that act will trigger a reappraisal of banking relationships by the nonresident aliens affected. This reappraisal will lead to near-term action in many cases. As a matter of fact, commercial banks already are receiving inquiries from their foreign depositors concerning the pending legislation. Also, the estate tax on foreign held deposits would be effective at once, that is, with respect to taxable years beginning after December 31, 1966. Consequently, if the legislation is enacted there could possibly be a massive outflow of funds before the end of the year which could seriously affect our international financial position for this year. On the basis of transactions during the first half of this year, our payments position, without taking into consideration any movement of funds that may result under this legislation, will be much more unfavorable than originally anticipated at the beginning of the year. I might add too any outflows triggering from the passage of this act would take effect immediately, whereas the benefits from the other parts of the act would take some time to affect our position.

The action proposed in the pending legislation is inconsistent with previous action by the Congress in dealing with foreign bank deposits in this country. The importance of retaining such funds in this country from the standpoint of our balance of payments and U.S. gold position was considered an important factor by the Banking and Currency Committee in its report on H.R. 5306, 89th Congress, 1st session (Rept. No. 336), a bill to continue the authority of domestic banks to pay interest on time deposits of foreign governments at rates differing from those applicable to domestic depositors. The committee, in recommending passage of H.R. 5306, stated that "the object of the bill is to extend existing provisions of law designed to encourage foreign governments and monetary authorities to maintain dollar accounts in this country rather than convert these dollar accounts directly into gold or to transfer the funds to other financial centers, whereupon they could be acquired by official institutions of other countries and be converted into gold."

Bringing our international payments into

balance is difficult, particularly in light of the present magnitude of U.S. Government commitments in support of world peace and development. As an emergency expedient, American businessmen and bankers have been enlisted in a voluntary program of restraints on U.S. capital outflow to eliminate the deficits. This effort should not be undermined by introducing penalties on foreign deposits with American banks. The original proposal of tax legislation in this area at this time was to create a more attractive climate for foreign investments in the United States. Even the threat of the contemplated action is harmful, affecting foreigners' decisions to open or maintain accounts with American banks.

In addition to the effect which the withdrawal of foreign balances could exert on our balance-of-payments position, there is also the effect on our general economic position. Balances in U.S. banks maintained by non-resident aliens represent assets that have been voluntarily brought into this country for one reason or another, but usually from the standpoint of safety. The U.S. dollar is, and has been for many years, the strongest currency in the world, and this has led foreigners to transfer part of their wealth to the United States for safekeeping. This has been encouraged because such assets in the form of bank deposits have not been

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subject to our estate taxes; the income on such deposits has not been subject to our income taxes, and there are no impediments to the withdrawal of the deposits from the United States.

We do not have precise figures available which show the aggregate amount of the funds currently on deposit, but it is conservatively estimated that they amount to several billions of dollars, which I think our figures are consistent with those which have been given in the last few days here.

We believe that on balance, the United States has a great deal more to lose than can ever be gained from what little taxes that might be collected under the pending legislation from these sources because, as pointed out above, owners of these funds are free to move them elsewhere. Legislation of this character is apt to have an unwholesome immediate effect on investor psychology and we can look to a prompt outflow of funds seeking investment outlets in other countries. It is recognized that the act provides that the amendments made by it are not to apply where application would be contrary to any treaty obligation of the United States and that there is a 5-year period before the income tax would be effective on bank deposits. However, this is offset by the immediate imposition of the estate tax. And I would like to add it is offset by the immediate psychological effect on these foreigners who already are concerned about this and who will not wait, in our opinion, until 1971 at all to make their moves.

Accordingly, we strongly recommend that the committee amend the act and retain the present provisions of the Internal Revenue Code which exempts from the U.S. estate and income taxes deposits held by nonresident aliens in U.S. banks and the interest paid thereon.

Senator ANDERSON. Thank you, Mr. Perkins. Is there any possibility that the banks might feel differently if the estate tax provision was postponed until 1972?

Mr. PERKINS. I don't believe so, Senator. Our feeling, and we have talked to a number of bankers about this in a number of areas, our feeling is quite strong that the banking relationship is built up over a long period of years. When a new tax comes in, whether it is the estate tax or the deposit tax, the people owing the funds and their lawyers and their financial advisers and all start looking at this, start worrying about it and they don't think of waiting until that day in 1971. They start trying to analyze whether or not they ought to change their banking relationships because of this tax, and if they conclude to do that, they will go ahead and start making these moves now.

So, I don't think the idea of an effective date really has as much bearing as might seem from the date it is. In other words, we feel that this would trigger a certain amount of action immediately and not postpone action until 1971 when we could get another look. Obviously, there would be those who would wait until 1971 to make a move, I grant you that, but we think there would be some effects immediately and then over the next few years, month by month.

Mr. Alfred W. Barth, executive vice president, the Chase Manhattan Bank, said:

We are dealing with large amounts. The proposed change in tax treatment would, in our estimate, directly affect \$2 to \$2½ billion of deposits. Once these deposits are shifted to a foreign bank abroad, that bank will, in turn, almost surely lend them to foreigners. The foreign borrowers are all too likely to convert the dollars into local currency. The dollars thus will end up in the hands of foreign central banks which can turn them in to the U.S. Treasury for gold.

I know from personal conversations with customers abroad that our foreign banking competitors are already seizing upon the provisions of H.R. 13103 as a lever for encouraging the transfer of deposits to them.

I cannot forecast precisely the time and volume of deposit withdrawals, but I do feel certain that significant withdrawals will occur. I would like heartily to endorse the proposal that the provisions relating to bank deposits of nonresident foreigners not doing business in this country be deleted from the bill.

Mr. Charles H. Bartlett, Jr., representing the Arizona Bankers Association, stated:

The amount of deposits attracted by Arizona banks from foreign corporations is quite limited. For the most part, our foreign deposits come from individuals who are attracted by this country's record of political stability and very excellent reputation for preserving the value of money in comparison with that of most other parts of the world. Higher after-tax yields can be obtained in many other countries.

But there is a limit to the price foreigners will pay to keep money in our country. This year, we have noticed a loss of deposits to other countries because of their higher interest rates. If to this we add a 30-percent tax rate, there can be no question but that the flow of money to other countries would be accelerated. Many countries with favorable political climates now have strong financial institutions which actively solicit U.S. dollar deposits. It is interesting to note that foreign depositors who transfer money out of the United States for the most part do not

repatriate it to their own countries, but rather place it where they can best attain their deposit objectives.

The imposition of income taxes will most definitely cause the loss of important deposits by the banks in Arizona. Contrary to the House report, the effect will be noticed immediately and not in 1971. Anyone who has himself wrestled with the intricacies of our own tax laws can appreciate the problems in trying to explain them to people living perhaps hundreds or even thousands of miles away. I know of no more frustrating experience than trying to explain a point of law or taxation on the telephone in a foreign language to a person not familiar with our legal concepts. I recently tried unsuccessfully to translate into verbal Spanish the new Federal Reserve regulations on multiple maturity time deposits, and, I am sure, that would be rather simple compared to what H.R. 13103 would require. We can be sure that the new tax measures would be given wide publicity and the mere fact of taxability, once brought to the attention of our foreign customers, would cause an immediate outflow of funds. Some bankers report it has already started. Our banker friends abroad are strong competitors, and know how to make good use of any advantages they have.

There really can't be much doubt about what an income tax would do to foreign-owned deposits; but an estate tax would be absolutely deadly. I don't think any conscientious banker could fail to acquaint his foreign customers with the imposition of an estate tax. The bank I work for would most definitely do so.

In this context, it should be remembered that some countries do not have any estate or inheritance taxes whatsoever. Certainly, people in those countries cannot be expected to invite loss of even a small part of their capital by leaving their funds in the United States. We have certain attractions, as I mentioned, but our margin of advantages is not as wide as it was 20 years ago. It does not permit us to impose a charge for safekeeping.

This bill will effectively destroy a very major share of the deposits which enable the banks in my State to support international departments. None of us have foreign branches or subsidiaries and, while our foreign business is growing, we do not have the volume of transactions which would normally be required to serve as the bases for foreign operations of one type or another. The enactment of H.R. 13103 in its present form would force important deposits to move to foreign banks and foreign branches of other American banks. The growth of our foreign banking activities would be dealt a blow from which it would take us many years to recover. We would be at a competitive disadvantage both at home and abroad.

The Arizona Bankers Association urges the elimination from H.R. 13103 of those provisions which would subject foreign-owned deposits to income and estate taxes.

Although I have received no official notification of the position of the Treasury Department on my amendment, I would assume, from Secretary Fowler's remarks at the hearing, that it has his tacit support.

Secretary Fowler stated:

The representatives of the banking community are much closed and much more familiar with the actual impact of this 1972

provision, and the current impact of the state tax provision, than we are. Therefore, we are going to listen very carefully to their testimony. I am sure that it will be helpful to all of us in considering just what the effect is of this change in the law. I do not have a concrete response to your question, except to urge that the committee give careful consideration to the testimony to be given by those who are more intimately familiar and directly concerned with this matter.

And, Mr. President, the unanimous testimony of the financial community was that the provisions should be deleted.

As a Senator from Texas, I have a concern for the welfare of all the people in the communities of my State. This bill would hurt not only bankers, it would hurt everyone in the community, because the banks would have less money to loan and the economic activity of the community would thus be diminished. One bank in my State indicates that one-fourth of its deposits of \$40 million would be affected. This would be a severe blow to the economies of many Texas cities and to many cities all over the country. At a time when interest rates are high because of a shortage of loanable funds, this is no time to diminish loan funds still further.

I respectfully suggest that the evidence indicates that we are running a risk of enacting a law which will raise only a little extra revenue while scaring away large amounts of funds. The purpose of the Fowler Task Force Report was to recommend ways of increasing foreign investment in the United States. This seems a peculiar way to do it.

For these reasons I urge the deletion of this section from the bill. I hope that the chairman will accept my amendment.

[October 13, 1966]

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EQUITABLE TAX TREATMENT FOR FOREIGN INVESTMENT IN THE UNITED STATES

The ACTING PRESIDENT pro tempore. Pursuant to the previous unanimous-consent agreement, the Chair lays before the Senate the unfinished business, which will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 13103) to amend the Internal Revenue Code of 1954 to provide equitable tax treatment for foreign investment in the United States.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent to say a word about the pending bill, as I shall be in a poverty bill conference and unable to speak later with regard to this measure on the floor of the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I am very gratified that the provision for medicines in the voluntary part of the medicare program is at long last included in the law. When the medicare measure was before us originally I moved for such an amendment and I did my utmost to get it adopted, but it was defeated. Sometimes it takes a while around here for justice to catch up with the law, and in this case it has.

I congratulate the Senate from Louisiana [Mr. LONG] for including this provision. He told me at the time that if experience warranted it he would include it, and he did so in this bill. I extend to the Senator my appreciation.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. LONG of Louisiana. Mr. President, it was the Senator from Illinois [Mr. DOUGLAS] who offered the amendment. I voted for it, as did the majority of the committee. I think that this measure will meet the problem. While it is not recommended by the administration they are not fighting us on this measure.

The Senator from New York [Mr. JAVITS] was one of the early proponents of the suggestion. I commend him for his effort. Many of us have been in favor of it for a long time. The only consideration has been the revenue consequence of it.

Mr. JAVITS. The Senator had said that at that time, and I commend the Senator from Illinois [Mr. DOUGLAS] for his part in the matter.

Mr. FONG. Mr. President, I ask unanimous consent that I may call up my amendment in precedence over the amendment of the distinguished Senator from Texas [Mr. YARBOROUGH], and ask that it be considered at this time.

The ACTING PRESIDENT pro tempore. Without objection, the amendment of the Senator from Texas [Mr. YARBOROUGH] will be temporarily laid aside.

Mr. FONG. Mr. President, I call up my amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

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The legislative clerk proceeded to read the amendment.

Mr. FONG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered; and the amendment will be printed in the RECORD at this point.

The amendment submitted by Mr. FONG is as follows:

At the end of the bill to insert a new section, as follows:

"SEC. 404. That (a) the first sentence of section 203(a) of the Social Security Act is amended (1) by striking out the period at the end of paragraph (3) thereof and inserting in lieu of such period a semicolon followed by the word 'or', and (2) by adding after paragraph (3) thereof the following new paragraph:

"(4) when one of such individuals is a widow of such insured individual who is entitled, under section 202(e), to widow's insurance benefits for any month on the basis of the wages and self-employment income of such insured individual, the benefit to which she is entitled, on the basis of such wages and self-employment income, shall not be reduced for any month under this subsection on account of monthly benefits to which any other individual is entitled, on the basis of the wages and self-employment income of such insured individual, if (A) such insured individual died prior to 1966 and if (B) such other individual (i) is entitled to such benefits, under section 202(d), as a child of such insured individual, (ii) is not the child of such widow, and (iii) would not have been considered to be the son or daughter of such insured individual under section 216(h) as in effect prior to the enactment of the Social Security Amendments of 1965."

"(b) The amendments made by subsection (a) shall be effective with respect to monthly benefits payable under title II of the Social Security Act for months after the month in which this Act is enacted."

The ACTING PRESIDENT pro tempore. The Senator has 5 minutes. How much time is he yielding himself?

Mr. MANSFIELD. Mr. President, will the Senator from Hawaii yield without using any of his time, so that I may suggest the absence of a quorum for 1 minute, with the time to be taken out of the bill?

Mr. FONG. I yield.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum for 1 minute.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The ACTING PRESIDENT pro tempore. How much time is the Senator from Hawaii allowing himself?

Mr. FONG. Mr. President, I yield myself 2 minutes.

Mr. President, this is a very simple amendment, offered to correct a very serious inequity inflicted by Congress last year upon certain widows entitled to social security benefits.

In enacting the Social Security Amendments of 1965—Public Law 89-97—Congress included a provision entitling certain illegitimate children to social security benefits based upon the father's earnings record.

Section 339 of Public Law 89-97 added a new provision to section 216(h) of the Social Security Act to allow social security benefits to be paid to certain illegitimate children who were acknowledged by the father or by court order or court decree as his offspring.

Mr. President, I ask unanimous consent to have the entire new provision added by Public Law 89-97 printed in the RECORD at this place in my remarks.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

QUALIFICATION OF CHILDREN NOT QUALIFIED
UNDER STATE LAW

[Public Law 89-97; 71 Stat. 519; 72 Stat. 1030; 42 U.S.C. 416]

SEC. 339. (a) Section 216(h) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3) An applicant who is the son or daughter of a fully or currently insured individual, but who is not (and is not deemed to be) the child of such insured individual under paragraph (2), shall nevertheless be deemed to be the child of such insured individual if:

"(A) in the case of an insured individual entitled to old-age insurance benefits (who was not, in the month preceding such entitlement, entitled to disability insurance benefits)—

[79 Stat. 410]

"(i) such insured individual—

"(I) has acknowledged in writing that the applicant is his son or daughter,

"(II) has been decreed by a court to be father of the applicant, or

"(III) has been ordered by a court to contribute to the support of the applicant because the applicant is his son or daughter, and such acknowledgment, court decree, or court order was made not less than one year before such insured individual became entitled to old-age insurance benefits or attained age 65, which ever is earlier; or

"(i) such insured individual is shown by evidence satisfactory to the Secretary to be the father of the applicant and was living with or contributing to the support of the applicant at the time such insured individual became entitled to benefits or attained age 65, whichever first occurred;

"(B) in the case of an insured individual entitled to disability insurance benefits, or who was entitled to such benefits in the month preceding the first month for which he was entitled to old-age insurance benefits—

"(i) such insured individual—

"(I) has acknowledged in writing that the applicant is his son or daughter,

"(II) has been decreed by a court to be the father of the applicant, or

"(III) has been ordered by a court to contribute to the support of the applicant because the applicant is his son or daughter, and such acknowledgment, court decree, or court order was made before such insured individual's most recent period of disability began; or

"(i) such insured individual is shown by evidence satisfactory to the Secretary to be the father of the applicant and was living with or contributing to the support of that applicant at the time such period of disability began;

"(C) in the case of a deceased individual—

"(i) such insured individual—

"(I) had acknowledged in writing that the applicant is his son or daughter,

"(II) had been decreed by a court to be the father of the applicant, or

"(III) had been ordered by a court to contribute to the support of the applicant because the applicant was his son or daughter, and such acknowledgment, court decree, or court order was made before the death of such insured individual, or

"(i) such insured individual is shown by evidence satisfactory to the Secretary to have been the father of the applicant, and such insured individual was living with or contributing to the support of the applicant at the time such insured individual died."

Mr. FONG. Mr. President, in providing social security benefits for these illegitimate children, however, Congress failed to make any allowance for the impact of their claims upon the benefits of the legal widow or other legal claimants of the worker. For example, the maximum payable to the surviving family members, which is based on the deceased worker's earnings record, was not raised nor waived to accommodate the claims of any illegitimate children.

Thus, social security benefits for illegitimate children can—and in one instance that I know of—have reduced the social security benefits for legitimate claimants.

In a case brought to my attention this year, the Social Security Administration reduced from \$109.50 to \$54.80 the social security monthly benefit of a legal widow of a deceased worker, because illegitimate children of her late husband were ruled entitled to social security benefits under Public Law 89-97.

This widow's social security benefit is her only income. Although on review, one of the illegitimate children was ruled not entitled to benefits and her benefit was adjusted to \$65 a month, this is a pitiful amount. She has written me many letters, and she cannot understand how Congress would be so cruel and unjust to the legal widow.

I believe that it Congress had realized the effect of the illegitimate children provisions, some provision would have been made to protect the legal dependents from such drastic diminution of their social security benefits.

Therefore, I am proposing to amend the Social Security Act—section 203 (a)—to exempt from reduction of monthly benefits those widows whose husband's died prior to 1966 if the other claimants, first, are entitled to child's benefits under section 202(d), are not children of the widow, and would not have been considered prior to Public Law 89-97 to be the children of the deceased worker.

As the amendment is drawn, therefore, the exemption from reduction of benefits is extended only to those widows whose husband's died in 1965 or earlier

in those cases where claims of an illegitimate child or children based on the same man's earnings record would, because of the family maximum, force a reduction in her benefit.

I am advised by the Social Security Administration's actuarial staff that the cost of my amendment would be "negligible." In their terms, this was defined as costing less than one one-hundredth of 1 percent of payroll. The Social Security Administration was unable to give me an estimate of the number of people that might be involved in the amendment, but their estimate is

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based on their judgment that very few persons would be affected.

As my amendment has very limited application—it is not applicable to all widows in the future, only to those whose husbands died before 1966—and as the cost is "negligible" according to the advice of the social security actuaries, I urge the Senate to approve my amendment.

This should be done in all fairness to widows who were receiving social security benefits as the legal surviving widow of a deceased worker, only to discover that Congress by enacting the illegitimate children provision suddenly and without warning deprived them of their full entitlement.

Mr. LONG of Louisiana. Mr. President, I understand the amendment and I am under the impression that the Senator is seeking to do justice to one of his constituents in Hawaii. So far as I am concerned, I am willing to take the amendment to conference, to study it and have it acted upon there.

Mr. President, I yield back the remainder of my time.

Mr. FONG. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment was agreed to.

Mr. YARBOROUGH. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Texas will state it.

Mr. YARBOROUGH. I understand that 5 minutes have been allotted to each side on my amendment No. 959.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. YARBOROUGH. Mr. President, I yield myself 1 minute.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized for 1 minute.

Mr. YARBOROUGH. Mr. President, I discussed this amendment yesterday and would refer Senators now in the Chamber to the RECORD of October 12, beginning on page 25371 and the succeeding six columns on pages 25372 and 25373,

where this matter was fully explained with quotations from the record made before the Committee on Finance.

Let me point out that there is a provision in the bill to tax the interest which aliens who live abroad receive from their deposits, in American banks. There is also a provision to impose an estate tax on these bank deposits. This provision was put in the bill by the Ways and Means Committee. It was not an administration recommendation.

There are between \$2¼ to \$2½ billion on deposit in American banks at the present time owned by aliens living abroad. They do not live here. They are not citizens.

To levy this tax on their interest, and to levy this tax on their estates if they die, will only drive this money out of the United States into foreign countries at a time when our gold reserves have gone from \$22 billion 10 years ago to \$13.2 billion now. If all that money goes out of this country at one time, it will be disastrous to our balance of payments.

Mr. TALMADGE. Mr. President, will the Senator from Texas yield?

Mr. YARBOROUGH. I am happy to yield to the Senator from Georgia.

The ACTING PRESIDENT pro tempore. The time of the Senator from Texas has expired.

Mr. YARBOROUGH. Mr. President, I yield 2 minutes to the Senator from Georgia.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized for 2 minutes.

Mr. TALMADGE. Mr. President, I support the amendment offered by the distinguished senior Senator from Texas.

I interrogated Secretary of the Treasury Fowler on this very question when he appeared before the Finance Committee. His testimony appears on page 49 of the hearings and concludes on page 51 thereof, and I ask unanimous consent to have it printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senator TALMADGE. Mr. Secretary, do you know how much money foreigners have on deposit in banks, savings and loan associations, and insurance companies in the United States?

Secretary FOWLER. We have the figure on time deposits, Senator Talmadge, and that is two and a half billion dollars.

Senator TALMADGE. Do you have figures for other type deposits? One of my correspondents said the sum total of the three was \$13 billion.

Secretary FOWLER. I think that includes all short-term banking liabilities to private foreigners, of which bank time deposits are only a part.

Within that larger total the private time deposits are two and a half billion dollars.

Senator TALMADGE. Let us look further into this problem and see how it might affect our balance of payments.

Assume that a citizen of South America has had deposits, for example in the Chase National Bank in certificates of deposit in the amount of \$1 million. The interest rate now on this type deposit I think, is 5½ percent.

Secretary FOWLER. Yes, sir.

Senator TALMADGE. The interest on the \$1 million over a period of 1 year would be \$55,000, would it not?

Secretary FOWLER. That is right.

Senator TALMADGE. Now, if this bill passes in its present form it would be subject in 1971 to a 30-percent flat tax rate, would it not?

Secretary FOWLER. In 1972, it would be subject to a 30-percent U.S. tax rate. That is correct, sir.

Senator TALMADGE. That would be \$16,500 he would pay on his certificate of deposit.

Assuming a citizen did not want to pay that tax, what would prevent him from withdrawing his money in the New York bank and transferring it to the same bank in Paris, France?

Secretary FOWLER. Nothing whatsoever.

Senator TALMADGE. In other words, that would mean if he were wise enough and had foresight enough and wanted to avoid this tax he would simply withdraw the \$1 million he has on deposit in New York and transfer it to the Paris bank, thereby avoiding the tax and getting the same return, would he not?

Secretary FOWLER. That is correct, and I think I should add to that that most banks in Europe do accept dollar deposits from foreigners and pay about the same rate as is paid in the Euro dollar market, as it is called. The interest rate over the past year there has been ranging about a half percent higher than in the United States.

Senator TALMADGE. In other words, he would earn \$5,000 more and escape the tax.

Secretary FOWLER. That is right, and to carry out the mathematics of your questioning, according to our computation the net return on deposits in these countries, if it is equal to the gross interest rate currently payable would be about 6½ percent on 3-month Euro dollar deposits compared to a gross yield in the United States of about 5½ percent and a net yield to a foreigner after application of the withholding tax, of about 3.85 percent.

Senator TALMADGE. Doesn't it seem to you logical that this particular foreigner would choose this course of action and increase his income by escaping the tax?

Secretary FOWLER. From my own simple knowledge of the situation I think it does present a case.

Senator WILLIAMS. Would the Senator yield at that point?

Senator TALMADGE. Yes.

Senator WILLIAMS. Assuming that the individual did that and deposited it in France, would he be subject to a tax in France, and would he have the same privileges of withdrawal and convertibility as he would have in this country or would he lose some of those advantages?

Secretary FOWLER. Insofar as the tax goes, Senator Williams, my earlier comments indicated that in France, Germany, and the Netherlands, he would not be subject to a tax in the source country. Insofar as convertibility goes, that is a much more complicated question. I do not want to hazard a comment on that, although my impression is that there is fairly free movement insofar as bank deposits are concerned.

Senator TALMADGE. Assuming, Mr. Secretary, that he made that transfer from the New York bank to the Paris branch of the same bank, would not that \$1 million certificate of deposit be a factor in the further drain of our gold supply?

Secretary FOWLER. That is one of the consequences. There is a possibility of a gold impact from shifted dollar deposits.

Senator TALMADGE. Mr. Secretary, I listened to your testimony very carefully, and I think the main thrust of this bill would accomplish desirable ends, to increase investment in this country, and curtail our dollar drain. However, it seems to me that this particular provision of the bill which we have been discussing is calculated to do just exactly the opposite. Bank deposits are highly mobile in character. People are going to look for the highest possible short-range return, and if they can get a better return elsewhere and escape the tax, it is unquestionable that most foreigners would immediately transfer their deposits elsewhere to avoid the tax and get the higher return.

This probability is fraught with very grave danger, and so far as our dollar deficit is concerned, I would hope the Treasury would look into that aspect of it very carefully and be prepared to recommend to this committee, one way or another, what we ought to do about it.

Secretary FOWLER. Well, I think Senator, it is a question of weighing the balance-of-payments consideration with the tax equity consideration—two very valid considerations, The House Ways and Means Committee gave a preeminence to considerations of tax equity as between domestic citizens and the other—

Senator TALMADGE. I would agree with that aspect of it completely. Certainly I would hate to see the United States of America grant preferential treatment to foreigners that is not given its own citizens. But the fact remains we have jurisdiction over American citizens and we do not over foreigners.

Secretary FOWLER. That is the observation I was going to make. The foreigner has an

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option—he can leave his money here or he can take it someplace else.

Senator TALMADGE. An American does not.

Secretary FOWLER. The American has a much lesser option, shall we say and, therefore, looking at it from a balance-of-payments standpoint, I think one views this provision with a considerable amount of concern.

Senator TALMADGE. Then you would have the further inequity that results from some American banks having foreign branches and some not.

Secretary FOWLER. That is another aspect of the problem.

Senator TALMADGE. So the American bank with foreign branches might not lose any deposits. It would merely shift from the American branch to the foreign branch. The foreigner would get increased income on his deposit, and escape the tax at the same time. But if the American bank had no foreign branches it would lose the deposit, which would also further complicate the dollar deficit crisis.

Secretary FOWLER. I think that is true. And I would imagine that one of the considerations that led the House to defer the effective date of this provision until 1972 was

so that banks without foreign branches that were interested in this business could arrange to open foreign branches.

Senator TALMADGE. Thank you, Mr. Secretary.

Mr. TALMADGE. As the Senator has stated, if this provision in the bill becomes law, in my judgment, it will do the very opposite of what the administration recommended—that is, to encourage more investment in the United States of America.

Dollars and liquid capital are highly fluid and highly mobile. To illustrate what would occur, a certificate of deposit in the Chase National Bank in the sum of \$1 million would yield \$55,000 in interest, but the provision in the bill would require a 30-percent withholding.

What would a foreign citizen do?

He would most likely withdraw his money and put it in the Chase-Manhattan Bank in Paris, France, and pay no tax on it and earn 7 percent.

In other words, what he would do would be to withdraw his money. I do not think we want that at a time when we are losing dollars and losing gold.

I recommend that the amendment of the Senator from Texas be agreed to.

Mr. MORRISON. Mr. President, will the Senator from Texas yield?

Mr. YARBOROUGH. Mr. President, I yield 1 minute to the Senator from Virginia.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized for 1 minute.

Mr. ROBERTSON. Mr. President, I invite the attention of the Senate to the fact that although I do not know the fundamental reason why the Ways and Means Committee put this provision in the bill, they must have felt uncertain about their position in that they provided the tax would not become effective for 6 years.

Now, no one can lift the veil of the future and see what the situation is going to be in this or any other country 6 years from now. Neither can we bear six successive sessions of Congress if we should go ahead and do this—and I do not recognize it now. There will be plenty of time within the next 6 years to do it.

I hope that the amendment of the Senator from Texas will be adopted.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. Mr. President, I yield time I had on this amendment to the Senator from Delaware, who is opposed to it.

The ACTING PRESIDENT pro tempore. The Senator from Delaware is recognized.

Mr. WILLIAMS of Delaware. Mr. President, under present law, foreigners—including foreign corporations—are generally entirely exempt from U.S. tax

on the interest income they derive from their bank deposits in the United States. I think the Senate might be interested in knowing where these funds come from. The Secretary of the Treasury when testifying stated that with respect to the \$2.5 billion of foreign-owned time deposits in U.S. banks, about one-half or \$1.3 billion is held by Latin Americans, and of this \$1.3 billion, about half of that, or \$.7 billion is held by citizens of Argentina, Venezuela, and Mexico. By way of contrast, the citizens of Venezuela have more money in U.S. time deposits than the citizens of all the countries of Europe. In other words, the members of the wealthy classes of South America can place their money in the safe confines of U.S. banks, enjoy the safety which this country provides and pay no taxes to this Government which provides them the sanctuary for their millions. This occurs even though their native lands are less-developed countries and need these funds at home.

Let me also point out that this amendment is not effective until 1972, and therefore, these wealthy foreigners will, in any event, enjoy this exemption until that time. The banks are not satisfied with a 5-year prospective effective date. They have already raised the cry of fear that these wealthy foreigners have begun to withdraw their funds notwithstanding the fact that they will not be subject to U.S. tax until 1972. I think the facts disprove their fears. The Committee on Finance has been informed that the time deposits held by foreigners have continued to increase in the recent months notwithstanding the fact that this provision was enacted by the House of Representatives 6 months ago. In the month of July alone, the deposits of these foreigners increased more than \$70 million.

It seems very inconsistent to me for this country to always be pressuring our good neighbors to the south to enact fair and equitable tax systems which will require their wealthy citizens to pay their fair share of the costs of their governments while at the same time the United States is providing the primary tax haven for the fortunes of these same wealthy South Americans. I might add, that in addition to constituting a tax haven, a U.S. bank is a very good hiding place for these foreign fortunes.

In view of all of these facts, I see no equitable reason why, once we get our balance of payments in control, that we should continue to allow the United States to serve as a tax haven for the wealth of the world.

I therefore urge that this amendment be rejected, the same as it was rejected by the Finance Committee.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. WILLIAMS of Delaware. The

adoption of this amendment would nullify the tax provisions of this bill.

For all practical purposes it defeats the purpose of title I.

Mr. LAUSCHE. Mr. President, will the Senator yield for a question?

Mr. WILLIAMS of Delaware. I yield.

Mr. LAUSCHE. If this amendment is adopted, the basic proposal that came before us is out and all that will be left will be the pork barrel amendments. Is that correct?

Mr. WILLIAMS of Delaware. Not entirely, but one of the main features of title I as it came from the House would be nullified. The purpose of this bill originally was to prevent the United States from becoming a tax haven for citizens of foreign countries who were hiding their money.

Mr. LONG of Louisiana. Mr. President, I yield myself 2 minutes.

The Senator's amendment would continue existing law with respect to non-resident aliens who deposit their money here. I think the Senator from Georgia [Mr. TALMADGE] stated it best before the committee. He said he would like to see the Sheik of Kuwait take his money out of British banks and put it in American banks, because it would help us with our balance of payments. He said he would like to see the Sheik of Kuwait pay the same taxes that the Senator from Georgia pays, but, unfortunately, he had no control over that. However, he would like to see the Sheik of Kuwait deposit his money in this country because it would help us with our gold balance.

The House felt that we ought to tax them the same as American citizens are taxed. The provision would not go into effect until 1972. So if we want to tax the bank deposits of the Sheik of Kuwait, for example, we can enact legislation to tax him in 1967, in 1968, or in 1969. If we decide we want to tax him, we can do it, but it may be that then he would take his money back to Britain. So the Senator's amendment would in effect delete what the House recommended. However, the Treasury does not oppose the amendment. They say the amendment would make it a better balance-of-payments bill. They would also from a tax equity point of view like to be able to tax the money of the Sheik of Kuwait, but they do not have jurisdiction over him. They will take either what the Senator from Delaware or the Senator from Texas suggests.

Frankly, if we can go to conference with the amendment, I would like to see us work something out in conference. I would like to see us be able to say to non-resident aliens with deposits in U.S. banks, "We will give you a choice. You can pay the tax you would pay your own government or you can pay us the tax you would have to pay if you were a citizen of this country. Take your choice."

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

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Mr. LONG of Louisiana. I yield myself 1 additional minute.

If we agree to the amendment, we can work it out in conference. If we do take the amendment, it will give us leverage.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield me 1 minute?

Mr. LONG of Louisiana. I yield.

Mr. WILLIAMS of Delaware. The Senator from Louisiana has suggested that we could take this amendment to conference. If it is to be taken to conference with the intention of dropping it in conference let us do it here. If the amendment is approved we have defeated the original purpose of title I.

The question here is, Do we want to place our country in a position of being used as a tax haven for hot money from all parts of the world?

Mr. LONG of Louisiana. Mr. President, I have discussed this matter with our staff. Our technicians believe that, if we take the amendment, the whole bank-deposit taxation issue will be in conference and we can work out any compromise we are able to. If the Senate does not think the issue should be brought to conference, the Senate can vote down the amendment.

Mr. YARBOROUGH. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. YARBOROUGH. Do I have 1 minute remaining?

The ACTING PRESIDENT pro tempore. The Senator does.

Mr. YARBOROUGH. I ask unanimous consent that a table from page 63 of U.S. News & World Report for October 17, 1966, entitled "Why There's Worry About U.S. Gold Supply," be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

WHY THERE'S WORRY ABOUT U.S. GOLD SUPPLY
Over the past decade, U.S. reserves of gold have dropped by almost \$9 billion, to lowest point in more than a quarter century.

[In billions]

Gold in other countries:	
10 years ago-----	\$14.9
Now -----	27.6
Up -----	12.7
Gold supply in United States:	
10 years ago-----	\$22.0
Now -----	13.2
Down -----	8.8

But foreign claims against U.S. gold keep rising. An even heavier drain on reserves could come if all these claims were presented.

[In billions]

Dollars held by other nations for which gold could be demanded:

10 years ago-----	\$14.4
Now-----	29.0
Up-----	14.6

If all foreign claims were pressed, there would not be enough U.S. gold to go around. As supply dwindles, Americans more and more are wondering what's causing this drain, what can be done to protect remaining reserves.

NOTE.—Foreign gold holdings and claims against U.S. gold exclude those of the International Monetary Fund.

Source: Federal Reserve Board.

Mr. YARBOROUGH. Mr. President, in conclusion, let me say that there are almost \$2½ billion, \$1.3 billion from Latin America, most of that from Mexico, Argentine, and Venezuela, on deposit in American banks. If we tax these deposits, they can place that money in France, Germany, the Netherlands, or elsewhere, where they will not have to pay any tax on those deposits. There is a tax of 5 percent in some countries. In England there is a technical tax of 4½ percent, but they do not enforce it. If we want to drive those deposits out of U.S. banks into banks in Paris or Bonn or Rotterdam or Amsterdam, we can do it.

The point is that, regardless of where this money comes from, if we impose this tax on it, the money will flee this country and go to Paris, Bonn, London, or the Netherlands. The way to redress the problem which the distinguished Senator from Delaware speaks of is by multilateral international treaty. If we act unilaterally we are cutting off our nose to spite our face.

And in answer to the Senator's argument that we would be gutting the original purpose of the bill if we remove this provision, I repeat what I said earlier—that this provision wasn't even in the administration bill.

The ACTING PRESIDENT pro tempore. All time on the amendment has expired. The yeas and nays have been ordered.

Mr. WILLIAMS of Delaware. Mr. President, I yield 2 minutes on the bill to the Senator from Kansas [Mr. CARLSON].

Mr. CARLSON. Mr. President, I voted against this amendment in committee, and I shall vote against it today. The chairman of the committee has suggested that we may take it to conference. I voted against the amendment because many of the wealthy in Latin America send their money up to this country for deposit when they should be investing that money in their own country, instead of asking the United States for aid.

I hope the Senate will vote it down.

Mr. MANSFIELD. Mr. President, will the Senator from Delaware yield me 2 minutes?

Mr. WILLIAMS of Delaware. I yield 2 minutes on the bill to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I yield that 2 minutes to the distinguished Senator from Louisiana [Mr. ELLENDER], who has a group of colleagues and friends to bring into the Chamber.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana [Mr. ELLENDER] is recognized.

[P. 25429]

EQUITABLE TAX TREATMENT FOR FOREIGN INVESTMENT IN THE UNITED STATES

The Senate resumed the consideration of the bill (H.R. 13103) to amend the Internal Revenue Code of 1954 to provide equitable tax treatment for foreign investment in the United States.

Mr. MANSFIELD. Mr. President, I suggest that we have the vote on the amendment, and during the course of the vote, Senators who so wish may have the opportunity to visit with their fellow parliamentarians from Sweden.

The ACTING PRESIDENT pro tempore. All time on the amendment having expired, the question is on agreeing to the amendment of the Senator from Texas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DIRKSEN (after having voted in the negative). On this vote I have a pair with the Senator from Montana [Mr. METCALF]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. LONG of Louisiana (after having voted in the affirmative). On this vote I have a pair with the Senator from Nebraska [Mr. CURTIS]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. LONG of Louisiana. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Indiana [Mr. BAYH] the Senator from Idaho [Mr. CHURCH], the Senator from Illinois [Mr. DOUGLAS], the Senator from Mississippi [Mr. EASTLAND], the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. HART], the Senator from Arizona [Mr. HAYDEN], the Senator from New York [Mr. KENNEDY], the Senator from New Hampshire [Mr. McINTYRE], the Senator from Montana [Mr. METCALF], and the Senator from Utah [Mr. MOSS] are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana [Mr. BAYH] and the Senator from Mississippi [Mr. EASTLAND] would each vote "yea."

On this vote, the Senator from Michigan [Mr. HART] is paired with the Senator from Utah [Mr. Moss].

If present and voting, the Senator from Michigan would vote "nay" and the Senator from Utah would vote "yea."

Mr. KUCHEL. I announce that the Senators from Colorado [Mr. ALLOTT and Mr. DOMINICK], the Senator from New Jersey [Mr. CASE], the Senator from Kentucky [Mr. COOPER], the Senator from Nebraska [Mr. CURTIS], the Senator from Iowa [Mr. HICKENLOOPER], the Senator from Idaho [Mr. JORDAN], the Senator from Kansas [Mr. PEARSON], the Senator from Vermont [Mr. PROUTY], the Senator from Pennsylvania [Mr. SCOTT], and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from California [Mr. MURPHY] is detained on official business.

If present and voting, the Senators from Colorado [Mr. ALLOTT and Mr. DOMINICK], the Senator from California [Mr. MURPHY], the Senator from Kansas [Mr. PEARSON], and the Senator from Texas [Mr. TOWER] would each vote "nay."

The pair of the Senator from Nebraska [Mr. CURTIS] has been previously announced.

In this vote, the Senator from Pennsylvania [Mr. SCOTT] is paired with the Senator from Idaho [Mr. JORDAN]. If present and voting, the Senator from Pennsylvania would vote "yea" and the Senator from Idaho would vote "nay."

The result was announced—yeas 47, nays 27, as follows:

[No. 301 Leg.]

YEAS—47

Bartlett	Holland	Proxmire
Bass	Inouye	Randolph
Bible	Jackson	Ribicoff
Brewster	Javits	Robertson
Byrd, Va.	Jordan, N.C.	Russell, S.C.
Byrd, W. Va.	Kuchel	Russell, Ga.
Cannon	Long, Mo.	Smathers
Clark	Magnuson	Sparkman
Dodd	McClellan	Stennis
Ellender	McGee	Symington
Ervin	McGovern	Talmadge
Fulbright	Monroney	Thurmond
Gruening	Montoya	Williams, N.J.
Harris	Nelson	Yarborough
Hartke	Neuberger	Young, Ohio
Hill	Pell	

NAYS—27

Aiken	Hruska	Mundt
Bennett	Kennedy, Mass.	Muskie
Boggs	Lausche	Pastore
Burdick	Mansfield	Saltonstall
Carlson	McCarthy	Simpson
Cotton	Miller	Smith
Fannin	Mondale	Tydings
Fong	Morse	Williams, Del.
Griffin	Morton	Young, N. Dak.

NOT VOTING—26

Allott	Douglas	Metcalf
Anderson	Eastland	McIntyre
Bayh	Gore	Moss
Case	Hart	Murphy
Church	Hayden	Pearson
Cooper	Hickenlooper	Prouty
Curtis	Jordan, Idaho	Scott
Dirksen	Kennedy, N.Y.	Tower
Dominick	Long, La.	

So Mr. YARBOROUGH's amendment was agreed to.

Mr. YARBOROUGH. I move to reconsider the vote by which the amendment was agreed to.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the committee amendment, as amended, and the third reading of the bill.

The committee amendment, as amended, was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. DIRKSEN. I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

[P. 25430]

EQUITABLE TAX TREATMENT FOR FOREIGN INVESTMENT IN THE UNITED STATES

The Senate resumed the consideration of the bill (H.R. 13103) to amend the Internal Revenue Code of 1954 to provide equitable tax treatment for foreign investment in the United States.

Mr. WILLIAMS of Delaware. Mr. President, I yield 2 minutes to the Senator from Vermont.

Mr. AIKEN. Mr. President, I shall not require 2 minutes.

Mr. COTTON. Mr. President, may we have order? We cannot hear.

The ACTING PRESIDENT pro tempore. The Senator will not proceed until we have order. Senators will take their seats.

The Senator from Vermont may proceed.

Mr. AIKEN. Mr. President, I simply want to say that while the pending legislation has two or three reasonable and acceptable provisions in it, the bill as a whole is such a perfect example of irresponsible legislating that I shall vote against it.

Mr. WILLIAMS of Delaware. Mr. President, I yield 5 minutes to the Senator from Ohio.

The ACTING PRESIDENT pro tempore. The Senator from Ohio [Mr. LAUSCHE] is recognized for 5 minutes.

Mr. LAUSCHE. Mr. President, may we have order in the Chamber? There is no sense trying to speak if others are going to talk louder than the Senator who has the floor.

The ACTING PRESIDENT pro tem-

pore. The Presiding Officer will try to get order in the Senate.

The Senate will be in order.

Mr. LAUSCHE. Mr. President, I cannot vote for the bill with the provisions now contained in it. If the bill had been stripped of the many pork-barrel payments and reduced to its initial purpose of providing equitable tax treatment to foreign investors in the United States, and if the amendment relieving the aged in a part of their buying of drugs and medicines had remained in the bill, it would have had my vote.

Instead of narrowing the scope of mineral mining operations, investment tax credits under the principle that the taxpayer has depleted his mineral possessions, the bill, on the contrary, has expanded the indefensible tax law giving such privilege to the oil, gas, coal, and other mineral producers.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. LAUSCHE. Mr. President, when I came to the Senate 10 years ago and listened to the very first argument against the largeness of the tax credit given to the miners of minerals such as gas and oil, I had hoped that some day there would be a narrowing of this largeness.

Today, however, I find, instead of the scope being narrowed, it is broadened.

Four sections in the bill liberalize the bounties that are given to the rich, and I use the term "rich" because yesterday it was argued that this bill is intended to help the poor.

Mr. President, I favor giving aid to the aged. I favor the adoption of a law that would provide equity to foreign investors. The bill as originally written was sound. Then, the pork-barrel operation began. What is the content of the bill today? Everyone who had some pet project to serve came running in with an amendment. Every amendment that has been offered has been adopted.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. LAUSCHE. I shall yield in a moment.

Mr. LONG of Louisiana. Would the Senator like to insist on that statement?

Mr. LAUSCHE. How many have been beaten? No; I shall finish my statement.

Mr. LONG of Louisiana. My recollection is that a number of amendments offered were defeated.

Mr. LAUSCHE. No; the Senator accepted practically everything that was offered.

It is a pork-barrel proposition, and that is all it is. I am not going to join in that type of operation so long as I am a representative of the State of Ohio.

Depletion of capital investment for oyster shells and clam shells. Who ever heard of so nonsensical a proposition.

What ownership do the oyster and clam shell people have of the oysters and clams in the sea off Louisiana? That was a special provision to serve the Louisiana dealers in oyster shells.

The bill, as it now stands, has all of the evils of a pork-barrel tax bill. The weaknesses and the evils in our tax law, instead of being eliminated, have been aggravated. The taxpayer has been forgotten.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. LAUSCHE. Mr. President, I ask unanimous consent that I may proceed for 1 additional minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LAUSCHE. Mr. President, the taxpayer is being taken for a ride, and a rough ride. The privileged already enjoy a great tax benefit and are being further served by this bill.

The bill will not have my vote and if I had more time I would denounce it in more vigorous terms than I have.

Mr. PASTORE. Mr. President, will the Senator yield to me for 2 minutes?

Mr. WILLIAMS of Delaware. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, possibly it is not with the same vehemence, but I agree with the logic of the Senator from Ohio [Mr. LAUSCHE].

What I cannot accept in this bill is the incongruity it represents. We are going to meet here possibly on Saturday to remove from the American business community the opportunity of the 7-percent tax credit. We are made to understand that this is necessary in order to avoid inflation.

Mr. President, I would accept this bill if we had adhered to the recommendation of the administration, but we have gone beyond that. We have gone far beyond that. We are talking out of both sides of our mouths. In one instance we are trying to enrich the Treasury and at the same time depleting the Treasury with these concessions which are being made. That is an incongruity.

Mr. President, I cannot accept that incongruity at this moment and I shall vote against the bill.

Mr. WILLIAMS of Delaware. Mr. President, how much time have I remaining?

The ACTING PRESIDENT pro tempore. The Senator from Delaware [Mr. WILLIAMS] has 5 minutes remaining.

Mr. WILLIAMS of Delaware. Mr. President, I yield myself 2 minutes.

The Senator from Rhode Island has stated the case very well. Based on the estimates of the committee staff, the adoption of the bill in its present form will lose revenues of around \$450 million, and based upon the Treasury Depart-

ment estimate there will be a loss of between \$500 and \$600 million.

The Senate action yesterday and today has raised the committee estimate. The first committee estimate was \$410 million, but title I would pick up \$26 million in tax revenue. The recent amendment just adopted, eliminated that rev-

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enue. Yesterday's adoption of H.R. 10 raised the revenue loss another \$50 million.

All revenue producing features of the bill have been eliminated and all other amendments liberalizing the tax laws were accepted.

The result is a loss now of well over the \$500 million figure.

Tomorrow, we shall be confronted with a bill which will raise the taxes of American business. As the Senator from Rhode Island has pointed out, the next bill is being offered on the basis it would combat inflation.

I happen to be one who felt that we had to do something in that direction, and I supported the proposal to repeal the 7-percent investment tax credit. I felt that we had to take some affirmative action to combat the inflationary spiral which is in our midst, but we are not combatting it today by passing a measure here which in effect will be a tax reduction of around \$500 million—a \$500 million tax reduction which goes not to the American people as a whole but to a few special groups who are fortunate enough to be mentioned in the bill.

I will have no part of this grab bag, and I am going to vote against it. I say that as one strongly in favor of the administration's proposal which was embraced in title I. I should like to have supported it as it was in its original form when reported by the Senate Finance Committee.

Mr. SIMPSON. Will the Senator from Delaware yield?

Mr. WILLIAMS of Delaware. I yield to the Senator from Wyoming.

Mr. SIMPSON. I should like to make the observation that I want to be associated with the distinguished Senator from Delaware, as well as the Senator from Rhode Island [Mr. PASTORE] with respect to what they have just said.

They are the most logical statements I have heard since this monstrosity started its way through the Senate.

I trust that the RECORD never gets into the hands of our boys in Vietnam.

Mr. LONG of Louisiana. Mr. President, it has been suggested that we should adopt no amendment, but should merely rubberstamp the administration bill as amended by the House. As a practical matter, what we are talking about is absurd. The Treasury Department has very competent and dedicated individuals, such as Secretary Henry Fowler, Under Secretary Joseph Barr, Assistant

Secretary Stanley Surrey, and Joseph Bowman. But that does not mean that Congress should accept their recommendations without modification. To be sure, the original Treasury bill was amended in large part by the House. The Senate has a right to amend the bill if we want to do so, too.

I think the Senate made a terrible mistake last night when it voted to accept the full text of H.R. 10 which was offered by the Senator from Indiana [Mr. HARTKE]. But, one thing that I cannot do is to defeat a measure when it has a majority of Senators voting for it, and a majority of Representatives voting for it in the House of Representatives.

Perhaps the President can defeat it by vetoing it, but I cannot defeat what a majority of Senators want and a majority of Members of the House want. I just cannot do that. I am sorry, Senators, but I did what I could. I could not defeat the H.R. 10 amendment. The Senate did it, and that is what the Senate wanted to do. I am willing to bow to the will of the majority of Senators, even though I think that in this case the majority is wrong.

Let us see what else we have here. Beyond what the administration recommended, we did \$285 million worth of kindness to the aged in this country. We provided them with drugs. We continued favorable tax treatment when they are sick at home and have to pay their own medical expenses.

Mr. President, that is where 80 percent of the cost of this bill is. That, plus H.R. 10 is 90 percent of the cost of the bill.

We also said we would stop having just the wealthy few finance presidential campaigns and have every American taxpayer, designate \$1 of his taxes to finance presidential campaigns, with an equal amount going to the Republicans and to the Democrats. The administration did not say to do it, and they did not say not to do it. That takes care of that. That takes care of 98 percent of what is in the bill.

What is the other 2 percent?

Mr. PASTORE. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. PASTORE. Does not the Senator feel that there has been so much nobility expressed to help the aged—for whom I stand and bow to no one, and tip my hat to no one, when it comes to voting for legislation to help the elderly—but there is a Trojan horse in this bill.

If we could bring in a pure and clean bill to the floor of the Senate, I think that the Senate would vote for it unanimously, but we cannot use that as a Trojan horse to cover up on these other concessions to the vested interests throughout the land which are represented in this bill. That is what is obnoxious about it.

Mr. LONG of Louisiana. If the Committee were to report an unamended bill to the Senate, still any Senator could offer an amendment, for example, to provide for a depletion allowance to give Georgia clay tax treatment similar to that available for a competitive product which is produced in foreign countries. That will help our balance of payments and bring revenue into the U.S. Treasury. It will provide employment and help to fight poverty. Thus, it is a vital amendment. It will not cost us a penny. It will make us money.

Concerning clam shells, all we said was that clam shells compete with limestone because they are composed fundamentally of the same chemical compounds. If clam shells compete with limestone then they will get the same tax treatment limestone gets, under the same circumstances.

Mr. PASTORE. I understand that limestone gets a 15 percent depletion allowance and the clam shells 5 percent; so, rather than take 5 percent we make it 15 percent. Why do we not take the 15 percent and bring it down to 5 percent?

Mr. LONG of Louisiana. If the Senator wants to offer an amendment on that, he can do so, of course. But, once again, the Senator did not state the law completely. I will tell the Senator what it is.

Mr. PASTORE. That is what the Senator said yesterday. I was in the Chamber when he said it.

Mr. LONG of Louisiana. Here is what the law is, in case any Senator does not understand the Senator's statement.

The ACTING PRESIDENT pro tempore. The Chair wishes to advise the Senator from Louisiana that he has 4 minutes remaining.

Mr. LONG of Louisiana. I thank the Chair.

In case Senators do not understand, the law says that if we take limestone and use it as gravel, it will get a 5-percent depletion allowance. The same thing is true of oyster shells. If we take limestone and make cement out of it, it will get a 15-percent depletion allowance.

Mr. PASTORE. That is right.

Mr. LONG of Louisiana. If we do the same thing with oyster shells, we do not get 15 percent. All the amendment provides is that we will treat them both alike.

This could reduce the cost of chicken feed because the shells can be ground up and made into chicken feed. It will help the chicken farmers of Delaware and elsewhere, because we will be able to produce chicken feed a little cheaper if we can grind up the oyster shells. It is a competitive industry.

Accordingly, Mr. President, when we really get down to it, we have considered all the thoughts of Senators, their amendments have been voted on, and

they have had opportunities to strike everything in the bill.

I applaud this bill. It is a much better bill than was sent to us because it will do so much for the aged sick.

If Senators want to vote against 18 million old people, they can go ahead and do it. I am not going to do it.

Mr. GRIFFIN. Mr. President, I agree with much that has been said by the distinguished Senator from Ohio [Mr. LAUSCHE]. So many amendments have been tacked onto the original administration bill that the legislation comes close to being a pork barrel tax bill, as charged.

I am voting "aye" with strong reservations because there are included in this legislation a number of meritorious provisions which should be enacted in this session.

It is my expectation, and I believe it is a reasonable expectation, that the Senate-House conference committee will see fit to delete some of the objectionable pork barrel riders that have been tacked on.

In the event my expectation is not fulfilled, I wish to make it clear that I reserve the right to vote against this legislation when the report of the conference committee is presented for adoption.

Mr. MORTON. Mr. President, I ask unanimous consent that a statement by

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my colleague, Senator COOPER, be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR COOPER

I support H.R. 13103, the bill known as the Foreign Investors Tax Act, which includes a number of important amendments to the Internal Revenue Code.

I wish to call attention to the amendment which I supported yesterday offered by the Senator from Florida [Mr. SMATHERS], the Senator from Kentucky [Mr. MORTON] and the Senator from Kansas [Mr. CARLSON], and I am happy to note that this amendment was adopted by the Senate.

That amendment incorporates the provisions of H.R. 10, as passed by the House on June 6th of this year and would provide substantial improvements to the Self-Employed Individuals' Tax Retirement Act of 1962.

I voted for that bill in 1962, but as a result of the restrictions and limitations placed in the bill upon the recommendation of the Treasury Department, the law has proved impractical and unsatisfactory.

A report by the Treasury Department with respect to the self-employed retirement deductions in the taxable year 1964 shows that only about one-half of one percent of the self-employed individuals took advantage of this deduction in that year.

The amendment corrects two inequities in existing law. First, it would permit a self-employed person to deduct the entire amount he contributes but not in excess of \$2,500 for his own retirement benefit in the same

manner that he may do for contributions on behalf of his own employees.

Second, the amendment removes the 30 percent limitation on "earned income" to be considered for retirement plan purposes. The present act restricts the amount of earned income which will be recognized for contribution purposes where capital as well as personal services is a material factor in the production of income. It is highly unrealistic to attribute only 30 percent of the net profits of a business to personal services and the present act is of a little help to small businessmen and farmers.

The new definition of "earned income" will continue to require that substantial personal services be devoted to the business if deductions are to be taken with respect to contributions for the self-employed benefit.

I believe this amendment will go a long way to remove the inequity that has existed as to the tax treatment accorded self-employed persons who desired to establish private retirement plans, and should benefit small businessmen, farmers, and professional people. It is my view that they are entitled to the same benefits in providing for their own retirement as has been extended to both corporation executives and employees for many years.

I was happy to be recorded for this amendment and I appreciate the courtesy of Senator SIMRSON who was opposed to this amendment and withheld his vote on the floor to pair his position with me.

I want to note also the very important provisions included for our citizens who are 65 and over in this bill. Payment for drugs prescribed for illness is authorized in connection with the supplemental medical insurance plan enacted by the Congress last year.

I supported and voted for the programs of hospital care in the Senate, and I know the importance of this benefit to our older citizens who are participating under this law. The benefit would become available July 1, 1968, under this provision of this Senate bill.

The provision which now limits medical deductions for all tax payers 65 and over to the excess of 3% of the adjusted gross income is changed by this Senate bill to a limitation of only 1%. I am glad to support this change, as I know the heavy costs of medical care which face our citizens today. This reduction of the limit would be available beginning this year.

The Senate Finance Committee has worked hard on this bill, and I am hopeful that the House will agree to the improvements made in this bill by the Senate. I am glad to support the bill.

Mr. SMATHERS. Mr. President, I would like to take this opportunity to congratulate and commend the very able and distinguished chairman of the Senate Finance Committee, Senator RUSSELL B. LONG, not only in the handling of the foreign investors tax bill before us, but of other bills as well.

He is a fair man; he is a just man. He is one who gives every individual his right to voice his views both pro and con.

There are amendments in the pending measure which are not necessarily to my liking. There are others that are. I was the one in the Finance Committee who proposed the total tax exemption for

medical expenses for our senior citizens. Some opposed this amendment but most certainly I did not criticize them as being against our senior citizens for having done so.

The further liberalization of the Self-Employed Retirement Act amendment was one which was to my liking. I have supported this concept over the years. The chairman and others on the committee were opposed to it but the Senate saw fit to adopt what I feel now will provide equitable treatment for some 18 million self-employed and their employees.

Every Senator has a right to propose and oppose an amendment and certainly should not be criticized for doing so. This is the way our democratic process must work.

Senator LONG is a fair and able chairman of the Senate Finance Committee. All of us in the Senate can be justly proud of the manner in which he is conducting himself in the handling of highly technical and complex tax legislation.

In my opinion, he should be commended rather than criticized.

Mr. LONG of Louisiana. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS of Delaware. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time has been yielded back.

The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered; and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLAND. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The Senator will state it.

Mr. HOLLAND. What is it we are voting on?

The PRESIDING OFFICER. Final passage.

Mr. HOLLAND. I thank the Chair.

The assistant legislative clerk resumed the call of the roll.

Mr. LONG of Louisiana. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Indiana [Mr. BAYH], the Senator from Nevada [Mr. CANNON], the Senator from Idaho [Mr. CHURCH], the Senator from Illinois [Mr. DOUGLAS], the Senator from Mississippi [Mr. EASTLAND], the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. HART], the Senator from Arizona [Mr. HAYDEN], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Montana [Mr. METCALF], and the Senator from Utah [Mr. MOSS] are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana [Mr. BAYH], the Senator from Idaho [Mr.

CHURCH], and the Senator from Mississippi [Mr. EASTLAND] would each vote "yea."

On this vote, the Senator from Tennessee [Mr. GORE] is paired with the Senator from Utah [Mr. MOSS].

If present and voting, the Senator from Tennessee would vote "nay" and the Senator from Utah would vote "yea."

On this vote, the Senator from Nevada [Mr. CANNON] is paired with the Senator from Michigan [Mr. HART].

If present and voting, the Senator from Nevada would vote "yea" and the Senator from Michigan would vote "nay."

Mr. KUCHEL. I announce that the Senators from Colorado [Mr. ALLOTT and Mr. DOMINICK], the Senator from New Jersey [Mr. CASE], the Senator from Kentucky [Mr. COOPER], the Senator from Nebraska [Mr. CURTIS], the Senators from Iowa [Mr. HICKENLOOPER and Mr. MILLER], the Senator from Idaho [Mr. JORDAN], the Senator from Kansas [Mr. PEARSON], the Senator from Vermont [Mr. PROUTY], the Senator from Pennsylvania [Mr. SCOTT], and the Senator from Texas [Mr. TOWER] are necessarily absent.

If present and voting, the Senator from Colorado [Mr. DOMINICK], the Senator from Kentucky [Mr. COOPER], the Senator from Kansas [Mr. PEARSON], and the Senator from Texas [Mr. TOWER] would each vote "yea."

On this vote, the Senator from Iowa [Mr. MILLER] is paired with the Senator from Pennsylvania [Mr. SCOTT]. If present and voting, the Senator from Iowa would vote "yea" and the Senator from Pennsylvania would vote "nay."

On this vote, the Senator from Nebraska [Mr. CURTIS] is paired with the Senator from Idaho [Mr. JORDAN]. If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Idaho would vote "nay."

The result was announced—yeas 58, nays 18, as follows:

[No. 302 Leg.]

YEAS—58

Bass
Bennett
Bible
Boggs
Brewster
Burdick
Byrd, Va.
Byrd, W. Va.
Carlson
Clark
Cotton
Dodd
Ellender
Ervin
Fong
Fulbright
Griffin
Gruening
Harris
Hartke
Hill

Holland
Inouye
Jackson

[P. 25433]

Javits
Jordan, N.C.
Kennedy, Mass.
Kennedy, N.Y.
Kuchel
Long, Mo.
Long, La.
Magnuson
McCarthy
McClellan
McGee
McGovern
Mondale

Monroney
Montoya
Morton
Mundt
Murphy
Nelson
Neuberger
Proxmire
Randolph
Ribicoff
Robertson
Russell, S.C.
Smathers
Sparkman
Stennis
Talmadge
Thurmond
Tydings
Williams, N.J.
Yarborough
Young, N. Dak.

NAYS—18

Aiken	Mansfield	Saltonstall
Bartlett	Morse	Simpson
Dirksen	Muskie	Smith
Fannin	Pastore	Symington
Hruska	Pell	Williams, Del.
Lausche	Russell, Ga.	Young, Ohio

NOT VOTING—24

Allott	Dominick	McIntyre
Anderson	Douglas	Metcalf
Bayh	Eastland	Miller
Cannon	Gore	Moss
Case	Hart	Pearson
Church	Hayden	Prouty
Cooper	Hickenlooper	Scott
Curtis	Jordan, Idaho	Tower

So the bill (H.R. 13103) was passed.

The title was amended, so as to read: "An Act to provide equitable tax treatment for foreign investment in the United States, to establish a presidential election campaign fund to assist in financing the costs of presidential election campaigns, and for other purposes."

Mr. LONG of Louisiana. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TALMADGE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG of Louisiana. Mr. President, I move that the Senate insist on its amendments to H.R. 13103 and request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Acting President pro tempore appointed Senators LONG of Louisiana, SMATHERS, ANDERSON, MCCARTHY, CARLSON, and BENNETT conferees on the part of the Senate.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that in the enrolling of H.R. 13103, the clerk be authorized to make necessary technical, clerical, and clarifying amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that H.R. 13103, the foreign investors tax bill, be printed as amended and passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, the junior Senator from Louisiana [Mr. LONG] has demonstrated once more his unsurpassed grasp of our Nation's complex fiscal programs. His handling of this broad measure which includes the adjustment of taxes on foreign investors was characterized by the careful diligence and broad expertise the distinguished chairman of the Committee on Finance brings to all legislative proposals he supports.

Joined by the able senior Senator from Minnesota [Mr. MCCARTHY], who himself leads this body with outstanding competence, Senator LONG's capable advocacy was largely responsible for its success. Though not all Senators could

agree with all of the provisions of this proposal—and that is often the case—its decisive acceptance speaks abundantly for the ability and persuasive talents of Senator LONG.

Commendation also goes to those many Senators who supported the proposal with strong and clear arguments and also to those who offered their own convincing views. We therefore thank the distinguished senior Senator from Delaware [Mr. WILLIAMS], the ranking minority member of the committee, the senior Senator from Indiana [Mr. HARTKE], the senior Senator from New

Hampshire [Mr. COTTON], and the senior Senator from Missouri [Mr. SYMINGTON]. Similarly commended are the senior Senator from Kansas [Mr. CARLSON], the senior Senator from Texas [Mr. YARBOROUGH], the senior Senator from Vermont [Mr. AIKEN], and the senior Senator from Tennessee [Mr. GORE].

Finally, I wish to extend my appreciation again to this entire body for joining to dispose of another proposal in the orderly and efficient manner which will help so much in enabling us to reach an adjournment sine die.

SECTION 26
BILL AS PASSED BY THE SENATE WITH
AMENDMENTS OF THE SENATE

89TH CONGRESS
2D SESSION

H. R. 13103

IN THE SENATE OF THE UNITED STATES

OCTOBER 13, 1966

Ordered to be printed with the amendments of the Senate

AN ACT

To amend the Internal Revenue Code of 1954 to provide equitable tax treatment for foreign investment in the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, ETC.**

4 ~~(a) SHORT TITLE.~~ This Act may be cited as the "For-
5 eign Investors Tax Act of 1966".

1 (b) TABLE OF CONTENTS.—

SEC. 1. Short title, etc.

- (a) Short title.
- (b) Table of contents.
- (c) Amendment of 1954 Code.

SEC. 2. Source of income.

- (a) Interest.
- (b) Dividends.
- (c) Personal services.
- (d) Definitions.
- (e) Effective dates.

SEC. 3. Nonresident alien individuals.

(a) Tax on nonresident alien individuals:

"Sec. 871. Tax on nonresident alien individuals.

"(a) Income not connected with United States business—20 percent tax.

"(b) Income connected with United States business—graduated rate of tax.

"(c) Participants in certain exchange or training programs.

"(d) Election to treat real property income as income connected with United States business.

"(e) Cross references."

(b) Gross income.

(c) Deductions.

(d) Allowance of deductions and credits.

(e) Expatriation to avoid tax:

"Sec. 877. Expatriation to avoid tax.

"(a) In general.

"(b) Alternative tax.

"(c) Special rules of source.

"(d) Exception for loss of citizenship for certain causes.

"(e) Burden of proof."

(f) Partial exclusion of dividends.

(g) Withholding of tax on nonresident aliens.

(h) Liability for withheld tax.

(i) Declaration of estimated income tax by individuals.

(j) Gain from dispositions of certain depreciable realty.

(k) Collection of income tax at source on wages.

(l) Definition of foreign estate or trust.

(m) Conforming amendment.

(n) Effective dates.

SEC. 4. Foreign corporations.

(a) Tax on income not connected with United States business:

"Sec. 881. Income of foreign corporations not connected with United States business.

"(a) Imposition of tax.

"(b) Doubling of tax."

Sec. 4. Foreign corporations—Continued

(b) Tax on income connected with United States business:

“Sec. 882. Income of foreign corporations connected with United States business:

“(a) Normal tax and surtax.

“(b) Gross income.

“(c) Allowance of deductions and credits.

“(d) Election to treat real property income as income connected with United States business.

“(e) Returns of tax by agent.

“(f) Foreign corporations.”

(c) Withholding of tax on foreign corporations.

(d) Dividends received from certain foreign corporations.

(e) Unrelated business taxable income.

(f) Corporations subject to personal holding company tax.

(g) Amendments with respect to foreign corporations carrying on insurance business in United States.

(h) Subpart F income.

(i) Gain from certain sales or exchanges of stock in certain foreign corporations.

(j) Declaration of estimated income tax by corporations.

(k) Technical amendments.

(l) Effective dates.

Sec. 5. Special tax provisions:

(a) Income affected by treaty.

(b) Application of pre-1967 income tax provisions.

“Sec. 896. Application of pre-1967 income tax provisions:

“(a) Imposition of more burdensome taxes by foreign country.

“(b) Alleviation of more burdensome taxes.

“(c) Notification of Congress required.

“(d) Implementation by regulations.”

(c) Clerical amendments.

(d) Effective date.

Sec. 6. Foreign tax credit:

(a) Allowance of credit to certain nonresident aliens and foreign corporations.

(b) Alien residents of the United States or Puerto Rico.

Sec. 7. Amendment to preserve existing law on deductions under section 931.

(a) Deductions.

(b) Effective date.

Sec. 8. Estates of nonresidents not citizens:

(a) Rate of tax.

(b) Credits against tax.

(c) Property within the United States.

(d) Property without the United States.

(e) Definition of taxable estate.

Sec. 8. Estates of nonresidents not citizens—Continued

(f) Special methods of computing tax:

"Sec. 2107. Expatriation to avoid tax:

"(a) Rate of tax.

"(b) Gross estate.

"(c) Credits.

"(d) Exception for loss of citizenship for certain causes.

"(e) Burden of proof.

"Sec. 2108. Application of pre-1967 estate tax provisions:

"(a) Imposition of more burdensome tax by foreign country.

"(b) Alleviation of more burdensome tax.

"(c) Notification of Congress required.

"(d) Implementation by regulations."

(g) Estate tax returns.

(h) Clerical amendment.

(i) Effective date.

Sec. 9. Tax on gifts of nonresidents not citizens:

(a) Imposition of tax.

(b) Transfers in general.

(c) Effective date.

Sec. 10. Treaty obligations:

1 (c) ~~AMENDMENT OF 1954 CODE.~~—Except as other-
2 wise expressly provided, whenever in this Act an amend-
3 ment or repeal is expressed in terms of an amendment to,
4 or repeal of, a section or other provision, the reference is to a
5 section or other provision of the Internal Revenue Code of
6 1954.

7 **SEC. 2. SOURCE OF INCOME.**

8 (a) ~~INTEREST.~~—

9 (1) ~~(A)~~ Subparagraph ~~(A)~~ of section 861(a)(1)-
10 ~~(relating to interest from sources within the United~~
11 ~~States)~~ is amended to read as follows:

12 "~~(A)~~ interest on amounts described in sub-
13 section ~~(c)~~ received by a nonresident alien indi-
14 vidual or a foreign corporation, if such interest is

1 not effectively connected with the conduct of a
2 trade or business within the United States.”

3 ~~(B)~~ Section 861 is amended by adding at the end
4 thereof the following new subsection:

5 “~~(c)~~ INTEREST ON DEPOSITS, ETC.—For purposes of
6 subsection ~~(a)~~ ~~(1)~~ ~~(A)~~, the amounts described in this sub-
7 section are—

8 “~~(1)~~ deposits with persons carrying on the bank-
9 ing business,

10 “~~(2)~~ deposits or withdrawable accounts with sav-
11 ings institutions chartered and supervised as savings
12 and loan or similar associations under Federal or State
13 law, but only to the extent that amounts paid or credited
14 on such deposits or accounts are deductible under section
15 591 in computing the taxable income of such institu-
16 tions, and

17 “~~(3)~~ amounts held by an insurance company under
18 an agreement to pay interest thereon.

19 Effective with respect to amounts paid or credited after
20 December 31, 1971, subsection ~~(a)~~ ~~(1)~~ ~~(A)~~ and this sub-
21 section shall cease to apply.”

22 ~~(2)~~ Section 861 ~~(a)~~ ~~(1)~~ is amended by striking out
23 “and” at the end of subparagraph ~~(B)~~, by striking out
24 the period at the end of subparagraph ~~(C)~~ and inserting

1 in lieu thereof “, and”, and by adding at the end thereof
 2 the following new subparagraph:

3 “(D) interest on deposits with a foreign branch
 4 of a domestic corporation, if such branch is engaged
 5 in the commercial banking business.”

6 ~~(3)(A)~~ Section 895 ~~(relating to income derived~~
 7 ~~by a foreign central bank of issue from obligations of~~
 8 ~~the United States)~~ is amended—

9 (i) by striking out “shall not be included” and
 10 inserting in lieu thereof “, or from interest on de-
 11 posits with persons carrying on the banking busi-
 12 ness, shall not be included”;

13 (ii) by striking out “such obligations” and in-
 14 serting in lieu thereof “such obligations or deposits”;

15 (iii) by adding at the end thereof the following
 16 new sentence: “For purposes of the preceding sen-
 17 tence, the Bank for International Settlements shall
 18 be treated as a foreign central bank of issue with
 19 respect to interest on deposits with persons carrying
 20 on the banking business.”; and

(iv) by striking out the heading and inserting in lieu thereof the following:

"SEC. 895. INCOME DERIVED BY A FOREIGN CENTRAL BANK OF ISSUE FROM OBLIGATIONS OF THE UNITED STATES OR FROM BANK DEPOSITS."

(B) The table of sections for subpart C of part II of subchapter N of chapter 1 is amended by striking out the item relating to section 895 and inserting in lieu thereof the following:

"Sec. 895. Income derived by a foreign central bank of issue from obligations of the United States or from bank deposits."

(b) DIVIDENDS.—

(1) Section 861(a)(2)(B) (relating to dividends from sources within the United States) is amended to read as follows:

"(B) from a foreign corporation unless less than 80 percent of the gross income from all sources of such foreign corporation for the 3-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part

1 of such period as the corporation has been in exist-
 2 ence) was effectively connected with the conduct of
 3 a trade or business within the United States; but
 4 only in an amount which bears the same ratio to
 5 such dividends as the gross income of the corpora-
 6 tion for such period which is effectively connected
 7 with the conduct of a trade or business within the
 8 United States bears to its gross income from all
 9 sources; but dividends from a foreign corporation
 10 shall, for purposes of subpart A of part III (relating
 11 to foreign tax credit), be treated as income from
 12 sources without the United States to the extent (and
 13 only to the extent) exceeding the amount which is
 14 100/85ths of the amount of the deduction allowable
 15 under section 245 in respect of such dividends, or".

16 (2) Section 861(a)-(2) is amended by adding after
 17 subparagraph (C) the following:

18 "For purposes of subparagraph (B), the gross income
 19 of the foreign corporation for any period before the first
 20 taxable year beginning after December 31, 1966, which
 21 is effectively connected with the conduct of a trade or
 22 business within the United States is an amount equal
 23 to the gross income for such period from sources within
 24 the United States."

1 ~~(c) PERSONAL SERVICES.~~—Section 861 (a) (3) (C)

2 ~~(ii) (relating to income from personal services)~~ is amended

3 to read as follows:

4 ~~“(ii)~~ an individual who is a citizen or
 5 resident of the United States, a domestic part-
 6 nership, or a domestic corporation, if such
 7 labor or services are performed for an office
 8 or place of business maintained in a foreign
 9 country or in a possession of the United States
 10 by such individual, partnership, or corpora-
 11 tion.”

12 ~~(d) DEFINITIONS.~~—Section 864 (relating to defini-
 13 tions) is amended—

14 (1) by striking out “For purposes of this part,”
 15 and inserting in lieu thereof

16 “(a) SALE, ETC.—For purposes of this part,”; and

17 (2) by adding at the end thereof the following
 18 new subsections:

19 “(b) TRADE OR BUSINESS WITHIN THE UNITED
 20 STATES.—For purposes of this part, part II, and chapter 3,
 21 the term ‘trade or business within the United States’ in-
 22 cludes the performance of personal services within the United
 23 States at any time within the taxable year, but does not in-
 24 clude—

1 ~~“(1) PERFORMANCE OF PERSONAL SERVICES FOR~~
 2 ~~FOREIGN EMPLOYER.~~ The performance of personal
 3 services—

4 ~~“(A) for a nonresident alien individual, foreign~~
 5 partnership, or foreign corporation, not engaged in
 6 trade or business within the United States, or

7 ~~“(B) for an office or place of business main-~~
 8 tained in a foreign country or in a possession of the
 9 United States by an individual who is a citizen or
 10 resident of the United States or by a domestic
 11 partnership or a domestic corporation,
 12 by a nonresident alien individual temporarily present in
 13 the United States for a period or periods not exceeding
 14 a total of 90 days during the taxable year and whose
 15 compensation for such services does not exceed in the
 16 aggregate \$3,000.

17 ~~“(2) TRADING IN SECURITIES OR COMMODITIES.—~~

18 ~~“(A) STOCKS AND SECURITIES.—~~

19 ~~“(i) Except in the case of a dealer in~~
 20 stocks or securities, trading in stocks or secu-
 21 rities for the taxpayer's own account, whether
 22 by the taxpayer or his employees or through a
 23 resident broker, commission agent, custodian,
 24 or other agent, and whether or not any such
 25 agent has discretionary authority to make de-

1 eisions in effecting the transactions. This clause
 2 shall not apply in the case of a corporation
 3 (other than a corporation which is, or but for
 4 section 542(c)(7) would be, a personal hold-
 5 ing company) the principal business of which
 6 is trading in stocks or securities for its own
 7 account, if its principal office is in the United
 8 States.

9 “(ii) In the case of a person who is a
 10 dealer in stocks or securities, trading in stocks
 11 or securities for his own account through a
 12 resident broker, commission agent, custodian,
 13 or other independent agent.

14 “(B) COMMODITIES.—

15 “(i) Except in the case of a dealer in com-
 16 modities, trading in commodities for the tax-
 17 payer's own account, whether by the taxpayer
 18 or his employees or through a resident broker,
 19 commission agent, custodian, or other agent,
 20 and whether or not any such agent has discre-
 21 tionary authority to make decisions in effecting
 22 the transactions.

23 “(ii) In the case of a person who is a
 24 dealer in commodities, trading in commodities
 25 for his own account through a resident broker,

1 commission agent, custodian, or other independ-
 2 ent agent.

3 “(iii) Clauses (i) and (ii) apply only if
 4 the commodities are of a kind customarily dealt
 5 in on an organized commodity exchange and if
 6 the transaction is of a kind customarily con-
 7 summated at such place.

8 “(C) LIMITATION.—Subparagraphs (A) (ii)
 9 and (B) (ii) shall apply only if, at no time during
 10 the taxable year, the taxpayer has an office or place
 11 of business in the United States through which or
 12 by the direction of which the transactions in stocks
 13 or securities, or in commodities, as the case may be,
 14 are affected.

15 “(c) EFFECTIVELY CONNECTED INCOME, ETC.—

16 “(1) GENERAL RULE.—For purposes of this title—

17 “(A) In the case of a nonresident alien indi-
 18 vidual or a foreign corporation engaged in trade or
 19 business within the United States during the taxable
 20 year, the rules set forth in paragraphs (2), (3),
 21 and (4) shall apply in determining the income,
 22 gain, or loss which shall be treated as effectively con-
 23 nected with the conduct of a trade or business within
 24 the United States.

25 “(B) Except as provided in section 871(d) or

section 882(d), in the case of a nonresident alien individual or a foreign corporation not engaged in trade or business within the United States during the taxable year, no income, gain, or loss shall be treated as effectively connected with the conduct of a trade or business within the United States.

~~“(2) PERIODICALS, ETC., INCOME FROM SOURCES WITHIN UNITED STATES—FACTORS.~~—In determining whether income from sources within the United States of the types described in section 871(a)(1) or section 881(a), or whether gain or loss from sources within the United States from the sale or exchange of capital assets, is effectively connected with the conduct of a trade or business within the United States, the factors taken into account shall include whether—

~~“(A) the income, gain, or loss is derived from assets used in or held for use in the conduct of such trade or business, or~~

~~“(B) the activities of such trade or business were a material factor in the realization of the income, gain, or loss.~~

In determining whether an asset is used in or held for use in the conduct of such trade or business or whether the activities of such trade or business were a material

factor in realizing an item of income, gain, or loss, due regard shall be given to whether or not such asset or such income, gain, or loss was accounted for through such trade or business. In applying this paragraph and paragraph (4), interest referred to in section 861(a)-(1)(A) shall be considered income from sources within the United States.

“(3) OTHER INCOME FROM SOURCES WITHIN UNITED STATES.—All income, gain, or loss from sources within the United States (other than income, gain, or loss to which paragraph (2) applies) shall be treated as effectively connected with the conduct of a trade or business within the United States.

“(4) INCOME FROM SOURCES WITHOUT UNITED STATES.—

“(A) Except as provided in subparagraph (B) and (C), no income, gain, or loss from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States.

“(B) Income, gain, or loss from sources without the United States shall be treated as effectively connected with the conduct of a trade or business

1 within the United States by a nonresident alien
 2 individual of a foreign corporation if such person
 3 has an office or other fixed place of business within
 4 the United States to which such income, gain, or
 5 loss is attributable and such income, gain, or loss—

6 “(i) consists of rents or royalties for the
 7 use of or for the privilege of using intangible
 8 property described in section 862(a)(4) (in-
 9 cluding any gain or loss realized on the sale of
 10 such property) derived in the active conduct
 11 of such trade or business;

12 “(ii) consists of dividends or interest, or
 13 gain or loss from the sale or exchange of stock
 14 or notes, bonds, or other evidences of indebted-
 15 ness, and either is derived in the active conduct
 16 of a banking, financing, or similar business
 17 within the United States or is received by a
 18 corporation the principal business of which is
 19 trading in stock or securities for its own ac-
 20 count; or

21 “(iii) is derived from the sale (without
 22 the United States) through such office or fixed
 23 place of business of personal property described

1 in section 1221(1), except that this clause
 2 shall not apply if the property is sold for use,
 3 consumption, or disposition outside the United
 4 States and an office or other fixed place of busi-
 5 ness of the taxpayer outside the United States
 6 participated materially in such sale.

7 In the case of a sale described in clause (iii), the
 8 income which shall be treated as attributable to the
 9 office or other fixed place of business within the
 10 United States shall not exceed the income which
 11 would be derived from sources within the United
 12 States if the sale were made in the United States.

13 “(C) In the case of a foreign corporation tax-
 14 able under part I of subchapter L, any income from
 15 sources without the United States which is attrib-
 16 utable to its United States business shall be treated
 17 as effectively connected with the conduct of a trade
 18 or business within the United States.

19 “(D) No income, gain, or loss from sources
 20 without the United States shall be treated as effec-
 21 tively connected with the conduct of a trade or
 22 business within the United States if it either—

23 “(i) consists of dividends, interest, or

royalties paid by a foreign corporation in which the taxpayer owns (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or

“(ii) is subpart F income within the meaning of section 952(a).”

(c) EFFECTIVE DATES.—

(1) The amendments made by subsections (a), (c), and (d) shall apply with respect to taxable years beginning after December 31, 1966; except that in applying section 864(c)(4)(B)(iii) of the Internal Revenue Code of 1954 (as added by subsection (d)) with respect to a binding contract entered into on or before February 24, 1966, activities in the United States on or before such date in negotiating or carrying out such contract shall not be taken into account.

(2) The amendments made by subsection (b) shall apply with respect to amounts received after December 31, 1966.

1 **SEC. 2. NONRESIDENT ALIEN INDIVIDUALS.**

2 ~~(a) TAX ON NONRESIDENT ALIEN INDIVIDUALS.—~~

3 ~~(1) Section 871 (relating to tax on nonresident~~
 4 ~~alien individuals) is amended to read as follows:~~

5 **“SEC. 871. TAX ON NONRESIDENT ALIEN INDIVIDUALS.**

6 **“(a) INCOME NOT CONNECTED WITH UNITED STATES**
 7 **BUSINESS—30 PERCENT TAX.—**

8 **“(1) INCOME OTHER THAN CAPITAL GAINS.—**There
 9 is hereby imposed for each taxable year a tax of 30 per-
 10 cent of the amount received from sources within the
 11 United States by a nonresident alien individual as—

12 **“(A) interest, dividends, rents, salaries, wages,**
 13 **premiums, annuities, compensations, remunerations,**
 14 **emoluments, and other fixed or determinable an-**
 15 **nual or periodical gains, profits, and income,**

16 **“(B) gains described in section 402 (a) (2),**
 17 **403 (a) (2), or 631 (b) or (c), and gains on**
 18 **transfers described in section 1235, and**

19 **“(C) amounts which under section 341, or**
 20 **under section 1232 (in the case of bonds or other**
 21 **evidences of indebtedness issued after September 28,**
 22 **1965), are treated as gains from the sale or ex-**
 23 **change of property which is not a capital asset,**
 24 **but only to the extent the amount so received is not effec-**

tively connected with the conduct of a trade or business within the United States.

“(2) CAPITAL GAINS OF ALIENS PRESENT IN THE UNITED STATES 183 DAYS OR MORE.—In the case of a nonresident alien individual present in the United States for a period or periods aggregating 183 days or more during the taxable year, there is hereby imposed for such year a tax of 30 percent of the amount by which his gains, derived from sources within the United States, from the sale or exchange at any time during such year of capital assets exceed his losses, allocable to sources within the United States, from the sale or exchange at any time during such year of capital assets. For purposes of this paragraph, gains and losses shall be taken into account only if, and to the extent that, they would be recognized and taken into account if such gains and losses were effectively connected with the conduct of a trade or business within the United States, except that such gains and losses shall be determined without regard to section 1202 (relating to deduction for capital gains) and such losses shall be determined without the benefits of the capital loss carryover provided in section 1212. Any gain or loss which is taken into account in determining the tax under paragraph (1) or subsection (b)

shall not be taken into account in determining the tax under this paragraph. For purposes of the 183-day requirement of this paragraph, a nonresident alien individual not engaged in trade or business within the United States who has not established a taxable year for any prior period shall be treated as having a taxable year which is the calendar year.

~~“(b) INCOME CONNECTED WITH UNITED STATES BUSINESS—GRADUATED RATE OF TAX.—~~

~~“(1) IMPOSITION OF TAX.—A nonresident alien individual engaged in trade or business within the United States during the taxable year shall be taxable as provided in section 1 or 1201(b) on his taxable income which is effectively connected with the conduct of a trade or business within the United States.~~

~~“(2) DETERMINATION OF TAXABLE INCOME.—In determining taxable income for purposes of paragraph (1), gross income includes only gross income which is effectively connected with the conduct of a trade or business within the United States.~~

~~“(c) PARTICIPANTS IN CERTAIN EXCHANGE OR TRAINING PROGRAMS.—For purposes of this section, a nonresident alien individual who (without regard to this subsection) is not engaged in trade or business within the~~

1 United States and who is temporarily present in the United
 2 States as a nonimmigrant under subparagraph ~~(F)~~ or ~~(J)~~
 3 of section 101(a) ~~(15)~~ of the Immigration and Nationality
 4 Act, as amended ~~(8 U.S.C. 1101(a) (15) ~~(F)~~ or ~~(J)~~)~~;
 5 shall be treated as a nonresident alien individual engaged in
 6 trade or business within the United States, and any income
 7 described in section 1441(b) ~~(1)~~ or ~~(2)~~ which is received
 8 by such individual shall, to the extent derived from sources
 9 within the United States, be treated as effectively connected
 10 with the conduct of a trade or business within the United
 11 States.

12 “~~(d)~~ ELECTION TO TREAT REAL PROPERTY INCOME
 13 AS INCOME CONNECTED WITH UNITED STATES BUSI-
 14 NESS.—

15 “~~(1)~~ IN GENERAL.—A nonresident alien individ-
 16 ual who during the taxable year derives any income—

17 “~~(A)~~ from real property held for the produc-
 18 tion of income and located in the United States,
 19 or from any interest in such real property, includ-
 20 ing ~~(1)~~ gains from the sale or exchange of such
 21 real property or an interest therein, ~~(ii)~~ rents or
 22 royalties from mines, wells, or other natural deposits,
 23 and ~~(iii)~~ gains described in section 631(b) or (c),
 24 and

1 ~~“(B)~~ which, but for this subsection, would not
 2 be treated as income which is effectively connected
 3 with the conduct of a trade or business within the
 4 United States;
 5 may elect for such taxable year to treat all such income
 6 as income which is effectively connected with the con-
 7 duct of a trade or business within the United States.
 8 In such case, such income shall be taxable as provided
 9 in subsection ~~(b)~~(1) whether or not such individual
 10 is engaged in trade or business within the United States
 11 during the taxable year. An election under this para-
 12 graph for any taxable year shall remain in effect for
 13 all subsequent taxable years, except that it may be re-
 14 voked with the consent of the Secretary or his delegate
 15 with respect to any taxable year.

16 ~~“(2)~~ ELECTION AFTER REVOCATION.—If an elec-
 17 tion has been made under paragraph (1) and such elec-
 18 tion has been revoked, a new election may not be made
 19 under such paragraph for any taxable year before the
 20 5th taxable year which begins after the first taxable
 21 year for which such revocation is effective, unless the
 22 Secretary or his delegate consents to such new election.

23 ~~“(3)~~ FORM AND TIME OF ELECTION AND REVO-
 24 CATION.—An election under paragraph (1), and any
 25 revocation of such an election, may be made only in

such manner and at such time as the Secretary or his delegate may by regulations prescribe.

~~“(c) CROSS REFERENCES.—~~

“(1) For tax treatment of certain amounts distributed by the United States to nonresident alien individuals, see section 402(a)(4).

“(2) for taxation of nonresident alien individuals who are expatriate United States citizens, see section 877.

“(3) For doubling of tax on citizens of certain foreign countries, see section 801.

“(4) For reinstatement of pre-1967 income tax provisions in the case of residents of certain foreign countries, see section 806.

“(5) For withholding of tax at source on nonresident alien individuals, see section 1441.

“(6) For the requirement of making a declaration of estimated tax by certain nonresident alien individuals, see section 6015(i).

“(7) For taxation of gains realized upon certain transfers to domestic corporations, see section 1250 (d)(3).”

(2) Section 1 (relating to tax on individuals) is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (e) the following new subsection:

“(d) NONRESIDENT ALIENS.—In the case of a nonresident alien individual, the tax imposed by subsection (a) shall apply only as provided by section 871 or 877.”

~~(b) GROSS INCOME.—~~

(1) Subsection (a) of section 872 (relating to

1 gross income of nonresident alien individuals) is amended
2 to read as follows:

3 ~~“(a) GENERAL RULE.~~—In the case of a nonresident
4 alien individual, gross income includes only—

5 ~~“(1) gross income which is derived from sources~~
6 ~~within the United States and which is not effectively~~
7 ~~connected with the conduct of a trade or business within~~
8 ~~the United States; and~~

9 ~~“(2) gross income which is effectively connected~~
10 ~~with the conduct of a trade or business within the~~
11 ~~United States.”~~

12 ~~“(2) Subparagraph (B) of section 872(b)(3) (re-~~
13 ~~lating to compensation of participants in certain ex-~~
14 ~~change or training programs) is amended by striking~~
15 ~~out “by a domestic corporation” and inserting in lieu~~
16 ~~thereof “by a domestic corporation, a domestic partner-~~
17 ~~ship, or an individual who is a citizen or resident of the~~
18 ~~United States”.~~

19 ~~“(3) Subsection (b) of section 872 (relating to~~
20 ~~exclusions from gross income) is amended by adding at~~
21 ~~the end thereof the following new paragraph:~~

22 ~~“(4) BOND INTEREST OF RESIDENTS OF THE~~
23 ~~RYUKYU ISLANDS OR THE TRUST TERRITORY OF THE~~
24 ~~PACIFIC ISLANDS.—Income derived by a nonresident~~
25 ~~alien individual from a series F or series H United States~~

savings bond, if such individual acquired such bond while a resident of the Ryukyu Islands or the Trust Territory of the Pacific Islands."

~~(c)~~ DEDUCTIONS.—

(1) Section 873 (relating to deductions allowed to nonresident alien individuals) is amended to read as follows:

"SEC. 873. DEDUCTIONS.

"(a) GENERAL RULE.—In the case of a nonresident alien individual, the deductions shall be allowed only for purposes of section 871(b) and (except as provided by subsection (b)) only if and to the extent that they are connected with income which is effectively connected with the conduct of a trade or business within the United States; and the proper apportionment and allocation of the deductions for this purpose shall be determined as provided in regulations prescribed by the Secretary or his delegate.

"(b) EXCEPTIONS.—The following deductions shall be allowed whether or not they are connected with income which is effectively connected with the conduct of a trade or business within the United States:

"(1) LOSSES.—The deduction, for losses of property not connected with the trade or business if arising from certain casualties or theft, allowed by section

1 165(c)(3), but only if the loss is of property located
2 within the United States.

3 ~~“(2) CHARITABLE CONTRIBUTIONS.—~~The deduc-
4 tion for charitable contributions and gifts allowed by
5 section 170.

6 ~~“(3) PERSONAL EXEMPTION.—~~The deduction for
7 personal exemptions allowed by section 151, except that
8 in the case of a nonresident alien individual who is not a
9 resident of a contiguous country only one exemption
10 shall be allowed under section 151.

11 ~~“(c) CROSS REFERENCES.—~~

~~“(1) For disallowance of standard deduction, see sec-
 tion 142(b)(1).~~

~~“(2) For rule that certain foreign taxes are not to be
 taken into account in determining deduction or credit,
 see section 906(b)(1).”~~

12 ~~“(2) Section 154(3) (relating to cross references~~
13 ~~in respect of deductions for personal exemptions) is~~
14 amended to read as follows:

~~“(2) For exemptions of nonresident aliens, see section
 873(b)(3).”~~

15 ~~“(d) ALLOWANCE OF DEDUCTIONS AND CREDITS.—~~
16 Subsection (a) of section 874 (relating to filing of returns)
17 is amended to read as follows:

18 ~~“(a) RETURN PREREQUISITE TO ALLOWANCE.—~~A
19 nonresident alien individual shall receive the benefit of the
20 deductions and credits allowed to him in this subtitle only

1 by filing or causing to be filed with the Secretary or his
 2 delegate a true and accurate return, in the manner prescribed
 3 in subtitle F (sec. 6001 and following, relating to procedure
 4 and administration), including therein all the information
 5 which the Secretary or his delegate may deem necessary
 6 for the calculation of such deductions and credits. This sub-
 7 section shall not be construed to deny the credits provided
 8 by sections 31 and 32 for tax withheld at source or the credit
 9 provided by section 39 for certain uses of gasoline and
 10 lubricating oil."

11 ~~(c) EXPATRIATION TO AVOID TAX.—~~

12 ~~(1) Subpart A of part II of subchapter N of chap-~~
 13 ~~ter 1 (relating to nonresident alien individuals) is~~
 14 ~~amended by redesignating section 877 as section 878,~~
 15 ~~and by inserting after section 876 the following new~~
 16 ~~section:~~

17 ~~"SEC. 877. EXPATRIATION TO AVOID TAX.~~

18 ~~"(a) IN GENERAL.—Every nonresident alien individ-~~
 19 ~~ual who at any time after March 8, 1965, and within the 5-~~
 20 ~~year period immediately preceding the close of the taxable~~
 21 ~~year lost United States citizenship, unless such loss did not~~
 22 ~~have for one of its principal purposes the avoidance of taxes~~
 23 ~~under this subtitle or subtitle B, shall be taxable for such~~
 24 ~~taxable year in the manner provided in subsection (b) if the~~
 25 ~~tax imposed pursuant to such subsection exceeds the tax~~

1 which, without regard to this section, is imposed pursuant to
2 section 871.

3 “~~(b) ALTERNATIVE TAX.~~—A nonresident alien individ-
4 ual described in subsection ~~(a)~~ shall be taxable for the tax-
5 able year as provided in section 1 or section 1201~~(b)~~;
6 except that—

7 “~~(1)~~ the gross income shall include only the gross
8 income described in section 872~~(a)~~ ~~(as modified by~~
9 ~~subsection (c) of this section)~~; and

10 “~~(2)~~ the deductions shall be allowed if and to the
11 extent that they are connected with the gross income
12 included under this section; except that the capital loss
13 carryover provided by section 1212~~(b)~~ shall not be
14 allowed; and the proper allocation and apportionment of
15 the deductions for this purpose shall be determined as
16 provided under regulations prescribed by the Secretary
17 or his delegate.

18 For purposes of paragraph ~~(2)~~, the deductions allowed by
19 section 873~~(b)~~ shall be allowed; and the deduction ~~(for~~
20 ~~losses not connected with the trade or business if incurred in~~
21 ~~transactions entered into for profit)~~ allowed by section
22 165~~(c)~~ ~~(2)~~ shall be allowed, but only if the profit, if such
23 transaction had resulted in a profit, would be included in
24 gross income under this section.

25 “~~(c) SPECIAL RULES OF SOURCE.~~—For purposes of

subsection (b), the following items of gross income shall be treated as income from sources within the United States:

“(1) SALE OF PROPERTY.—Gains on the sale or exchange of property (other than stock or debt obligations) located in the United States.

“(2) STOCK OR DEBT OBLIGATIONS.—Gains on the sale or exchange of stock issued by a domestic corporation or debt obligations of United States persons or of the United States, a State or political subdivision thereof, or the District of Columbia.

“(d) EXCEPTION FOR LOSS OF CITIZENSHIP FOR CERTAIN CAUSES.—Subsection (a) shall not apply to a non-resident alien individual whose loss of United States citizenship resulted from the application of section 301(b), 350, or 355 of the Immigration and Nationality Act, as amended (8 U.S.C. 1401(b), 1482, or 1487).

“(e) BURDEN OF PROOF.—If the Secretary or his delegate establishes that it is reasonable to believe that an individual's loss of United States citizenship would, but for this section, result in a substantial reduction for the taxable year in the taxes on his probable income for such year, the burden of proving for such taxable year that such loss of citizenship did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle B shall be on such individual.”

1 ~~(2)~~ The table of sections for subpart A of part II
 2 of subchapter N of chapter 1 ~~(relating to nonresident~~
 3 alien individuals) is amended by striking out the item
 4 relating to section 877 and inserting in lieu thereof the
 5 following:

 "Sec. 877. Expatriation to avoid tax.

 "Sec. 878. Foreign educational, charitable, and certain other
 exempt organizations."

6 ~~(f)~~ PARTIAL EXCLUSION OF DIVIDENDS.—Subsection
 7 ~~(d)~~ of section 116 ~~(relating to certain nonresident aliens in-~~
 8 eligible for exclusion) is amended to read as follows:
 9 "~~(d)~~ CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR
 10 EXCLUSION.—In the case of a nonresident alien individual,
 11 subsection ~~(a)~~ shall apply only—

12 "~~(1)~~ in determining the tax imposed for the tax-
 13 able year pursuant to section 871(b)(1) and only in
 14 respect of dividends which are effectively connected with
 15 the conduct of a trade or business within the United
 16 States; or

17 "~~(2)~~ in determining the tax imposed for the tax-
 18 able year pursuant to section 877(b)."

19 ~~(g)~~ WITHHOLDING OF TAX ON NONRESIDENT
 20 ALIENS.—Section 1441 ~~(relating to withholding of tax on~~
 21 nonresident aliens) is amended—

22 ~~(1)~~ by striking out "~~(except interest on deposits~~
 23 with persons carrying on the banking business paid to

persons not engaged in business in the United States)" in subsection (b);

~~(2)~~ striking out "and amounts described in section 402(a)(2)" and all that follows in the first sentence of subsection (b) and inserting in lieu thereof "and gains described in section 402(a)(2), 403(a)(2), or 631 (b) or (c), and gains on transfers described in section 1235.";

~~(3)~~ by striking out paragraph (1) of subsection (c) and inserting in lieu thereof the following new paragraph:

"(1) INCOME CONNECTED WITH UNITED STATES BUSINESS.—No deduction or withholding under subsection (a) shall be required in the case of any item of income (other than compensation for personal services) which is effectively connected with the conduct of a trade or business within the United States and on which a tax is imposed for the taxable year pursuant to section 871(b)(1).";

~~(4)~~ by amending paragraph (4) of subsection (c) to read as follows:

"(4) COMPENSATION OF CERTAIN ALIENS.—Under regulations prescribed by the Secretary or his delegate, compensation for personal services may be ex-

1 empted from deduction and withholding under subsection
2 ~~-(a)-~~.”; and

3 ~~-(5)-~~ by striking out “amounts described in section
4 402(a)(2), section 403(a)(2), section 631 (b) and
5 (c), and section 1235, which are considered to be gains
6 from the sale or exchange of capital assets,” in para-
7 graph ~~-(5)-~~ of subsection ~~-(c)-~~ and inserting in lieu there-
8 of “gains described in sections 402(a)(2), 403(a)(2),
9 or 631 (b) or (c), and gains on transfers described in
10 section 1235,” and by striking out “proceeds from such
11 sale or exchange,” in such paragraph and inserting in
12 lieu thereof “amount payable.”

13 ~~-(h)-~~ LIABILITY FOR WITHHELD TAX.—Section 1461
14 ~~-(relating to return and payment of withheld tax)-~~ is amended
15 to read as follows:

16 “SEC. 1461. LIABILITY FOR WITHHELD TAX.

17 “Every person required to deduct and withhold any tax
18 under this chapter is hereby made liable for such tax and is
19 hereby indemnified against the claims and demands of any
20 person for the amount of any payments made in accordance
21 with the provisions of this chapter.”

1 ~~(i) DECLARATION OF ESTIMATED INCOME TAX BY~~
 2 ~~INDIVIDUALS.—Section 6015 (relating to declaration of esti-~~
 3 ~~mated income tax by individuals) is amended—~~

4 ~~(1)~~ by striking out that portion of subsection ~~(a)~~
 5 which precedes paragraph ~~(1)~~ and inserting in lieu
 6 thereof the following:

7 ~~“(a) REQUIREMENT OF DECLARATION.—Except as~~
 8 ~~otherwise provided in subsection (i), every individual shall~~
 9 ~~make a declaration of his estimated tax for the taxable year~~
 10 ~~if—”;~~

11 ~~(2)~~ by redesignating subsection ~~(i)~~ as subsection
 12 ~~(j)~~; and

13 ~~(3)~~ by inserting after subsection ~~(h)~~ the follow-
 14 ing new subsection:

15 ~~“(i) NONRESIDENT ALIEN INDIVIDUALS.—No dec-~~
 16 ~~laration shall be required to be made, under this section by a~~
 17 ~~nonresident alien individual unless—~~

18 ~~“(1) withholding under chapter 24 is made appli-~~
 19 ~~cable to the wages, as defined in section 3401(a), of~~
 20 ~~such individual,~~

1 ~~“(2) such individual has income (other than com-~~
 2 ~~pensation for personal services subject to deduction and~~
 3 ~~withholding under section 1441) which is effectively~~
 4 ~~connected with the conduct of a trade or business within~~
 5 ~~the United States; or~~

6 ~~“(3) such individual is a resident of Puerto Rico~~
 7 ~~during the entire taxable year.”~~

8 ~~(j) GAIN FROM DISPOSITIONS OF CERTAIN DEPRE-~~
 9 ~~CIABLE REALTY.—The second sentence of paragraph (3)~~
 10 ~~of section 1250(d) (relating to certain tax-free transactions)~~
 11 ~~is amended to read as follows: “This paragraph shall not~~
 12 ~~apply to—~~

13 ~~“(A) a disposition to an organization (other~~
 14 ~~than a cooperative described in section 521) which~~
 15 ~~is exempt from the tax imposed by this chapter; or~~

16 ~~“(B) a transfer of property by a nonresident~~
 17 ~~alien individual, a foreign estate or trust, or a for-~~
 18 ~~ign partnership, to a domestic corporation in ex-~~
 19 ~~change for stock or securities in such corporation~~
 20 ~~in a transaction to which section 351 applies.”~~

21 ~~(k) COLLECTION OF INCOME TAX AT SOURCE ON~~
 22 ~~WAGES.—Subsection (a) of section 3401 (relating to defini-~~
 23 ~~tion of wages for purposes of collection of income tax at~~

1 source) is amended by striking out paragraphs (6) and (7)
 2 and inserting in lieu thereof the following:

3 “(6) for such services, performed by a nonresident
 4 alien individual, as may be designated by regulations
 5 prescribed by the Secretary or his delegate; or”.

6 (1) DEFINITION OF FOREIGN ESTATE OR TRUST.—

7 Section 7701(a)(31) (defining foreign estate or trust) is
 8 amended by striking out “from sources without the United
 9 States” and inserting in lieu thereof “, from sources without
 10 the United States which is not effectively connected with
 11 the conduct of a trade or business within the United States,”.

12 (m) CONFORMING AMENDMENT.—The first sentence
 13 of section 932(a) (relating to citizens of possessions of the
 14 United States) is amended to read as follows: “Any in-
 15 dividual who is a citizen of any possession of the United
 16 States (but not otherwise a citizen of the United States)
 17 and who is not a resident of the United States shall be sub-
 18 ject to taxation under this subtitle in the same manner and
 19 subject to the same conditions as in the case of a nonresident
 20 alien individual.”

21 (n) EFFECTIVE DATES.—

22 (1) The amendments made by this section (other
 23 than the amendments made by subsections (h) and

1 ~~(k)~~ shall apply with respect to taxable years begin-
2 ning after December 31, 1966.

3 ~~(2)~~ The amendments made by subsection ~~(h)~~ shall
4 apply with respect to payments occurring after Decem-
5 ber 31, 1966.

6 ~~(3)~~ The amendments made by subsection ~~(k)~~ shall
7 apply with respect to remuneration paid after December
8 31, 1966.

9 **SEC. 4. FOREIGN CORPORATIONS.**

10 ~~(a)~~ **TAX ON INCOME NOT CONNECTED WITH UNITED**
11 **STATES BUSINESS.**—Section 881 (relating to tax on foreign
12 corporations not engaged in business in the United States
13 is amended to read as follows:

14 **“SEC. 881. INCOME OF FOREIGN CORPORATIONS NOT CON-**
15 **NECTED WITH UNITED STATES BUSINESS.**

16 ~~(a)~~ **IMPOSITION OF TAX.**—There is hereby imposed
17 for each taxable year a tax of 30 percent of the amount
18 received from sources within the United States by a foreign
19 corporation as—

20 “(1) interest, dividends, rents, salaries, wages, pre-
21 miums, annuities, compensations, remunerations, emolu-
22 ments, and other fixed or determinable annual or peri-
23 odical gains, profits, and income;

24 “(2) gains described in section 631 ~~(b)~~ or ~~(c)~~, and

25 “(3) amounts which under section 341, or under

section 1232 (in the case of bonds or other evidences of indebtedness issued after September 28, 1965), are treated as gains from the sale or exchange of property which is not a capital asset, but only to the extent the amount so received is not effectively connected with the conduct of a trade or business within the United States.

“(b) DOUBLING OF TAX.—

“For doubling of tax on corporations of certain foreign countries, see section 891.”

(b) TAX ON INCOME CONNECTED WITH UNITED STATES BUSINESS.—

(1) Section 882 (relating to tax on resident foreign corporations) is amended to read as follows:

“SEC. 882. INCOME OF FOREIGN CORPORATIONS CONNECTED WITH UNITED STATES BUSINESS.

“(a) NORMAL TAX AND SURTAX.—

“(1) IMPOSITION OF TAX.—A foreign corporation engaged in trade or business within the United States during the taxable year shall be taxable as provided in section 11 or 1201(a) on its taxable income which is effectively connected with the conduct of a trade or business within the United States.

“(2) DETERMINATION OF TAXABLE INCOME.—In determining taxable income for purposes of paragraph

1 ~~(1)~~, gross income includes only gross income which is
 2 effectively connected with the conduct of a trade or
 3 business within the United States.

4 ~~“(b) GROSS INCOME.—~~In the case of a foreign corpora-
 5 tion, gross income includes only—

6 ~~“(1) gross income which is derived from sources~~
 7 within the United States and which is not effectively
 8 connected with the conduct of a trade or business with-
 9 in the United States; and

10 ~~“(2) gross income which is effectively connected~~
 11 with the conduct of a trade or business within the
 12 United States.

13 ~~“(c) ALLOWANCE OF DEDUCTIONS AND CREDITS.—~~

14 ~~“(1) ALLOCATION OF DEDUCTIONS.—~~

15 ~~“(A) GENERAL RULE.—~~In the case of a for-
 16 eign corporation, the deductions shall be allowed
 17 only for purposes of subsection ~~(a)~~ and ~~(except as~~
 18 provided by subparagraph ~~(B)~~) only if and to the
 19 extent that they are connected with income which
 20 is effectively connected with the conduct of a trade
 21 or business within the United States; and the proper
 22 apportionment and allocation of the deductions for
 23 this purpose shall be determined as provided in

1 regulations prescribed by the Secretary or his
2 delegate.

3 “(B) CHARITABLE CONTRIBUTIONS.—The de-
4 duction for charitable contributions and gifts pro-
5 vided by section 170 shall be allowed whether or
6 not connected with income which is effectively con-
7 nected with the conduct of a trade or business
8 within the United States.

9 “(2) DEDUCTIONS AND CREDITS ALLOWED ONLY
10 IF RETURN FILED.—A foreign corporation shall receive
11 the benefit of the deductions and credits allowed to it
12 in this subtitle only by filing or causing to be filed with
13 the Secretary or his delegate a true and accurate return,
14 in the manner prescribed in subtitle F, including therein
15 all the information which the Secretary or his delegate
16 may deem necessary for the calculation of such deduc-
17 tions and credits. This paragraph shall not be construed
18 to deny the credit provided by section 32 for tax with-
19 held at source or the credit provided by section 39 for
20 certain uses of gasoline and lubricating oil.

21 “(3) FOREIGN TAX CREDIT.—Except as provided
22 by section 906, foreign corporations shall not be allowed
23 the credit against the tax for taxes of foreign countries

1 and possessions of the United States allowed by section
2 901.

3 ~~“(4) CROSS REFERENCE.—~~

~~“For rule that certain foreign taxes are not to be
taken into account in determining deduction or credit,
see section 906(b)(1).~~

4 ~~“(d) ELECTION TO TREAT REAL PROPERTY INCOME~~
5 ~~AS INCOME CONNECTED WITH UNITED STATES BUSI-~~
6 ~~NESS.—~~

7 ~~“(1) IN GENERAL.—A foreign corporation which~~
8 ~~during the taxable year derives any income—~~

9 ~~“(A) from real property located in the United~~
10 ~~States, or from any interest in such real property,~~
11 ~~including (i) gains from the sale or exchange of~~
12 ~~real property or an interest therein, (ii) rents or~~
13 ~~royalties from mines, wells, or other natural de-~~
14 ~~posits, and (iii) gains described in section 631 (b)-~~
15 ~~or (c), and~~

16 ~~“(B) which, but for this subsection, would not~~
17 ~~be treated as income effectively connected with the~~
18 ~~conduct of a trade or business within the United~~
19 ~~States,~~

20 ~~may elect for such taxable year to treat all such income~~
21 ~~as income which is effectively connected with the con-~~
22 ~~duct of a trade or business within the United States. In~~

such case; such income shall be taxable as provided in subsection ~~(a)(1)~~ whether or not such corporation is engaged in trade or business within the United States during the taxable year. An election under this paragraph for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary or his delegate with respect to any taxable year.

~~“(2) ELECTION AFTER REVOCATION, ETC.—~~Paragraphs ~~(2)~~ and ~~(3)~~ of section 871(d) shall apply in respect of elections under this subsection in the same manner and to the same extent as they apply in respect of elections under section 871(d).

~~“(c) RETURNS OF TAX BY AGENT.—~~If any foreign corporation has no office or place of business in the United States but has an agent in the United States, the return required under section 6012 shall be made by the agent.”

~~(2)(A)~~ Subsection ~~(c)~~ of section 11 (relating to exceptions from tax on corporations) is amended by inserting “or” at the end of paragraph 2), by striking out “, or” at the end of paragraph ~~(3)~~ and inserting a period in lieu thereof, and by striking out paragraph ~~(4)~~.

1 ~~(B)~~ Section 11 ~~(relating to tax on corporations)~~ is
 2 amended by adding at the end thereof the following
 3 new subsection:

4 ~~“(f) FOREIGN CORPORATIONS.—~~In the case of a foreign
 5 corporation, the tax imposed by subsection ~~(a)~~ shall apply
 6 only as provided by section 882.”

7 ~~(3)~~ The table of sections for subpart B of part II
 8 of subchapter N of chapter 1 is amended by striking out
 9 the items relating to sections 881 and 882 and inserting
 10 in lieu thereof the following:

“Sec. 881. Income of foreign corporations not connected
 with United States business.

“Sec. 882. Income of foreign corporations connected with
 United States business.”

11 ~~(c)~~ WITHHOLDING OF TAX ON FOREIGN CORPORA-
 12 TIONS.—Section 1442 ~~(relating to withholding of tax on~~
 13 foreign corporations) is amended to read as follows:

14 “SEC. 1442. WITHHOLDING OF TAX ON FOREIGN CORPO-
 15 RATIONS.

16 ~~“(a) GENERAL RULE.—~~In the case of foreign corpora-
 17 tions subject to taxation under this subtitle, there shall be
 18 deducted and withheld at the source in the same manner and
 19 on the same items of income as is provided in section 1441
 20 or section 1451 a tax equal to 30 percent thereof; except
 21 that, in the case of interest described in section 1451 ~~(relat-~~

ing to tax-free covenant bonds), the deduction and withholding shall be at the rate specified therein. For purposes of the preceding sentence, the reference in section 1441(c)-(1) to section 871(b)-(1) shall be treated as referring to section 842 or section 882(a), as the case may be.

“(b) EXEMPTION.—Subject to such terms and conditions as may be provided by regulations prescribed by the Secretary or his delegate, subsection (a) shall not apply in the case of a foreign corporation engaged in trade or business within the United States if the Secretary or his delegate determines that the requirements of subsection (a) imposes an undue administrative burden and that the collection of the tax imposed by section 881 on such corporation will not be jeopardized by the exemption.”

“(d) DIVIDENDS RECEIVED FROM CERTAIN FOREIGN CORPORATIONS.—Subsection (a) of section 245 (relating to the allowance of a deduction in respect of dividends received from a foreign corporation) is amended—

(1) by striking out “and has derived 50 percent or more of its gross income from sources within the United States,” in that portion of subsection (a) which precedes paragraph (1) and by inserting in lieu thereof “and if 50 percent or more of the gross income of such

1 corporation from all sources for such period is effectively
 2 connected with the conduct of a trade or business within
 3 the United States,";

4 ~~(2)~~ by striking out "from sources within the United
 5 States" in paragraph ~~(1)~~ and inserting in lieu thereof
 6 "which is effectively connected with the conduct of a
 7 trade or business within the United States";

8 ~~(3)~~ by striking out "from sources within the United
 9 States" in paragraph ~~(2)~~ and inserting in lieu thereof
 10 "which is effectively connected with the conduct of a
 11 trade or business within the United States,"; and

12 ~~(4)~~ by adding after paragraph ~~(2)~~ the following
 13 new sentence:

14 "For purposes of this subsection, the gross income of the
 15 foreign corporation for any period before the first taxable
 16 year beginning after December 31, 1966, which is effec-
 17 tively connected with the conduct of a trade or business
 18 within the United States is an amount equal to the gross
 19 income for such period from sources within the United
 20 States."

21 ~~(c)~~ UNRELATED BUSINESS TAXABLE INCOME. The
 22 last sentence of section 512(a) ~~(relating to definition)~~ is
 23 amended to read as follows: "In the case of an organiza-
 24 tion described in section 511 which is a foreign organiza-
 25 tion, the unrelated business taxable income shall be its un-

1 related business taxable income which is effectively connected
2 with the conduct of a trade or business within the United
3 States.”

4 ~~(f)~~ CORPORATION SUBJECT TO PERSONAL HOLDING
5 COMPANY TAX.—Paragraph ~~(7)~~ of section 542(c) ~~(re-~~
6 ~~lating to corporations not subject to the personal holding~~
7 ~~company tax)~~ is amended to read as follows:

8 “~~(7)~~ a foreign corporation, if all of its stock out-
9 standing during the last half of the taxable year is owned
10 by nonresident alien individuals, whether directly or in-
11 directly through foreign estates, foreign trusts, foreign
12 partnerships, or other foreign corporations;”.

13 ~~(g)~~ AMENDMENTS WITH RESPECT TO FOREIGN COR-
14 PORATIONS CARRYING ON INSURANCE BUSINESS IN
15 UNITED STATES.—

16 ~~(1)~~ Section 842 ~~(relating to computation of gross~~
17 ~~income)~~ is amended to read as follows:

18 “SEC. 842. FOREIGN CORPORATIONS CARRYING ON INSUR-
19 ANCE BUSINESS.

20 “If a foreign corporation carrying on an insurance busi-
21 ness within the United States would qualify under part I,
22 II, or III of this subchapter for the taxable year if ~~(without~~
23 ~~regard to income not effectively connected with the conduct~~
24 ~~of any trade or business within the United States)~~ it were
25 a domestic corporation, such corporation shall be taxable

1 under such part on its income effectively connected with its
 2 conduct of any trade or business within the United States.
 3 With respect to the remainder of its income, which is from
 4 sources within the United States, such a foreign corpora-
 5 tion shall be taxable as provided in section 881."

6 (2) The table of sections for part IV of subchapter
 7 L of chapter 1 is amended by striking out the item re-
 8 lating to section 842 and inserting in lieu thereof the
 9 following:

"Sec. 842. Foreign corporations carrying on insurance busi-
 ness."

10 (3) Section 819 (relating to foreign life insurance
 11 companies) is amended—

12 (A) by striking out subsections (a) and (d)
 13 and by redesignating subsections (b) and (c) as
 14 subsections (a) and (b);

15 (B) by striking out "In the case of any com-
 16 pany described in subsection (a)," in subsection
 17 (a)(1) (as redesignated by subparagraph (A))
 18 and inserting in lieu thereof "In the case of any
 19 foreign corporation taxable under this part,"

20 (C) by striking out "subsection (c)" in the
 21 last sentence of subsection (a)(2) (as redesignated
 22 by subparagraph (A)) and inserting in lieu thereof
 23 "subsection (b)";

1 ~~(D)~~ by adding at the end of subsection ~~(a)~~
 2 ~~(as redesignated by subparagraph (A))~~ the fol-
 3 lowing new paragraph:

4 “(3) REDUCTION OF SECTION 881 TAX.—In the
 5 case of any foreign corporation taxable under this part,
 6 there shall be determined—

7 “(A) the amount which would be subject to
 8 tax under section 881 if the amount taxable under
 9 such section were determined without regard to sec-
 10 tions 103 and 894, and

11 “(B) the amount of the reduction provided
 12 by paragraph (1).”

13 The tax under section 881 ~~(determined without regard~~
 14 to this paragraph) shall be reduced ~~(but not below~~
 15 zero) by an amount which is the same proportion of
 16 such tax as the amount referred to in subparagraph (B)
 17 is of the amount referred to in subparagraph (A); but
 18 such reduction in tax shall not exceed the increase in
 19 tax under this part by reason of the reduction provided
 20 by paragraph (1).”;

21 ~~(E)~~ by striking out “for purposes of subsec-
 22 tion (a)” each place it appears in subsection ~~(b)~~
 23 ~~(as redesignated by subparagraph (A))~~ and insert-

1 ing in lieu thereof “with respect to a foreign
2 corporation”;

3 ~~(F)~~ by striking out “foreign life insurance
4 company” each place it appears in such subsection
5 ~~(b)~~ and inserting in lieu thereof “foreign corpora-
6 tion”;

7 ~~(G)~~ by striking out “subsection ~~(b)~~ (2) ~~(A)~~”
8 each place it appears in such subsection ~~(b)~~ and
9 inserting in lieu thereof “subsection ~~(a)~~ (2) ~~(A)~~”;

10 ~~(H)~~ by striking out “subsection ~~(b)~~ (2) ~~(B)~~”
11 in paragraph ~~(2)~~ ~~(B)~~ (ii) of such subsection ~~(b)~~
12 and inserting in lieu thereof “subsection ~~(a)~~ (2)
13 ~~(B)~~”, and

14 ~~(I)~~ by adding at the end thereof the following
15 new subsection:

16 “~~(e)~~ CROSS REFERENCE.—

“For taxation of foreign corporations carrying on
life insurance business within the United States, see
section 842.”

17 ~~(4)~~ Section 821 ~~(relating to tax on mutual insur-~~
18 ~~ance companies to which part II applies)~~ is amended—

19 ~~(A)~~ by striking out subsection ~~(e)~~ and by
20 redesignating subsections ~~(f)~~ and ~~(g)~~ as sub-
21 sections ~~(e)~~ and ~~(f)~~, and

22 ~~(B)~~ by adding at the end of subsection ~~(f)~~

~~(as redesignated by subparagraph (A)) the following:~~

~~“(3) For taxation of foreign corporations carrying on an insurance business within the United States, see section 842.”~~

~~(5) Section 822 (relating to determination of taxable investment income) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).~~

~~(6) Section 831 (relating to tax on certain other insurance companies) is amended—~~

~~(A) by striking out subsection (b) and by redesignating subsection (c) as subsection (b), and~~

~~(B) by amending subsection (d) to read as follows:~~

~~“(c) CROSS REFERENCES.—~~

~~“(1) For alternative tax in case of capital gains, see section 1201(a).~~

~~“(2) For taxation of foreign corporations carrying on an insurance business within the United States, see section 842.”~~

~~(7) Section 832 (relating to insurance company taxable income) is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).~~

~~(8) The second sentence of section 841 (relating~~

1 to credit for foreign taxes) is amended by striking out
 2 “sentence,” and inserting in lieu thereof “sentencee (and
 3 for purposes of applying section 906 with respect to a
 4 foreign corporation subject to tax under this sub-
 5 chapter);”.

6 ~~(h) SUBPART F INCOME.—Section 952(b) (relating~~
 7 ~~to exclusion of United States income) is amended to read as~~
 8 ~~follows:~~

9 ~~“(b) EXCLUSION OF UNITED STATES INCOME.—In~~
 10 ~~the case of a controlled foreign corporation, subpart F in-~~
 11 ~~come does not include any item of income from sources~~
 12 ~~within the United States which is effectively connected~~
 13 ~~with the conduct by such corporation of a trade or business~~
 14 ~~within the United States unless such item is exempt from~~
 15 ~~taxation (or is subject to a reduced rate of tax) pursuant~~
 16 ~~to a treaty obligation of the United States.”~~

17 ~~(i) GAIN FROM CERTAIN SALES OR EXCHANGES OF~~
 18 ~~STOCK IN CERTAIN FOREIGN CORPORATIONS.—Paragraph~~
 19 ~~(4) of section 1248(d) (relating to exclusions from earn-~~
 20 ~~ings and profits) is amended to read as follows:~~

21 ~~“(4) UNITED STATES INCOME.—Any item in-~~
 22 ~~cludible in gross income of the foreign corporation under~~
 23 ~~this chapter—~~

“(A) for any taxable year beginning before January 1, 1967, as income derived from sources within the United States of a foreign corporation engaged in trade or business within the United States, or

“(B) for any taxable year beginning after December 31, 1966, as income effectively connected with the conduct by such corporation of a trade or business within the United States.”

This paragraph shall not apply with respect to any item which is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States.”

~~(j)~~ DECLARATION OF ESTIMATED INCOME TAX BY CORPORATIONS.—Section 6016 (relating to declarations of estimated income tax by corporations) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) CERTAIN FOREIGN CORPORATIONS.—For purposes of this section and section 6655, in the case of a foreign corporation subject to taxation under section 11 or 1201(a), or under subchapter L of chapter 1, the tax imposed by section 881 shall be treated as a tax imposed by section 11.”

1 ~~(k)~~ TECHNICAL AMENDMENTS.—

2 ~~(1)~~ Section 884 is amended to read as follows:

“SEC. 884. CROSS REFERENCES.

“~~(1)~~ For special provisions relating to unrelated business income of foreign educational, charitable, and certain other exempt organizations, see section 512(a).

“~~(2)~~ For special provisions relating to foreign corporations carrying on an insurance business within the United States, see section 842.

“~~(3)~~ For rules applicable in determining whether any foreign corporation is engaged in trade or business within the United States, see section 864(b).

“~~(4)~~ For reinstatement of pre-1967 income tax provisions in the case of corporations of certain foreign countries, see section 896.

“~~(5)~~ For allowance of credit against the tax in case of a foreign corporation having income effectively connected with the conduct of a trade or business within the United States, see section 906.

“~~(6)~~ For withholding at source of tax on income of foreign corporations, see section 1442.”

3 ~~(2)~~ Section 953(b) ~~(3)~~ (F) is amended by striking
4 out “832(b) ~~(5)~~” and inserting in lieu thereof
5 “832(c) ~~(5)~~”.

6 ~~(3)~~ Section 1249(a) is amended by striking out
7 “Except as provided in subsection (c), gain” and in-
8 serting in lieu thereof “Gain”.

9 ~~(1)~~ EFFECTIVE DATES.—The amendments made by
10 this section ~~(other than subsection (i))~~ shall apply with
11 respect to taxable years beginning after December 31, 1966.
12 The amendment made by subsection ~~(i)~~ shall apply with

1 respect to sales or exchanges occurring after December 31,
2 1966.

3 **SEC. 5. SPECIAL TAX PROVISIONS.**

4 ~~“(a) INCOME AFFECTED BY TREATY.~~—Section 804 (re-
5 lating to income exempt under treaties) is amended to read
6 as follows:

7 **“SEC. 804. INCOME AFFECTED BY TREATY.**

8 ~~“(a) INCOME EXEMPT UNDER TREATY.~~—Income of
9 any kind, to the extent required by any treaty obligation of
10 the United States, shall not be included in gross income and
11 shall be exempt from taxation under this subtitle.

12 ~~“(b) PERMANENT ESTABLISHMENT IN UNITED~~
13 ~~STATES.~~—For purposes of applying any exemption from, or
14 reduction of, any tax provided by any treaty to which the
15 United States is a party with respect to income which is not
16 effectively connected with the conduct of a trade or business
17 within the United States, a nonresident alien individual or a
18 foreign corporation shall be deemed not to have a permanent
19 establishment in the United States at any time during the
20 taxable year. This subsection shall not apply in respect of
21 the tax computed under section 877(b).”

22 ~~(b) APPLICATION OF PRE-1967 INCOME TAX PROVI-~~
23 ~~SIONS.~~—Subpart C of part II of subchapter N of chapter 1

1 ~~(relating to miscellaneous provisions applicable to nonresi-~~
 2 ~~dent aliens and foreign corporations)~~ is amended by adding
 3 at the end thereof the following new section:

4 **"SEC. 896. APPLICATION OF PRE-1967 INCOME TAX PRO-**
 5 **VISIONS.**

6 ~~"(a)~~ IMPOSITION OF MORE BURDENSOME TAXES BY
 7 FOREIGN COUNTRY. Whenever the President finds that—
 8 ~~"(1)~~ under the laws of any foreign country, con-
 9 sidering the tax system of such foreign country, citizens
 10 of the United States not residents of such foreign coun-
 11 try or domestic corporations are being subjected to more
 12 burdensome taxes; on any item of income received by
 13 such citizens or corporations from sources within such
 14 foreign country, than taxes imposed by the provisions of
 15 this subtitle on similar income derived from sources
 16 within the United States by residents or corporations of
 17 such foreign country,

18 ~~"(2)~~ such foreign country, when requested by the
 19 United States to do so, has not acted to revise or reduce
 20 such taxes so that they are no more burdensome than
 21 taxes imposed by the provisions of this subtitle on similar
 22 income derived from sources within the United States by
 23 residents or corporations of such foreign country, and

24 ~~"(3)~~ it is in the public interest to apply pre-1967
 25 tax provisions in accordance with the provisions of this

section to residents or corporations of such foreign country;

the President shall proclaim that the tax on such similar income derived from sources within the United States by residents or corporations of such foreign country shall, for taxable years beginning after such proclamation, be determined under this subtitle without regard to amendments made to this subchapter and chapter 2 on or after the date of enactment of this section.

“(b) ALLEVIATION OF MORE BURDENSOME TAXES.—

Whenever the President finds that the laws of any foreign country with respect to which the President has made a proclamation under subsection (a) have been modified so that citizens of the United States not residents of such foreign country or domestic corporations are no longer subject to more burdensome taxes on such item of income derived by such citizens or corporations from sources within such foreign country, he shall proclaim that the tax on such similar income derived from sources within the United States by residents or corporations of such foreign country shall, for any taxable year beginning after such proclamation, be determined under this subtitle without regard to subsection (a).

“(c) NOTIFICATION OF CONGRESS REQUIRED.—No proclamation shall be issued by the President pursuant to

1 this section unless, at least 30 days prior to such procla-
 2 mation, he has notified the Senate and the House of Repre-
 3 sentatives of his intention to issue such proclamation.

4 “(d) IMPLEMENTATION BY REGULATIONS.—The Sec-
 5 retary or his delegate shall prescribe such regulations as he
 6 deems necessary or appropriate to implement this section.”

7 (e) CLERICAL AMENDMENTS.—The table of sections
 8 for subpart C of part II of subchapter N of chapter 1 is
 9 amended—

10 (1) by striking out the item relating to section 894
 11 and inserting in lieu thereof

“Sec. 894. Income affected by treaty.”;

12 (2) by adding at the end of such table the following:

“Sec. 896. Application of pre-1967 income tax provisions.”

13 (d) EFFECTIVE DATE.—The amendments made by this
 14 section (other than subsection (e)) shall apply with respect
 15 to taxable years beginning after December 31, 1966.

16 (e) ELECTIONS BY NONRESIDENT UNITED STATES
 17 CITIZENS WHO ARE SUBJECT TO FOREIGN COMMUNITY
 18 PROPERTY LAWS.—

19 (1) Part III of subchapter N of chapter 1 (relat-
 20 ing to income from sources without the United States)

1 is amended by adding at the end thereof the following
 2 new subpart:

3 **"Subpart H—Income of Certain Nonresident United States**
 4 **Citizens Subject to Foreign Community Property Laws**

"Sec 981. Elections as to treatment of income subject to
 foreign community property laws.

5 **"SEC. 981. ELECTION AS TO TREATMENT OF INCOME SUB-**
 6 **JECT TO FOREIGN COMMUNITY PROPERTY**
 7 **LAWS.**

8 **"(a) GENERAL RULE.**—In the case of any taxable year
 9 beginning after December 31, 1966, if—

10 **"(1)** an individual is **(A)** a citizen of the United
 11 States, **(B)** a bona fide resident of a foreign country
 12 or countries during the entire taxable year, and **(C)**
 13 married at the close of the taxable year to a spouse who is
 14 a nonresident alien during the entire taxable year, and

15 **"(2)** such individual and his spouse elect to have
 16 subsection **(b)** apply to their community income under
 17 foreign community property laws;

18 then subsection **(b)** shall apply to such income of such indi-
 19 vidual and such spouse for the taxable year and for all sub-
 20 sequent taxable years for which the requirements of para-

1 graph (1) are met, unless the Secretary or his delegate
2 consents to a termination of the election.

3 “(b) TREATMENT OF COMMUNITY INCOME.—For any
4 taxable year to which an election made under subsection (a)
5 applies, the community income under foreign community
6 property laws of the husband and wife making the election
7 shall be treated as follows:

8 “(1) Earned income (within the meaning of the
9 first sentence of section 911(b)); other than trade or
10 business income and a partner's distributive share of
11 partnership income, shall be treated as the income of the
12 spouse who rendered the personal services.

13 “(2) Trade or business income, and a partner's
14 distributive share of partnership income, shall be treated
15 as provided in section 1402(a)(5):

16 “(3) Community income not described in para-
17 graph (1) or (2) which is derived from the separate
18 property (as determined under the applicable foreign
19 community property law) of one spouse shall be treated
20 as the income of such spouse.

21 “(4) All other such community income shall be
22 treated as provided in the applicable foreign community
23 property law.

1 “(c) ELECTION FOR PRE 1967 YEARS.—

2 “(1) ELECTION.—If an individual meets the re-
3 quirements of subsection (a) (1) (A) and (C) for any
4 taxable year beginning before January 1, 1967, and if
5 such individual and the spouse referred to in subsection
6 (a) (1) (C) elect under this subsection, then paragraph
7 (2) of this subsection shall apply to their community in-
8 come under foreign community property laws for all
9 open taxable years beginning before January 1, 1967
10 (whether under this chapter, the corresponding provi-
11 sions of the Internal Revenue Code of 1939, or the cor-
12 responding provisions of prior revenue laws), for which
13 the requirements of subsection (a) (1) (A) and (C)
14 are met.

15 “(2) EFFECT OF ELECTION.—For any taxable
16 year to which an election made under this subsection
17 applies, the community income under foreign community
18 property laws of the husband and wife making the
19 election shall be treated as provided by subsection (b),
20 except that the other community income described in
21 paragraph (4) of subsection (b) shall be treated as the
22 income of the spouse who, for such taxable year, had
23 gross income under paragraphs (1), (2), and (3) of

1 subsection (b), plus separate gross income, greater than
2 that of the other spouse.

3 ~~“(d) TIME FOR MAKING ELECTIONS; PERIOD OF~~
4 ~~LIMITATIONS; ETC.—~~

5 ~~“(1) TIME.—An election under subsection (a) or~~
6 ~~(e) for a taxable year may be made at any time while~~
7 ~~such year is still open, and shall be made in such man-~~
8 ~~ner as the Secretary or his delegate shall by regulations~~
9 ~~prescribe.~~

10 ~~“(2) EXTENSION OF PERIOD FOR ASSESSING DE-~~
11 ~~FICIENCIES AND MAKING REFUNDS.—If any taxable~~
12 ~~year to which an election under subsection (a) or (e)~~
13 ~~applies is open at the time such election is made, the~~
14 ~~period for assessing a deficiency against, and the period~~
15 ~~for filing claim for credit or refund of any overpayment~~
16 ~~by, the husband and wife for such taxable year, to the~~
17 ~~extent such deficiency or overpayment is attributable to~~
18 ~~such an election, shall not expire before 1 year after~~
19 ~~the date of such election.~~

20 ~~“(3) ALIEN SPOUSE NEED NOT JOIN IN SUBSEC-~~
21 ~~TION (e) ELECTION IN CERTAIN CASES.—If the Secre-~~
22 ~~tary or his delegate determines—~~

23 ~~“(A) that an election under subsection (e)~~
24 ~~would not affect the liability for Federal income~~

1 tax of the spouse referred to in subsection ~~(a)~~ ~~(1)~~.
 2 ~~(C)~~ for any taxable year, or

3 ~~“(B) that the effect on such liability for tax~~
 4 ~~cannot be ascertained and that to deny the election~~
 5 ~~to the citizen of the United States would be inequita-~~
 6 ~~ble and cause undue hardship,~~

7 such spouse shall not be required to join in such election;
 8 and paragraph ~~(2)~~ of this subsection shall not apply
 9 with respect to such spouse.

10 ~~“(4) INTEREST.—To the extent that any overpay-~~
 11 ~~ment or deficiency for a taxable year is attributable to~~
 12 ~~an election made under this section, no interest shall be~~
 13 ~~allowed or paid for any period before the day which is 1~~
 14 ~~year after the date of such election.~~

15 ~~“(c) DEFINITIONS AND SPECIAL RULES.—For pur-~~
 16 ~~poses of this section—~~

17 ~~“(1) DEDUCTIONS.—Deductions shall be treated in~~
 18 ~~a manner consistent with the manner provided by this~~
 19 ~~section for the income to which they relate.~~

20 ~~“(2) OPEN YEARS.—A taxable year of a citizen~~
 21 ~~of the United States and his spouse shall be treated as~~
 22 ~~‘open’ if the period for assessing a deficiency against~~
 23 ~~such citizen for such year has not expired before the~~

1 date of the election under subsection (a) or (c), as the
2 ease may be.

3 ~~“(3) ELECTIONS IN CASE OF DECEDENTS.—~~If a
4 husband or wife is deceased his election under this sec-
5 tion may be made by his executor, administrator, or
6 other person charged with his property.

7 ~~“(4) DEATH OF SPOUSE DURING TAXABLE~~
8 ~~YEAR.—~~In applying subsection (a) (1) (C), and in de-
9 termining under subsection (c) (2) which spouse has
10 the greater income for a taxable year, if a husband or
11 wife dies the taxable year of the surviving spouse shall
12 be treated as ending on the date of such death.”

13 ~~(2) The table of subparts for such part III is~~
14 ~~amended by adding at the end thereof the following:~~

Subpart H. Income of certain nonresident United States
citizens subject to foreign community prop-
erty laws.”

15 ~~(3) Section 911(d) (relating to earned income~~
16 ~~from sources without the United States) is amended—~~

17 ~~(A) by striking out “For administrative” and~~
18 ~~inserting in lieu thereof the following: “(1) For ad-~~
19 ~~ministrative”; and~~

20 ~~(B) by adding at the end thereof the following:~~

~~“(2) For elections as to treatment of income subject
to foreign community property laws, see section 981.”~~

1 **SEC. 6. FOREIGN TAX CREDIT.**

2 ~~(a)~~ **ALLOWANCE OF CREDIT TO CERTAIN NONRESI-**
 3 **DENT ALIENS AND FOREIGN CORPORATIONS.—**

4 ~~(1)~~ Subpart A of part III of subchapter N of chap-
 5 ter 1 (relating to foreign tax credit) is amended by
 6 adding at the end thereof the following new section:

7 **"SEC. 906. NONRESIDENT ALIEN INDIVIDUALS AND FOR-**
 8 **EIGN CORPORATIONS.**

9 ~~"(a)~~ **ALLOWANCE OF CREDIT.**—A nonresident alien
 10 individual or a foreign corporation engaged in trade or
 11 business within the United States during the taxable year
 12 shall be allowed a credit under section 901 for the amount
 13 of any income, war profits, and excess profits taxes paid or
 14 accrued during the taxable year (or deemed, under section
 15 902, paid or accrued during the taxable year) to any foreign
 16 country or possession of the United States with respect to
 17 income effectively connected with the conduct of a trade or
 18 business within the United States.

19 ~~"(b)~~ **SPECIAL RULES.—**

20 ~~"(1)~~ For purposes of subsection (a) and for pur-
 21 poses of determining the deductions allowable under
 22 sections 873(a) and 882(c), in determining the amount
 23 of any tax paid or accrued to any foreign country or

1 possession there shall not be taken into account any
 2 amount of tax to the extent the tax so paid or accrued is
 3 imposed with respect to income which would not be
 4 taxed by such foreign country or possession but for the
 5 fact that—

6 “(A) in the case of a nonresident alien indi-
 7 vidual, such individual is a citizen or resident of
 8 such foreign country or possession, or

9 “(B) in the case of a foreign corporation, such
 10 corporation was created or organized under the
 11 law of such foreign country or possession or is
 12 domiciled for tax purposes in such country or
 13 possession.

14 “(2) For purposes of subsection (a), in apply-
 15 ing section 904 the taxpayer's taxable income shall be
 16 treated as consisting only of the taxable income effec-
 17 tively connected with the taxpayer's conduct of a trade
 18 or business within the United States.

19 “(3) The credit allowed pursuant to subsection (a)
 20 shall not be allowed against any tax imposed by section
 21 871(a) (relating to income of nonresident alien individ-
 22 ual not connected with United States business) or 881
 23 (relating to income of foreign corporations not con-
 24 nected with United States business).

25 “(4) For purposes of sections 902(a) and 78, a

foreign corporation choosing the benefits of this subpart which receives dividends shall, with respect to such dividends, be treated as a domestic corporation."

(2) The table of sections for such subpart A is amended by adding at the end thereof the following:

"Sec. 906. Nonresident alien individuals and foreign corporations."

(3) Section 874(c) is amended by striking out

"(c) FOREIGN TAX CREDIT NOT ALLOWED.—A nonresident" and inserting in lieu thereof the following:

"(c) FOREIGN TAX CREDIT.—Except as provided in section 906, a nonresident".

(4) Subsection (b) of section 901 (relating to amount allowed) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4) NONRESIDENT ALIEN INDIVIDUALS AND FOREIGN CORPORATIONS.—In the case of any nonresident alien individual not described in section 876 and in the case of any foreign corporation, the amount determined pursuant to section 906; and".

(5) Paragraph (5) (as redesignated) of section 901(b) is amended by striking out "or (3)," and inserting in lieu thereof "(3), or (4),".

1 ~~(6)~~ The amendments made by this subsection shall
 2 apply with respect to taxable years beginning after
 3 December 31, 1966. In applying section 904 of the
 4 Internal Revenue Code of 1954 with respect to section
 5 906 of such Code, no amount may be carried from or to
 6 any taxable year beginning before January 1, 1967, and
 7 no such year shall be taken into account.

8 ~~(b)~~ ALIEN RESIDENTS OF THE UNITED STATES OR
 9 PUERTO RICO.—

10 ~~(1)~~ Paragraph ~~(3)~~ of section 901~~(b)~~ (relating
 11 to amount of foreign tax credit allowed in case of alien
 12 resident of the United States or Puerto Rico) is amended
 13 by striking out “, if the foreign country of which such
 14 alien resident is a citizen or subject, in imposing such
 15 taxes, allows a similar credit to citizens of the United
 16 States residing in such country”.

17 ~~(2)~~ Section 901 is amended by redesignating sub-
 18 sections ~~(c)~~ and ~~(d)~~ as subsections ~~(d)~~ and ~~(e)~~, and
 19 by inserting after subsection ~~(b)~~ the following new
 20 subsection:

21 “(c) SIMILAR CREDIT REQUIRED FOR CERTAIN ALIEN
 22 RESIDENTS.—Whenever the President finds that—

23 “(1) a foreign country, in imposing income, war
 24 profits, and excess profits taxes, does not allow to

1 citizens of the United States residing in such foreign
 2 country a credit for any such taxes paid or accrued to
 3 the United States or any foreign country, as the case
 4 may be, similar to the credit allowed under subsection
 5 ~~(b) (3)~~,

6 “~~(2)~~ such foreign country, when requested by the
 7 United States to do so, has not acted to provide such a
 8 similar credit to citizens of the United States residing
 9 in such foreign country, and

10 “~~(3)~~ it is in the public interest to allow the credit
 11 under subsection ~~(b) (3)~~ to citizens or subjects of such
 12 foreign country only if it allows such a similar credit to
 13 citizens of the United States residing in such foreign
 14 country,

15 the President shall proclaim that, for taxable years begin-
 16 ning while the proclamation remains in effect, the credit
 17 under subsection ~~(b) (3)~~ shall be allowed to citizens or
 18 subjects of such foreign country only if such foreign country,
 19 in imposing income, war profits, and excess profits taxes,
 20 allows to citizens of the United States residing in such foreign
 21 country such a similar credit.”

22 ~~(3)~~ Section 2014 (relating to credit for foreign
 23 death taxes) is amended by striking out the second sen-

1 tence of subsection (a), and by adding at the end of
2 such section the following new subsection:

3 “(h) ~~SIMILAR CREDIT REQUIRED FOR CERTAIN ALIEN~~
4 ~~RESIDENTS.~~—Whenever the President finds that—

5 “(1) a foreign country, in imposing estate, inherit-
6 ance, legacy, or succession taxes, does not allow to citi-
7 zens of the United States resident in such foreign coun-
8 try at the time of death a credit similar to the credit
9 allowed under subsection (a),

10 “(2) such foreign country, when requested by the
11 United States to do so, has not acted to provide such a
12 similar credit in the case of citizens of the United States
13 resident in such foreign country at the time of death; and

14 “(3) it is in the public interest to allow the credit
15 under subsection (a) in the case of citizens or subjects
16 of such foreign country only if it allows such a similar
17 credit in the case of citizens of the United States resident
18 in such foreign country at the time of death;

19 the President shall proclaim that, in the case of citizens or
20 subjects of such foreign country dying while the proclamation
21 remains in effect, the credit under subsection (a) shall be al-
22 lowed only if such foreign country allows such a similar
23 credit in the case of citizens of the United States resident in
24 such foreign country at the time of death.”

25 (4) The amendments made by this subsection

~~(other than paragraph (3))~~ shall apply with respect to taxable years beginning after December 31, 1966. The amendment made by paragraph (3) shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

~~(e) FOREIGN TAX CREDIT AN CASE OF CERTAIN OVERSEAS OPERATIONS FUNDING SUBSIDIARIES.—~~

~~(1) Section 904(f) (2) (relating to application of limitations on foreign tax credit in case of certain interest income) is amended—~~

~~(A) by striking out “or” at the end of subparagraph (C),~~

~~(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof “, or”, and~~

~~(C) by adding at the end thereof the following new subparagraph:~~

~~“(E) received by an overseas operations funding subsidiary on obligations of a related foreign corporation.”~~

~~(2) Section 904(f) is amended by adding at the end thereof the following new paragraph:~~

~~“(5) DEFINITIONS FOR PURPOSES OF PARAGRAPH (1)(E).—For purposes of paragraph (1)(E).—~~

1 “(A) the term ‘overseas operations funding
2 subsidiary’ means a domestic corporation which (i)
3 is a member of an affiliated group (within the
4 meaning of section 1504) and is not the common
5 parent corporation, and (ii) was formed and is
6 availed of for the principal purpose of raising funds
7 outside the United States through public offerings to
8 foreign persons and of using such funds to finance
9 the operations in foreign countries of one or more
10 related foreign corporations, and

11 “(B) a foreign corporation is, with respect to
12 an overseas operations funding subsidiary, a related
13 foreign corporation if the affiliated group of which
14 such subsidiary is a member owns 50 percent or
15 more of the voting stock of such foreign corporation
16 either directly or through ownership of the voting
17 stock of another foreign corporation.”

18 (3) The amendments made by paragraphs (1) and
19 (2) shall apply to interest received after December 31,
20 1965, in taxable years ending after such date.

1 SEC. 7. AMENDMENT TO PRESERVE EXISTING LAW ON
 2 DEDUCTIONS UNDER SECTION 931.

3 ~~(a) DEDUCTIONS.~~—Subsection ~~(d)~~ of section 931 ~~(re-~~
 4 ~~lating to deductions)~~ is amended to read as follows:

5 “~~(d)~~ DEDUCTIONS.—

6 “~~(1)~~ GENERAL RULE.—Except as otherwise pro-
 7 vided in this subsection and subsection ~~(c)~~, in the case
 8 of persons entitled to the benefits of this section the
 9 deductions shall be allowed only if and to the extent
 10 that they are connected with income from sources within
 11 the United States; and the proper apportionment and
 12 allocation of the deductions with respect to sources of
 13 income within and without the United States shall be
 14 determined as provided in part I, under regulations
 15 prescribed by the Secretary or his delegate.

16 “~~(2)~~ EXCEPTIONS.—The following deductions shall
 17 be allowed whether or not they are connected with in-
 18 come from sources within the United States:

19 “~~(A)~~ The deduction, for losses not connected
 20 with the trade or business if incurred in transactions

1 entered into for profit, allowed by section 165(c)
 2 (2), but only if the profit, if such transaction had
 3 resulted in a profit, would be taxable under this
 4 subtitle.

5 “(B) The deduction, for losses of property not
 6 connected with the trade or business if arising from
 7 certain casualties or theft, allowed by section 165
 8 (c)(3), but only if the loss is of property within
 9 the United States.

10 “(C) The deduction for charitable contribu-
 11 tions and gifts allowed by section 170.

12 “(3) DEDUCTION DISALLOWED.—

“For disallowance of standard deduction, see section
 142(b)(2).”

13 (b) EFFECTIVE DATE.—The amendment made by this
 14 section shall apply with respect to taxable years beginning
 15 after December 31, 1966.

16 SEC. 8. ESTATES OF NONRESIDENTS NOT CITIZENS.

17 (a) RATE OF TAX.—Subsection (a) of section 2101
 18 (relating to tax imposed in case of estates of nonresidents
 19 not citizens) is amended to read as follows:

20 “(a) RATE OF TAX.—Except as provided in section
 21 2107, a tax computed in accordance with the following table
 22 is hereby imposed on the transfer of the taxable estate, de-

- 1 terminated as provided in section 2106, of every decedent non-
 2 resident not a citizen of the United States:

"If the taxable estate tax is: The tax shall be:

Not over \$100,000-----	5% of the taxable estate.
Over \$100,000 but not over \$500,000-----	\$5,000, plus 10% of excess over \$100,000.
Over \$500,000 but not over \$1,000,000-----	\$15,000, plus 15% of excess over \$500,000.
Over \$1,000,000 but not over \$2,000,000-----	\$120,000, plus 20% of excess over \$1,000,000.
Over \$2,000,000-----	\$320,000, plus 25% of excess over \$2,000,000.

- 3 (b) CREDITS AGAINST TAX.—Section 2102 (relating
 4 to credits allowed against estate tax) is amended to read as
 5 follows:

6 "SEC. 2102. CREDITS AGAINST TAX.

7 "(a) IN GENERAL.—The tax imposed by section 2101
 8 shall be credited with the amounts determined in accordance
 9 with sections 2011 to 2013, inclusive (relating to State death
 10 taxes, gift tax, and tax on prior transfers), subject to the
 11 special limitation provided in subsection (b).

12 "(b) SPECIAL LIMITATION.—The maximum credit
 13 allowed under section 2011 against the tax imposed by sec-
 14 tion 2101 for State death taxes paid shall be an amount
 15 which bears the same ratio to the credit computed as pro-
 16 vided in section 2011(b) as the value of the property, as

1 determined for purposes of this chapter, upon which State
 2 death taxes were paid and which is included in the gross
 3 estate under section 2103 bears to the value of the total gross
 4 estate under section 2103. For purposes of this subsection,
 5 the term 'State death taxes' means the taxes described in
 6 section 2011(a)."

7 ~~(c) PROPERTY WITHIN THE UNITED STATES.~~ See
 8 tion 2104 (relating to property within the United States) is
 9 amended by adding at the end thereof the following new
 10 subsection:

11 ~~"(c) DEBT OBLIGATIONS.~~ For purposes of this sub-
 12 chapter, debt obligations of—

13 ~~"(1) a United States person; or~~

14 ~~"(2) the United States, a State or any political~~
 15 ~~subdivision thereof, or the District of Columbia,~~

16 owned by a nonresident not a citizen of the United States
 17 shall be deemed property within the United States. This
 18 subsection shall not apply to a debt obligation of a domestic
 19 corporation if any interest on such obligation, were such in-
 20 terest received by the decedent at the time of his death,
 21 would be treated by reason of section 861(a)(1)(B) as
 22 income from sources without the United States."

1 ~~(d) PROPERTY WITHOUT THE UNITED STATES.~~ Sub-
 2 section ~~(b)~~ of section 2105 ~~(relating to bank deposits)~~ is
 3 amended to read as follows:

4 ~~“(b) DEPOSITS IN CERTAIN FOREIGN BRANCHES.—~~

5 For purposes of this subchapter, deposits with a foreign
 6 branch of a domestic corporation, if such branch is engaged
 7 in the commercial banking business, shall not be deemed
 8 property within the United States.”

9 ~~(c) DEFINITION OF TAXABLE ESTATE.~~ Paragraph
 10 ~~(3)~~ of section 2106 ~~(a)~~ ~~(relating to deduction of exemption~~
 11 ~~from gross estate)~~ is amended to read as follows:

12 ~~“(3) EXEMPTION.—~~

13 ~~“(A) GENERAL RULE.—An exemption of~~
 14 ~~\$30,000.~~

15 ~~“(B) RESIDENTS OF POSSESSIONS OF THE~~

16 ~~UNITED STATES.—In the case of a decedent who is~~

17 ~~considered to be a ‘nonresident not a citizen of the~~

18 ~~United States’ under the provisions of section 2209,~~

19 ~~the exemption shall be the greater of (i) \$30,000,~~

20 ~~or (ii) that proportion of the exemption authorized~~

21 ~~by section 2052 which the value of that part of the~~

22 ~~decedent’s gross estate which at the time of his~~

1 death is situated in the United States bears to the
2 value of his entire gross estate wherever situated."

3 ~~(f) SPECIAL METHODS OF COMPUTING TAX.~~ Sub-
4 chapter B of chapter 11 (relating to estates of nonresidents
5 not citizens) is amended by adding at the end thereof the
6 following new sections:

7 "SEC. 2107. EXPATRIATION TO AVOID TAX.

8 "~~(a) RATE OF TAX.~~ A tax computed in accordance
9 with the table contained in section 2001 is hereby imposed
10 on the transfer of the taxable estate, determined as provided
11 in section 2106, of every decedent nonresident not a citizen
12 of the United States dying after the date of enactment of this
13 section, if after March 8, 1965, and within the 10-year period
14 ending with the date of death such decedent lost United
15 States citizenship, unless such loss did not have for one of its
16 principal purposes the avoidance of taxes under this subtitle
17 or subtitle A.

18 "~~(b) GROSS ESTATE.~~ For purposes of the tax imposed
19 by subsection ~~(a)~~, the value of the gross estate of every
20 decedent to whom subsection ~~(a)~~ applies shall be determined
21 as provided in section 2103, except that—

22 "~~(1)~~ if such decedent owned ~~(within the meaning~~
23 of section 958~~(a)~~) at the time of his death 10 percent
24 or more of the total combined voting power of all

1 classes of stock entitled to vote of a foreign corporation;
 2 and

3 “(2) if such decedent owned (within the mean-
 4 ing of section 958(a)), or is considered to have owned
 5 (by applying the ownership rules of section 958(b)),
 6 at the time of his death, more than 50 percent of the
 7 total combined voting power of all classes of stock en-
 8 titled to vote of such foreign corporation;

9 then that proportion of the fair market value of the stock of
 10 such foreign corporation owned (within the meaning of sec-
 11 tion 958(a)) by such decedent at the time of his death,
 12 which the fair market value of any assets owned by such for-
 13 eign corporation and situated in the United States, at the time
 14 of his death, bears to the total fair market value of all assets
 15 owned by such foreign corporation at the time of his death,
 16 shall be included in the gross estate of such decedent. For
 17 purposes of the preceding sentence, a decedent shall be
 18 treated as owning stock of a foreign corporation at the time
 19 of his death if, at the time of a transfer, by trust or otherwise,
 20 within the meaning of sections 2035 to 2038, inclusive, he
 21 owned such stock.

22 “(c) CREDITS.—The tax imposed by subsection (a)
 23 shall be credited with the amounts determined in accordance
 24 with section 2102.

1 “(d) **EXCEPTION FOR LOSS OF CITIZENSHIP FOR CER-**
 2 **TAIN CAUSES.**—Subsection (a) shall not apply to the trans-
 3 fer of the estate of a decedent whose loss of United States
 4 citizenship resulted from the application of section 301(b),
 5 350, or 355 of the Immigration and Nationality Act, as
 6 amended (8 U.S.C. 1401(b), 1482, or 1487).

7 “(e) **BURDEN OF PROOF.**—If the Secretary or his dele-
 8 gate establishes that it is reasonable to believe that an indi-
 9 vidual's loss of United States citizenship would, but for this
 10 section, result in a substantial reduction in the estate, in-
 11 heritance, legacy, and succession taxes in respect of the
 12 transfer of his estate, the burden of proving that such loss of
 13 citizenship did not have for one of its principal purposes the
 14 avoidance of taxes under this subtitle or subtitle A shall be
 15 on the executor of such individual's estate.

16 **“SEC. 2108. APPLICATION OF PRE-1967 ESTATE TAX PRO-**
 17 **VISIONS.**

18 “(a) **IMPOSITION OF MORE BURDENSOME TAX BY**
 19 **FOREIGN COUNTRY.**—Whenever the President finds that—

20 “(1) under the laws of any foreign country, con-
 21 sidering the tax system of such foreign country, a more
 22 burdensome tax is imposed by such foreign country on
 23 the transfer of estates of decedents who were citizens of
 24 the United States and not residents of such foreign
 25 country than the tax imposed by this subchapter on the

transfer of estates of decedents who were residents of
such foreign country;

~~“(2) such foreign country, when requested by the
United States to do so, has not acted to revise or reduce
such tax so that it is no more burdensome than the tax
imposed by this subchapter on the transfer of estates
of decedents who were residents of such foreign country,
and~~

~~“(3) it is in the public interest to apply pre-1967
tax provisions in accordance with this section to the
transfer of estates of decedents who were residents of
such foreign country,~~

the President shall proclaim that the tax on the transfer of
the estate of every decedent who was a resident of such for-
eign country at the time of his death shall, in the case of
decedents dying after the date of such proclamation, be
determined under this subchapter without regard to amend-
ments made to sections 2101 (relating to tax imposed),
2102 (relating to credits against tax), 2106 (relating to
taxable estate), and 6018 (relating to estate tax returns)
on or after the date of enactment of this section.

~~“(b) ALLEVIATION OF MORE BURDENSOME TAX.—~~

Whenever the President finds that the laws of any foreign
country with respect to which the President has made a proe-

1 lamation under subsection (a) have been modified so that
 2 the tax on the transfer of estates of decedents who were
 3 citizens of the United States and not residents of such
 4 foreign country is no longer more burdensome than the
 5 tax imposed by this subchapter on the transfer of estates
 6 of decedents who were residents of such foreign country;
 7 he shall proclaim that the tax on the transfer of the estate
 8 of every decedent who was a resident of such foreign coun-
 9 try at the time of his death shall, in the case of decedents
 10 dying after the date of such proclamation, be determined
 11 under this subchapter without regard to subsection (a).

12 ~~“(c) NOTIFICATION OF CONGRESS REQUIRED.—No~~
 13 proclamation shall be issued by the President pursuant to
 14 this section unless, at least 30 days prior to such proclama-
 15 tion, he has notified the Senate and the House of Repre-
 16 sentatives of his intention to issue such proclamation.

17 ~~“(d) IMPLEMENTATION BY REGULATIONS.—The Sec-~~
 18 retary or his delegate shall prescribe such regulations as may
 19 be necessary or appropriate to implement this section.”

20 ~~“(g) ESTATE TAX RETURNS.—Paragraph (2) of sec-~~
 21 tion 6018 (a) (relating to estates of nonresidents not citi-
 22 zens) is amended by striking out “\$2,000” and inserting in
 23 lieu thereof “\$30,000”.

24 ~~“(h) CLERICAL AMENDMENTS.—The table of sections for~~
 25 subchapter B of chapter 11 (relating to estates of nonresi-

1 dents not citizens) is amended by adding at the end thereof
 2 the following:

“Sec. 2107. Expatriation to avoid tax.

“Sec. 2108. Application of pre-1967 estate tax provisions.”

3 ~~(i) EFFECTIVE DATE.~~ The amendments made by this
 4 section shall apply with respect to estates of decedents dying
 5 after the date of the enactment of this Act.

6 **SEC. 9. TAX ON GIFTS OF NONRESIDENTS NOT CITIZENS.**

7 ~~(a) IMPOSITION OF TAX.~~ Subsection ~~(a)~~ of section
 8 2501 ~~(relating to general rule for imposition of tax)~~ is
 9 amended to read as follows:

10 ~~“(a) TAXABLE TRANSFERS.—~~

11 ~~“(1) GENERAL RULE.~~ For the calendar year
 12 1955 and each calendar year thereafter a tax, computed
 13 as provided in section 2502, is hereby imposed on the
 14 transfer of property by gift during such calendar year by
 15 any individual, resident or nonresident.

16 ~~“(2) TRANSFERS OF INTANGIBLE PROPERTY.—~~

17 Except as provided in paragraph ~~(3)~~, paragraph ~~(1)~~
 18 shall not apply to the transfer of intangible property by
 19 a nonresident not a citizen of the United States.

20 ~~“(3) EXCEPTIONS.~~ Paragraph ~~(2)~~ shall not
 21 apply in the case of a donor who at any time after
 22 March 8, 1965, and within the 10-year period ending

1 with the date of transfer lost United States citizenship
2 unless—

3 “~~(A)~~ such donor’s loss of United States citi-
4 zenship resulted from the application of section
5 301(b), 350, or 355 of the Immigration and Na-
6 tionality Act, as amended (8 U.S.C. 1401(b),
7 1482, or 1487) or

8 “~~(B)~~ such loss did not have for one of its prin-
9 cipal purposes the avoidance of taxes under this
10 subtitle or subtitle A.

11 “~~(4)~~ BURDEN OF PROOF.—If the Secretary or his
12 delegate establishes that it is reasonable to believe that
13 an individual’s loss of United States citizenship would,
14 but for paragraph ~~(3)~~, result in a substantial reduction
15 for the calendar year in the taxes on the transfer of
16 property by gift, the burden of proving that such loss
17 of citizenship did not have for one of its principal pur-
18 poses the avoidance of taxes under this subtitle or subtitle
19 A shall be on such individual.”

20 ~~(b)~~ TRANSFERS IN GENERAL.—Subsection ~~(b)~~ of sec-
21 tion 2511 (relating to situs rule for stock in a corporation)
22 is amended to read as follows:

23 “~~(b)~~ INTANGIBLE PROPERTY.—For purposes of this
24 chapter, in the case of a nonresident not a citizen of the

1 United States who is excepted from the application of section
2 2501(a)(2)—

3 “(1) shares of stock issued by a domestic corpora-
4 tion, and

5 “(2) debt obligations of—

6 “(A) a United States person, or

7 “(B) the United States, a State or any political
8 subdivision thereof, or the District of Columbia,

9 which are owned by such nonresident shall be deemed to be
10 property situated within the United States.”

11 (c) **EFFECTIVE DATE.**—The amendments made by this
12 section shall apply with respect to the calendar year 1967
13 and all calendar years thereafter.

14 **SEC. 10. TREATY OBLIGATIONS.**

15 No amendment made by this Act shall apply in any case
16 where its application would be contrary to any treaty obliga-
17 tion of the United States. For purposes of the preceding
18 sentence, the extension of a benefit provided by any amend-
19 ment made by this Act shall not be deemed to be contrary
20 to a treaty obligation of the United States.

21 **SECTION 1. TABLE OF CONTENTS, ETC.**

22 (a) **TABLE OF CONTENTS.**—

Sec. 1. Table of contents, etc.

(a) *Table of contents.*

(b) *Amendment of 1954 Code.*

TITLE I—FOREIGN INVESTORS TAX ACT

Sec. 102. Source of income.

- (a) *Interest.*
- (b) *Dividends.*
- (c) *Personal services.*
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- (d) *Allowance of deductions and credits.*
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- (a) *Tax on income not connected with United States business.*
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TITLE I—FOREIGN INVESTORS TAX ACT—Continued

Sec. 106. Foreign tax credit.

- (a) Allowance of credit to certain nonresident aliens and foreign corporations.
- (b) Alien residents of the United States or Puerto Rico.
- (c) Foreign tax credit in respect of interest received from foreign subsidiaries.

Sec. 107. Amendments to preserve existing law on deductions under section 931.

- (a) Deductions.
- (b) Effective date.

Sec. 108. Estates of nonresidents not citizens.

- (a) Rate of tax.
- (b) Credits against tax.
- (c) Property within the United States.
- (d) Property without the United States.
- (e) Definition of taxable estate.
- (f) Special methods of computing tax.
- (g) Estate tax returns.
- (h) Clerical amendment.
- (i) Effective date.

Sec. 109. Tax on gifts of nonresidents not citizens.

- (a) Imposition of tax.
- (b) Transfers in general.
- (c) Effective date.

Sec. 110. Treaty obligations.

TITLE II—OTHER AMENDMENTS TO INTERNAL REVENUE CODE

Sec. 201. Application of Investment Credit to Property Used in Possessions of the United States.

- (a) Property used by domestic corporations, etc.
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Sec. 202. Deduction of medical expenses of individuals age 65 or over.

- (a) Repeal of amendments made by social security amendments of 1965.
- (b) Cost of medical insurance.
- (c) Effective date.

Sec. 203. Basis of property received on liquidation of subsidiary.

- (a) Definition of purchase.
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- (d) Effective dates.

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- (a) Transfers to investment companies.
- (b) Effective date.

*TITLE II—OTHER AMENDMENTS TO INTERNAL REVENUE
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- Sec. 205. Minimum amount treated as earned income for retirement plans of certain self-employed individuals.*
- (a) Increase to \$6,600.*
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- Sec. 206. Removal of special limitations with respect to deductibility of contributions to pension plans by self-employed individuals.*
- (a) Removal of special limitations.*
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- Sec. 207. Treatment of certain income of authors, inventors, etc., as earned income for retirement plan purposes.*
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- (a) Rents from leases of certain tangible personal property.*
 - (b) Technical amendments.*
 - (c) Effective date.*
- Sec. 209. Percentage depletion rate for certain clay bearing alumina.*
- (a) 23 percent rate.*
 - (b) Treatment processes.*
 - (c) Effective date.*
- Sec. 210. Percentage depletion rate for clam and oyster shells.*
- (a) 15 percent rate.*
 - (b) Effective date.*
- Sec. 211. Sintering and burning of shale, clay, and slate used as lightweight aggregates.*
- (a) Treatment processes.*
 - (b) Effective date.*
- Sec. 212. Straddles.*
- (a) Treatment as short-term capital gain.*
 - (b) Effective date.*
- Sec. 213. Tax treatment of per-unit retain allocations.*
- (a) Tax treatment of cooperatives.*
 - (b) Tax treatment by patrons.*
 - (c) Definitions.*
 - (d) Information reporting.*
 - (e) Effective dates.*
 - (f) Transition rule.*
- Sec. 214. Excise tax rate on ambulances and hearses.*
- (a) Classification as automobiles.*
 - (b) Effective date.*
- Sec. 215. Applicability of exclusion from interest equalization tax of certain loans to assure raw materials sources.*
- (a) Exception to exclusion.*
 - (b) Technical amendments.*
 - (c) Effective date.*

**TITLE II—OTHER AMENDMENTS TO INTERNAL REVENUE
CODE—Continued**

Sec. 216. Exclusion from interest equalization tax for certain acquisitions by insurance companies.

(a) *New companies and companies operating in former less developed countries.*

(b) *Effective date.*

Sec. 217. Exclusion from interest equalization tax of certain acquisitions by foreign branches of domestic banks.

(a) *Authority for modification of executive orders.*

(b) *Effective date.*

**TITLE III—PRESIDENTIAL ELECTION CAMPAIGN FUND
ACT**

Sec. 301. Short title.

Sec. 302. Authority for designation of \$1 of income tax payments to presidential election campaign fund.

Sec. 303. Presidential election campaign fund.

(a) *Establishment.*

(b) *Transfers to the fund.*

(c) *Payments from fund.*

(d) *Transfers to general fund.*

Sec. 304. Establishment of advisory board.

Sec. 305. Appropriations authorized.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Treasury notes payable in foreign currency.

Sec. 402. Reports to clarify to national debt and tax structure.

Sec. 403. Coverage of expenses of certain drugs under supplementary medical insurance benefits.

Sec. 404. Percentage depletion rate for clay and shale used in making sewer pipe.

(a) *Rate.*

(b) *Treatment processes.*

(c) *Effective date.*

Sec. 405. Preservation from reduction of certain widows' benefits under title II of the Social Security Act.

- 1 (b) **AMENDMENT OF 1954 CODE.**—Except as otherwise
- 2 expressly provided, wherever in titles I, II, and III, of this
- 3 Act an amendment or repeal is expressed in terms of an
- 4 amendment to, or repeal of, a section or other provision, the
- 5 reference is to a section or other provision of the Internal
- 6 Revenue Code of 1954.

1 **TITLE I—FOREIGN INVESTORS** 2 **TAX ACT**

3 **SEC. 101. SHORT TITLE.**

4 *This title may be cited as the "Foreign Investors Tax Act*
 5 *of 1966".*

6 **SEC. 102. SOURCE OF INCOME.**

7 **(a) INTEREST.—**

8 **(1)(A)** *Subparagraph (A) of section 861(a)(1)*
 9 *(relating to interest from sources within the United*
 10 *States) is amended to read as follows:*

11 *"(A) interest on amounts described in sub-*
 12 *section (c) received by a nonresident alien indi-*
 13 *vidual or a foreign corporation, if such interest is*
 14 *not effectively connected with the conduct of a trade*
 15 *or business within the United States,".*

16 **(B)** *Section 861 is amended by adding at the end*
 17 *thereof the following new subsection:*

18 **"(c) INTEREST ON DEPOSITS, ETC.—***For purposes of*
 19 *subsection (a)(1)(A), the amounts described in this sub-*
 20 *section are—*

21 **"(1)** *deposits with persons carrying on the bank-*
 22 *ing business,*

23 **"(2)** *deposits or withdrawable accounts with sav-*
 24 *ings institutions chartered and supervised as savings*
 25 *and loan or similar associations under Federal or State*

1 *law, but only to the extent that amounts paid or credited*
2 *on such deposits or accounts are deductible under section*
3 *591 (determined without regard to section 265) in com-*
4 *puting the taxable income of such institutions, and*

5 *“(3) amounts held by an insurance company under*
6 *an agreement to pay interest thereon.”*

7 *(2) Section 861(a)(1) is amended by striking out*
8 *subparagraphs (B) and (C) and inserting in lieu*
9 *thereof the following:*

10 *“(B) interest received from a resident alien*
11 *individual or a domestic corporation, when it is*
12 *shown to the satisfaction of the Secretary or his dele-*
13 *gate that less than 20 percent of the gross income*
14 *from all sources of such individual or such corpora-*
15 *tion has been derived from sources within the United*
16 *States, as determined under the provisions of this*
17 *part, for the 3-year period ending with the close of*
18 *the taxable year of such individual or such corpora-*
19 *tion preceding the payment of such interest, or for*
20 *such part of such period as may be applicable,*

21 *“(C) interest received from a foreign corpo-*
22 *ration, when it is shown to the satisfaction of the*
23 *Secretary or his delegate that less than 50 percent*
24 *of the gross income from all sources of such foreign*
25 *corporation for the 3-year period ending with the*

1 *close of its taxable year preceding the payment of*
2 *such interest (or for such part of such period as the*
3 *corporation has been in existence) was effectively*
4 *connected with the conduct of a trade or business*
5 *within the United States,*

6 *“(D) in the case of interest received from a*
7 *foreign corporation, 50 percent or more of the gross*
8 *income of which from all sources for the 3-year*
9 *period ending with the close of its taxable year*
10 *preceding the payment of such interest (or for*
11 *such part of such period as the corporation has*
12 *been in existence) was effectively connected with*
13 *the conduct of a trade or business within the United*
14 *States, an amount of such interest which bears the*
15 *same ratio to such interest as the gross income of*
16 *such foreign corporation for such period which was*
17 *not effectively connected with the conduct of a trade*
18 *or business within the United States bears to its*
19 *gross income from all sources,*

20 *“(E) income derived by a foreign central bank*
21 *of issue from bankers’ acceptances, and*

22 *“(F) interest on deposits with a foreign branch*
23 *of a domestic corporation or a domestic partnership,*

1 if such branch is engaged in the commercial banking
2 business.”

3 (3) Section 861 (relating to income from sources
4 within the United States) is amended by adding after
5 subsection (c) (as added by paragraph (1)(B)) the
6 following new subsection:

7 “(d) *SPECIAL RULES FOR APPLICATION OF PARA-*
8 *GRAPHS (1)(B), (1)(C), (1)(D), AND (2)(B) OF*
9 *SUBSECTION (a).—*

10 “(1) *NEW ENTITIES.*—For purposes of paragraphs
11 (1)(B), (1)(C), (1)(D), and (2)(B) of subsection
12 (a), if the resident alien individual, domestic corpora-
13 tion, or foreign corporation, as the case may be, has no
14 gross income from any source for the 3-year period
15 (or part thereof) specified, the 20 percent test or the 50
16 percent test, as the case may be, shall be applied with
17 respect to the taxable year of the payor in which payment
18 of the interest or dividends, as the case may be, is made.

19 “(2) *TRANSITION RULE.*—For purposes of para-
20 graphs (1)(C), (1)(D), and (2)(B) of subsection
21 (a), the gross income of the foreign corporation for
22 any period before the first taxable year beginning after

December 31, 1966, which is effectively connected with the conduct of a trade or business within the United States is an amount equal to the gross income for such period from sources within the United States."

(4)(A) Section 895 (relating to income derived by a foreign central bank of issue from obligations of the United States) is amended to read as follows:

"SEC. 895. INCOME DERIVED BY A FOREIGN CENTRAL BANK OF ISSUE FROM OBLIGATIONS OF THE UNITED STATES OR FROM BANK DEPOSITS.

"Income derived by a foreign central bank of issue from obligations of the United States or of any agency or instrumentality thereof (including beneficial interests, participations, and other instruments issued under section 302(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717)) which are owned by such foreign central bank of issue, or derived from interest on deposits with persons carrying on the banking business, shall not be included in gross income and shall be exempt from taxation under this subtitle unless such obligations or deposits are held for, or used in connection with, the conduct of commercial banking functions or other commercial activities. For purposes of the preceding sentence the Bank for International Settlements shall be treated as a foreign central bank of issue."

1 (B) The table of sections for subpart C of part II
 2 of subchapter N of chapter 1 is amended by striking out
 3 the item relating to section 895 and inserting in lieu
 4 thereof the following:

“Sec. 895. Income derived by a foreign central bank of issue
 from obligations of the United States or from
 bank deposits.”

5 (b) DIVIDENDS.—Section 861(a)(2)(B) (relating to
 6 dividends from sources within the United States) is amended
 7 to read as follows:

8 “(B) from a foreign corporation unless less
 9 than 50 percent of the gross income from all
 10 sources of such foreign corporation for the 3-year
 11 period ending with the close of its taxable year pre-
 12 ceding the declaration of such dividends (or for such
 13 part of such period as the corporation has been in
 14 existence) was effectively connected with the con-
 15 duct of a trade or business within the United States;
 16 but only in an amount which bears the same ratio to
 17 such dividends as the gross income of the corpora-
 18 tion for such period which was effectively con-
 19 nected with the conduct of a trade or business within
 20 the United States bears to its gross income from all
 21 sources; but dividends (other than dividends for
 22 which a deduction is allowable under section
 23 245(b)) from a foreign corporation shall, for pur-

poses of subpart A of part III (relating to foreign tax credit), be treated as income from sources without the United States to the extent (and only to the extent) exceeding the amount which is 100/85ths of the amount of the deduction allowable under section 245 in respect of such dividends, or”.

(c) *PERSONAL SERVICES*.—Section 861(a)(3)(C)

(ii) (relating to income from personal services) is amended to read as follows:

“(ii) an individual who is a citizen or resident of the United States, a domestic partnership, or a domestic corporation, if such labor or services are performed for an office or place of business maintained in a foreign country or in a possession of the United States by such individual, partnership, or corporation.”

(d) *DEFINITIONS*.—Section 864 (relating to definitions) is amended—

(1) by striking out “For purposes of this part,” and inserting in lieu thereof

“(a) *SALE, ETC.*—For purposes of this part,”; and

1 (2) by adding at the end thereof the following
2 new subsections:

3 “(b) *TRADE OR BUSINESS WITHIN THE UNITED*
4 *STATES.*—For purposes of this part, part II, and chapter 3,
5 the term ‘trade or business within the United States’ in-
6 cludes the performance of personal services within the United
7 States at any time within the taxable year, but does not
8 include—

9 “(1) *PERFORMANCE OF PERSONAL SERVICES FOR*
10 *FOREIGN EMPLOYER.*—The performance of personal
11 services—

12 “(A) for a nonresident alien individual,
13 foreign partnership, or foreign corporation, not en-
14 gaged in trade or business within the United States,
15 or

16 “(B) for an office or place of business main-
17 tained in a foreign country or in a possession of the
18 United States by an individual who is a citizen or
19 resident of the United States or by a domestic
20 partnership or a domestic corporation,
21 by a nonresident alien individual temporarily present in
22 the United States for a period or periods not exceeding

1 *a total of 90 days during the taxable year and whose*
 2 *compensation for such services does not exceed in the*
 3 *aggregate \$3,000.*

4 “(2) *TRADING IN SECURITIES OR COMMODITIES.—*

5 “(A) *STOCKS AND SECURITIES.—*

6 “(i) *IN GENERAL.—Trading in stocks or*
 7 *securities through a resident broker, commission*
 8 *agent, custodian, or other independent agent.*

9 “(ii) *TRADING FOR TAXPAYER’S OWN*
 10 *ACCOUNT.—Trading in stocks or securities for*
 11 *the taxpayer’s own account, whether by the tax-*
 12 *payer or his employees or through a resident*
 13 *broker, commission agent, custodian, or other*
 14 *agent, and whether or not any such employee or*
 15 *agent has discretionary authority to make deci-*
 16 *sions in effecting the transactions. This clause*
 17 *shall not apply in the case of a dealer in stocks*
 18 *or securities, or in the case of a corporation*
 19 *(other than a corporation which is, or but for*
 20 *section 542(c)(7) or 543(b)(1)(C) would be,*
 21 *a personal holding company) the principal busi-*
 22 *ness of which is trading in stocks or securities*
 23 *for its own account, if its principal office is in*
 24 *the United States.*

1 “(B) *COMMODITIES*.—

2 “(i) *IN GENERAL*.—Trading in commodi-
3 ties through a resident broker, commission agent,
4 custodian, or other independent agent.

5 “(ii) *TRADING FOR TAXPAYER'S OWN*
6 *ACCOUNT*.—Trading in commodities for the
7 taxpayer's own account, whether by the tax-
8 payer or his employees or through a resident
9 broker, commission agent, custodian, or other
10 agent, and whether or not any such employee
11 or agent has discretionary authority to make
12 decisions in effecting the transactions. This
13 clause shall not apply in the case of a dealer in
14 commodities.

15 “(iii) *LIMITATION*.—Clauses (i) and (ii)
16 shall apply only if the commodities are of a kind
17 customarily dealt in on an organized commodity
18 exchange and if the transaction is of a kind
19 customarily consummated at such place.

20 “(C) *LIMITATION*.—Subparagraphs (A)(i)
21 and (B)(i) shall apply only if, at no time during the
22 taxable year, the taxpayer has an office or other fixed
23 place of business in the United States through which

1 or by the direction of which the transactions in
 2 stocks or securities, or in commodities, as the case
 3 may be, are effected.

4 “(c) *EFFECTIVELY CONNECTED INCOME, ETC.*—

5 “(1) *GENERAL RULE.*—For purposes of this title—

6 “(A) In the case of a nonresident alien indi-
 7 vidual or a foreign corporation engaged in trade or
 8 business within the United States during the taxable
 9 year, the rules set forth in paragraphs (2), (3),
 10 and (4) shall apply in determining the income,
 11 gain, or loss which shall be treated as effectively con-
 12 nected with the conduct of a trade or business within
 13 the United States.

14 “(B) Except as provided in section 871(d) or
 15 sections 882(d) and (e), in the case of a nonresi-
 16 dent alien individual or a foreign corporation not
 17 engaged in trade or business within the United States
 18 during the taxable year, no income, gain, or loss shall
 19 be treated as effectively connected with the conduct
 20 of a trade or business within the United States.

21 “(2) *PERIODICAL, ETC., INCOME FROM SOURCES*
 22 *WITHIN UNITED STATES—FACTORS.*—In determining
 23 whether income from sources within the United States
 24 of the types described in section 871(a)(1) or section
 25 881(a). or whether gain or loss from sources within

1 *the United States from the sale or exchange of capital*
 2 *assets, is effectively connected with the conduct of a*
 3 *trade or business within the United States, the factors*
 4 *taken into account shall include whether—*

5 *“(A) the income, gain, or loss is derived from*
 6 *assets used in or held for use in the conduct of such*
 7 *trade or business, or*

8 *“(B) the activities of such trade or business*
 9 *were a material factor in the realization of the in-*
 10 *come, gain, or loss.*

11 *In determining whether an asset is used in or held for*
 12 *use in the conduct of such trade or business or whether*
 13 *the activities of such trade or business were a material*
 14 *factor in realizing an item of income, gain, or loss, due*
 15 *regard shall be given to whether or not such asset or*
 16 *such income, gain, or loss was accounted for through*
 17 *such trade or business. In applying this paragraph and*
 18 *paragraph (4), interest referred to in section 861(a)*
 19 *(1)(A) shall be considered income from sources within*
 20 *the United States.*

21 *“(3) OTHER INCOME FROM SOURCES WITHIN*
 22 *UNITED STATES.—All income, gain, or loss from sources*
 23 *within the United States (other than income, gain, or*
 24 *loss to which paragraph (2) applies) shall be treated*

1 *as effectively connected with the conduct of a trade or*
 2 *business within the United States.*

3 “(4) *INCOME FROM SOURCES WITHOUT UNITED*
 4 *STATES.—*

5 “(A) *Except as provided in subparagraphs*
 6 *(B) and (C), no income, gain, or loss from sources*
 7 *without the United States shall be treated as effec-*
 8 *tively connected with the conduct of a trade or*
 9 *business within the United States.*

10 “(B) *Income, gain, or loss from sources with-*
 11 *out the United States shall be treated as effectively*
 12 *connected with the conduct of a trade or business*
 13 *within the United States by a nonresident alien*
 14 *individual or a foreign corporation if such person*
 15 *has an office or other fixed place of business within*
 16 *the United States to which such income, gain, or*
 17 *loss is attributable and such income, gain, or loss—*

18 “(i) *consists of rents or royalties for the*
 19 *use of or for the privilege of using intangible*
 20 *property described in section 862(a)(4) (in-*
 21 *cluding any gain or loss realized on the sale of*
 22 *such property) derived in the active conduct*
 23 *of such trade or business;*

24 “(ii) *consists of dividends or interest, or*

1 *gain or loss from the sale or exchange of stock*
2 *or notes, bonds, or other evidences of indebted-*
3 *ness, and either is derived in the active conduct*
4 *of a banking, financing, or similar business*
5 *within the United States or is received by a*
6 *corporation the principal business of which is*
7 *trading in stocks or securities for its own ac-*
8 *count; or*

9 “(iii) *is derived from the sale (without*
10 *the United States) through such office or other*
11 *fixed place of business of personal property de-*
12 *scribed in section 1221(1), except that this*
13 *clause shall not apply if the property is sold for*
14 *use, consumption, or disposition outside the*
15 *United States and an office or other fixed place of*
16 *business of the taxpayer outside the United States*
17 *participated materially in such sale.*

18 “(C) *In the case of a foreign corporation tax-*
19 *able under part I of subchapter L, any income from*
20 *sources without the United States which is attrib-*
21 *utable to its United States business shall be treated*
22 *as effectively connected with the conduct of a trade*
23 *or business within the United States.*

24 “(D) *No income from sources without the*

United States shall be treated as effectively connected with the conduct of a trade or business within the United States if it either—

“(i) consists of dividends, interest, or royalties paid by a foreign corporation in which the taxpayer owns (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or

“(ii) is subpart F income within the meaning of section 952(a).

“(5) RULES FOR APPLICATION OF PARAGRAPH (4)(B).—For purposes of subparagraph (B) of paragraph (4)—

“(A) in determining whether a nonresident alien individual or a foreign corporation has an office or other fixed place of business, an office or other fixed place of business of an agent shall be disregarded unless such agent (i) has the authority to negotiate and conclude contracts in the name of the nonresident alien individual or foreign corporation and regularly exercises that authority or has a stock of merchandise from which he regularly fills orders

on behalf of such individual or foreign corporation,
 and (ii) is not a general commission agent, broker,
 or other agent of independent status acting in the
 ordinary course of his business,

“(B) income, gain, or loss shall not be con-
 sidered as attributable to an office or other fixed
 place of business within the United States unless such
 office or fixed place of business is a material factor
 in the production of such income, gain, or loss and
 such office or fixed place of business regularly carries
 on activities of the type from which such income,
 gain, or loss is derived, and

“(C) the income, gain, or loss which shall be
 attributable to an office or other fixed place of busi-
 ness within the United States shall be the income,
 gain, or loss properly allocable thereto, but, in the
 case of a sale described in clause (iii) of such sub-
 paragraph, the income which shall be treated as at-
 tributable to an office or other fixed place of business
 within the United States shall not exceed the income
 which would be derived from sources within the
 United States if the sale were made in the United
 States.”

(e) *EFFECTIVE DATES.*—

(1) The amendments made by subsections (a),

(c), and (d) shall apply with respect to taxable years beginning after December 31, 1966; except that in applying section 864(c)(4)(B)(iii) of the Internal Revenue Code of 1954 (as added by subsection (d)) with respect to a binding contract entered into on or before February 24, 1966, activities in the United States on or before such date in negotiating or carrying out such contract shall not be taken into account.

(2) The amendments made by subsection (b) shall apply with respect to amounts received after December 31, 1966.

SEC. 103. NONRESIDENT ALIEN INDIVIDUALS.

(a) TAX ON NONRESIDENT ALIEN INDIVIDUALS.—

(1) Section 871 (relating to tax on nonresident alien individuals) is amended to read as follows:

“SEC. 871. TAX ON NONRESIDENT ALIEN INDIVIDUALS.

“(a) INCOME NOT CONNECTED WITH UNITED STATES BUSINESS—30 PERCENT TAX.—

“(1) INCOME OTHER THAN CAPITAL GAINS.—

There is hereby imposed for each taxable year a tax of 30 percent of the amount received from sources within the United States by a nonresident alien individual as—

“(A) interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations,

1 *emoluments, and other fixed or determinable annual*
2 *or periodical gains, profits, and income,*

3 *“(B) gains described in section 402(a)(2),*
4 *403(a)(2), or 631 (b) or (c); and gains on*
5 *transfers described in section 1235 made on or*
6 *before October 4, 1966,*

7 *“(C) in the case of bonds or other evidences of*
8 *indebtedness issued after September 28, 1965,*
9 *amounts which under section 1232 are considered as*
10 *gains from the sale or exchange of property which*
11 *is not a capital asset, and*

12 *“(D) gains from the sale or exchange after*
13 *October 4, 1966, of patents, copyrights, secret proc-*
14 *esses and formulas, good will, trademarks, trade*
15 *brands, franchises, and other like property, or of*
16 *any interest in any such property, to the extent such*
17 *gains are from payments which are contingent on*
18 *the productivity, use, or disposition of the property*
19 *or interest sold or exchanged, or from payments*
20 *which are treated as being so contingent under sub-*
21 *section (e),*

22 *but only to the extent the amount so received is not effec-*
23 *tively connected with the conduct of a trade or business*
24 *within the United States.*

“(2) *CAPITAL GAINS OF ALIENS PRESENT IN THE UNITED STATES 183 DAYS OR MORE.*—In the case of a nonresident alien individual present in the United States for a period or periods aggregating 183 days or more during the taxable year, there is hereby imposed for such year a tax of 30 percent of the amount by which his gains, derived from sources within the United States, from the sale or exchange at any time during such year of capital assets exceed his losses, allocable to sources within the United States, from the sale or exchange at any time during such year of capital assets. For purposes of this paragraph, gains and losses shall be taken into account only if, and to the extent that, they would be recognized and taken into account if such gains and losses were effectively connected with the conduct of a trade or business within the United States, except that such gains and losses shall be determined without regard to section 1202 (relating to deduction for capital gains) and such losses shall be determined without the benefits of the capital loss carryover provided in section 1212. Any gain or loss which is taken into account in determining the tax under paragraph (1) or subsection (b) shall not be taken into account in determining the tax under this paragraph. For purposes of the 183-day requirement of this paragraph, a nonresident alien individ-

1 *ual not engaged in trade or business within the United*
 2 *States who has not established a taxable year for any*
 3 *prior period shall be treated as having a taxable year*
 4 *which is the calendar year.*

5 *“(b) INCOME CONNECTED WITH UNITED STATES*
 6 *BUSINESS—GRADUATED RATE OF TAX.—*

7 *“(1) IMPOSITION OF TAX.—A nonresident alien*
 8 *individual engaged in trade or business within the*
 9 *United States during the taxable year shall be taxable*
 10 *as provided in section 1 or 1201(b) on his taxable income*
 11 *which is effectively connected with the conduct of a trade*
 12 *or business within the United States.*

13 *“(2) DETERMINATION OF TAXABLE INCOME.—In*
 14 *determining taxable income for purposes of paragraph*
 15 *(1), gross income includes only gross income which is*
 16 *effectively connected with the conduct of a trade or*
 17 *business within the United States.*

18 *“(c) PARTICIPANTS IN CERTAIN EXCHANGE OR*
 19 *TRAINING PROGRAMS.—For purposes of this section, a non-*
 20 *resident alien individual who (without regard to this sub-*
 21 *section) is not engaged in trade or business within the*
 22 *United States and who is temporarily present in the United*
 23 *States as a nonimmigrant under subparagraph (F) or (J)*
 24 *of section 101(a)(15) of the Immigration and Nationality*
 25 *Act, as amended (8 U.S.C. 1101(a)(15) (F) or (J)),*

1 shall be treated as a nonresident alien individual engaged in
 2 trade or business within the United States, and any income
 3 described in section 1441(b) (1) or (2) which is received
 4 by such individual shall, to the extent derived from sources
 5 within the United States, be treated as effectively connected
 6 with the conduct of a trade or business within the United
 7 States.

8 “(d) *ELECTION TO TREAT REAL PROPERTY INCOME*
 9 *AS INCOME CONNECTED WITH UNITED STATES BUSI-*
 10 *NESS.—*

11 “(1) *IN GENERAL.—A nonresident alien individ-*
 12 *ual who during the taxable year derives any income—*

13 “(A) *from real property held for the produc-*
 14 *tion of income and located in the United States,*
 15 *or from any interest in such real property, in-*
 16 *cluding (i) gains from the sale or exchange of such*
 17 *real property or an interest therein, (ii) rents or*
 18 *royalties from mines, wells, or other natural deposits,*
 19 *and (iii) gains described in section 631 (b) or (c),*
 20 *and*

21 “(B) *which, but for this subsection, would not*
 22 *be treated as income which is effectively connected*
 23 *with the conduct of a trade or business within the*
 24 *United States,*

25 *may elect for such taxable year to treat all such income*

1 as income which is effectively connected with the con-
 2 duct of a trade or business within the United States.
 3 In such case, such income shall be taxable as provided
 4 in subsection (b) (1) whether or not such individual
 5 is engaged in trade or business within the United States
 6 during the taxable year. An election under this para-
 7 graph for any taxable year shall remain in effect for
 8 all subsequent taxable years, except that it may be re-
 9 voked with the consent of the Secretary or his delegate
 10 with respect to any taxable year.

11 “(2) *ELECTION AFTER REVOCATION.*—If an elec-
 12 tion has been made under paragraph (1) and such elec-
 13 tion has been revoked, a new election may not be made
 14 under such paragraph for any taxable year before the
 15 5th taxable year which begins after the first taxable
 16 year for which such revocation is effective, unless the
 17 Secretary or his delegate consents to such new election.

18 “(3) *FORM AND TIME OF ELECTION AND REVO-*
 19 *CATION.*—An election under paragraph (1), and any
 20 revocation of such an election, may be made only in
 21 such manner and at such time as the Secretary or his
 22 delegate may by regulations prescribe.

23 “(e) *GAINS FROM SALE OR EXCHANGE OF CERTAIN*
 24 *INTANGIBLE PROPERTY.*—For purposes of subsection (a)

1 (1)(D), and for purposes of sections 881(a)(4), 1441(b),
 2 and 1442(a)—

3 “(1) *PAYMENTS TREATED AS CONTINGENT ON*
 4 *USE, ETC.*—If more than 50 percent of the gain for
 5 any taxable year from the sale or exchange of any patent,
 6 copyright, secret process or formula, good will, trade-
 7 mark, trade brand, franchise, or other like property, or
 8 of any interest in any such property, is from payments
 9 which are contingent on the productivity, use, or dis-
 10 position of such property or interest, all of the gain for
 11 the taxable year from the sale or exchange of such prop-
 12 erty or interest shall be treated as being from payments
 13 which are contingent on the productivity, use, or dispo-
 14 sition of such property or interest.

15 “(2) *SOURCE RULE.*—In determining whether
 16 gains described in subsection (a)(1)(D) and section
 17 881(a)(4) are received from sources within the United
 18 States, such gains shall be treated as rentals or royalties
 19 for the use of, or privilege of using, property or an
 20 interest in property.

21 “(f) *CERTAIN ANNUITIES RECEIVED UNDER QUALI-*
 22 *FIED PLANS.*—For purposes of this section, gross income does
 23 not include any amount received as an annuity under a quali-
 24 fied annuity plan described in section 403(a)(1), or from

1 a qualified trust described in section 401(a) which is exempt
2 from tax under section 501(a), if—

3 “(1) all of the personal services by reason of which
4 such annuity is payable were either (A) personal serv-
5 ices performed outside the United States by an individual
6 who, at the time of performance of such personal serv-
7 ices, was a nonresident alien, or (B) personal services
8 described in section 864(b)(1) performed within the
9 United States by such individual, and

10 “(2) at the time the first amount is paid as such
11 annuity under such annuity plan, or by such trust, 90
12 percent or more of the employees for whom contributions
13 or benefits are provided under such annuity plan, or
14 under the plan or plans of which such trust is a part,
15 are citizens or residents of the United States.”

16 “(g) CROSS REFERENCES.—

“(1) For tax treatment of certain amounts distributed
by the United States to nonresident alien individuals, see
section 402(a)(4).

“(2) For taxation of nonresident alien individuals who
are expatriate United States citizens, see section 877.

“(3) For doubling of tax on citizens of certain foreign
countries, see section 891.

“(4) For adjustment of tax in case of nationals or resi-
dents of certain foreign countries, see section 896.

“(5) For withholding of tax at source on nonresident
alien individuals, see section 1441.

“(6) For the requirement of making a declaration of
estimated tax by certain nonresident alien individuals,
see section 6015(i).”

17 (2) Section 1 (relating to tax on individuals) is

1 amended by redesignating subsection (d) as subsection
 2 (e), and by inserting after subsection (c) the follow-
 3 ing new subsection:

4 “(d) *NONRESIDENT ALIENS*.—In the case of a non-
 5 resident alien individual, the tax imposed by subsection (a)
 6 shall apply only as provided by section 871 or 877.”

7 (b) *GROSS INCOME*.—

8 (1) Subsection (a) of section 872 (relating to
 9 gross income of nonresident alien individuals) is
 10 amended to read as follows:

11 “(a) *GENERAL RULE*.—In the case of a nonresident
 12 alien individual, gross income includes only—

13 “(1) gross income which is derived from sources
 14 within the United States and which is not effectively
 15 connected with the conduct of a trade or business within
 16 the United States, and

17 “(2) gross income which is effectively connected
 18 with the conduct of a trade or business within the
 19 United States.”

20 (2) Subparagraph (B) of section 872(b)(3) (re-
 21 lating to compensation of participants in certain ex-
 22 change or training programs) is amended by striking
 23 out “by a domestic corporation” and inserting in lieu
 24 thereof “by a domestic corporation, a domestic partner-

1 ship, or an individual who is a citizen or resident of the
2 United States”.

3 (3) Subsection (b) of section 872 (relating to
4 exclusions from gross income) is amended by adding at
5 the end thereof the following new paragraph:

6 “(4) CERTAIN BOND INCOME OF RESIDENTS OF
7 THE RYUKYU ISLANDS OR THE TRUST TERRITORY OF
8 THE PACIFIC ISLANDS.—Income derived by a nonresi-
9 dent alien individual from a series E or series H United
10 States savings bond, if such individual acquired such
11 bond while a resident of the Ryukyu Islands or the Trust
12 Territory of the Pacific Islands.”

13 (c) DEDUCTIONS.—

14 (1) Section 873 (relating to deductions allowed to
15 nonresident alien individuals) is amended to read as
16 follows:

17 “SEC. 873. DEDUCTIONS.

18 “(a) GENERAL RULE.—In the case of a nonresident
19 alien individual, the deductions shall be allowed only for
20 purposes of section 871(b) and (except as provided by sub-
21 section (b)) only if and to the extent that they are con-
22 nected with income which is effectively connected with the
23 conduct of a trade or business within the United States; and

1 *the proper apportionment and allocation of the deductions*
 2 *for this purpose shall be determined as provided in regula-*
 3 *tions prescribed by the Secretary or his delegate.*

4 “(b) *EXCEPTIONS.—The following deductions shall be*
 5 *allowed whether or not they are connected with income*
 6 *which is effectively connected with the conduct of a trade*
 7 *or business within the United States:*

8 “(1) *LOSSES.—The deduction, for losses of prop-*
 9 *erty not connected with the trade or business if arising*
 10 *from certain casualties or theft, allowed by section*
 11 *165(c)(3), but only if the loss is of property located*
 12 *within the United States.*

13 “(2) *CHARITABLE CONTRIBUTIONS.—The deduc-*
 14 *tion for charitable contributions and gifts allowed by*
 15 *section 170.*

16 “(3) *PERSONAL EXEMPTION.—The deduction for*
 17 *personal exemptions allowed by section 151, except that*
 18 *in the case of a nonresident alien individual who is not a*
 19 *resident of a contiguous country only one exemption*
 20 *shall be allowed under section 151.*

1 “(c) *CROSS REFERENCES.*—

 “(1) *For disallowance of standard deduction, see section 142(b)(1).*

 “(2) *For rule that certain foreign taxes are not to be taken into account in determining deduction or credit, see section 906(b)(1).*”

2 (2) *Section 154(3) (relating to cross references*
3 *in respect of deductions for personal exemptions) is*
4 *amended to read as follows:*

 “(3) *For exemptions of nonresident aliens, see section 873(b)(3).*”

5 (d) *ALLOWANCE OF DEDUCTIONS AND CREDITS.*—

6 *Subsection (a) of section 874 (relating to filing of returns)*
7 *is amended to read as follows:*

8 “(a) *RETURN PREREQUISITE TO ALLOWANCE.*—A
9 *nonresident alien individual shall receive the benefit of the*
10 *deductions and credits allowed to him in this subtitle only*
11 *by filing or causing to be filed with the Secretary or his*
12 *delegate a true and accurate return, in the manner prescribed*
13 *in subtitle F (sec. 6001 and following, relating to procedure*
14 *and administration), including therein all the information*
15 *which the Secretary or his delegate may deem necessary*
16 *for the calculation of such deductions and credits. This sub-*

1 *section shall not be construed to deny the credits provided*
 2 *by sections 31 and 32 for tax withheld at source or the credit*
 3 *provided by section 39 for certain uses of gasoline and*
 4 *lubricating oil."*

5 *(e) BENEFICIARIES OF ESTATES AND TRUSTS.—*

6 *(1) Section 875 (relating to partnerships) is*
 7 *amended to read as follows:*

8 **"SEC. 875. PARTNERSHIPS; BENEFICIARIES OF ESTATES**
 9 **AND TRUSTS.**

10 *"For purposes of this subtitle—*

11 *"(1) a nonresident alien individual or foreign cor-*
 12 *poration shall be considered as being engaged in a trade*
 13 *or business within the United States if the partnership*
 14 *of which such individual or corporation is a member is*
 15 *so engaged, and*

16 *"(2) a nonresident alien individual or foreign cor-*
 17 *poration which is a beneficiary of an estate or trust which*
 18 *is engaged in any trade or business within the United*
 19 *States shall be treated as being engaged in such trade or*
 20 *business within the United States."*

21 *(2) The table of sections for subpart A of part II*
 22 *of subchapter N of chapter 1 is amended by striking out*
 23 *the item relating to section 875 and inserting in lieu*
 24 *thereof the following:*

"Sec. 875. Partnerships; beneficiaries of estates and trusts."

1 (f) *EXPATRIATION TO AVOID TAX.*—

2 (1) *Subpart A of part II of subchapter N of chap-*
 3 *ter 1 (relating to nonresident alien individuals) is*
 4 *amended by redesignating section 877 as section 878,*
 5 *and by inserting after section 876 the following new*
 6 *section:*

7 “*SEC. 877. EXPATRIATION TO AVOID TAX.*

8 “(a) *IN GENERAL.*—*Every nonresident alien individual*
 9 *who at any time after March 8, 1965, and within the 10-*
 10 *year period immediately preceding the close of the taxable*
 11 *year lost United States citizenship, unless such loss did not*
 12 *have for one of its principal purposes the avoidance of taxes*
 13 *under this subtitle or subtitle B, shall be taxable for such*
 14 *taxable year in the manner provided in subsection (b) if the*
 15 *tax imposed pursuant to such subsection exceeds the tax*
 16 *which, without regard to this section, is imposed pursuant to*
 17 *section 871.*

18 “(b) *ALTERNATIVE TAX.*—*A nonresident alien individ-*
 19 *ual described in subsection (a) shall be taxable for the tax-*
 20 *able year as provided in section 1 or section 1201(b),*
 21 *except that—*

22 “(1) *the gross income shall include only the gross*
 23 *income described in section 872(a) (as modified by*
 24 *subsection (c) of this section), and*

25 “(2) *the deductions shall be allowed if and to the*

1 *extent that they are connected with the gross income*
 2 *included under this section, except that the capital loss*
 3 *carryover provided by section 1212(b) shall not be*
 4 *allowed; and the proper allocation and apportionment of*
 5 *the deductions for this purpose shall be determined as*
 6 *provided under regulations prescribed by the Secretary*
 7 *or his delegate.*

8 *For purposes of paragraph (2), the deductions allowed by*
 9 *section 873(b) shall be allowed; and the deduction (for*
 10 *losses not connected with the trade or business if incurred in*
 11 *transactions entered into for profit) allowed by section*
 12 *165(c)(2) shall be allowed, but only if the profit, if such*
 13 *transaction had resulted in a profit, would be included in*
 14 *gross income under this section.*

15 *“(c) SPECIAL RULES OF SOURCE.—For purposes of*
 16 *subsection (b), the following items of gross income shall*
 17 *be treated as income from sources within the United States:*

18 *“(1) SALE OF PROPERTY.—Gains on the sale or*
 19 *exchange of property (other than stock or debt obliga-*
 20 *tions) located in the United States.*

21 *“(2) STOCK OR DEBT OBLIGATIONS.—Gains on the*
 22 *sale or exchange of stock issued by a domestic corpora-*
 23 *tion or debt obligations of United States persons or of*

1 *the United States, a State or political subdivision thereof,*
 2 *or the District of Columbia.*

3 “(d) *EXCEPTION FOR LOSS OF CITIZENSHIP FOR CER-*
 4 *TAIN CAUSES.*—Subsection (a) shall not apply to a non-
 5 *resident alien individual whose loss of United States citizen-*
 6 *ship resulted from the application of section 301(b), 350, or*
 7 *355 of the Immigration and Nationality Act, as amended*
 8 *(8 U.S.C. 1401(b), 1482, or 1487).*

9 “(e) *BURDEN OF PROOF.*—If the Secretary or his dele-
 10 *gate establishes that it is reasonable to believe that an indi-*
 11 *vidual's loss of United States citizenship would, but for this*
 12 *section, result in a substantial reduction for the taxable year*
 13 *in the taxes on his probable income for such year, the burden*
 14 *of proving for such taxable year that such loss of citizen-*
 15 *ship did not have for one of its principal purposes the*
 16 *avoidance of taxes under this subtitle or subtitle B shall be*
 17 *on such individual.”*

18 (2) *The table of sections for subpart A of part II*
 19 *of subchapter N of chapter 1 is amended by striking out*
 20 *the item relating to section 877 and inserting in lieu*
 21 *thereof the following:*

“Sec. 877. Expatriation to avoid tax.

“Sec. 878. Foreign educational, charitable, and certain other
 exempt organizations.”

1 *(g) PARTIAL EXCLUSION OF DIVIDENDS.—Subsection*
 2 *(d) of section 116 (relating to certain nonresident aliens*
 3 *ineligible for exclusion) is amended to read as follows:*

4 *“(d) CERTAIN NONRESIDENT ALIENS INELIGIBLE*
 5 *FOR EXCLUSION.—In the case of a nonresident alien indi-*
 6 *vidual, subsection (a) shall apply only—*

7 *“(1) in determining the tax imposed for the tax-*
 8 *able year pursuant to section 871(b)(1) and only in*
 9 *respect of dividends which are effectively connected with*
 10 *the conduct of a trade or business within the United*
 11 *States, or*

12 *“(2) in determining the tax imposed for the tax-*
 13 *able year pursuant to section 877(b).”*

14 *(h) WITHHOLDING OF TAX ON NONRESIDENT*
 15 *ALIENS.—Section 1441 (relating to withholding of tax on*
 16 *nonresident aliens) is amended—*

17 *(1) by striking out “, or of any partnership not*
 18 *engaged in trade or business within the United States and*
 19 *composed in whole or in part of nonresident aliens,” in*
 20 *subsection (a) and inserting in lieu thereof “or of any*
 21 *foreign partnership”;*

22 *(2) by striking out “(except interest on deposits*
 23 *with persons carrying on the banking business paid to*
 24 *persons not engaged in business in the United States)”*
 25 *in subsection (b);*

(3) by striking out “and amounts described in section 402(a)(2)” and all that follows in the first sentence of subsection (b) and inserting in lieu thereof “gains described in section 402(a)(2), 403(a)(2), or 631(b) or (c), amounts subject to tax under section 871(a)(1)(C), gains subject to tax under section 871(a)(1)(D), and gains on transfers described in section 1235 made on or before October 4, 1966.”;

(4) by adding at the end of subsection (b) the following new sentence:

“In the case of a nonresident alien individual who is a member of a domestic partnership, the items of income referred to in subsection (a) shall be treated as referring to items specified in this subsection included in his distributive share of the income of such partnership.”;

(5) by striking out paragraph (1) of subsection (c) and inserting in lieu thereof the following new paragraph:

“(1) *INCOME CONNECTED WITH UNITED STATES BUSINESS.*—No deduction or withholding under subsection (a) shall be required in the case of any item of income (other than compensation for personal services) which is effectively connected with the conduct of a trade or business within the United States and which

1 is included in the gross income of the recipient under
2 section 871(b)(2) for the taxable year.”;

3 (6) by amending paragraph (4) of subsection (c)
4 to read as follows:

5 “(4) COMPENSATION OF CERTAIN ALIENS.—Un-
6 der regulations prescribed by the Secretary or his dele-
7 gate, compensation for personal services may be ex-
8 empted from deduction and withholding under subsection
9 (a).”;

10 (7) by striking out “amounts described in section
11 402(a)(2), section 403(a)(2), section 631 (b) and
12 (c), and section 1235, which are considered to be gains
13 from the sale or exchange of capital assets,” in para-
14 graph (5) of subsection (c) and inserting in lieu thereof
15 “gains described in section 402(a)(2), 403(a)(2), or
16 631 (b) or (c), gains subject to tax under section 871
17 (a)(1)(D), and gains on transfers described in section
18 1235 made on or before October 4, 1966,” and by
19 striking out “proceeds from such sale or exchange,” in
20 such paragraph and inserting in lieu thereof “amount
21 payable,”;

22 (8) by adding at the end of subsection (c) the fol-
23 lowing new paragraph:

24 “(7) CERTAIN ANNUITIES RECEIVED UNDER
25 QUALIFIED PLANS.—No deduction or withholding under

subsection (a) shall be required in the case of any amount received as an annuity if such amount is, under section 871(f), exempt from the tax imposed by section 871 (a)."; and

(9) by redesignating subsection (d) as (e), and by inserting after subsection (c) the following new subsection:

"(d) *EXEMPTION OF CERTAIN FOREIGN PARTNER-SHIPS.*—Subject to such terms and conditions as may be provided by regulations prescribed by the Secretary or his delegate, subsection (a) shall not apply in the case of a foreign partnership engaged in trade or business within the United States if the Secretary or his delegate determines that the requirements of subsection (a) impose an undue administrative burden and that the collection of the tax imposed by section 871(a) on the members of such partnership who are nonresident alien individuals will not be jeopardized by the exemption."

(i) *LIABILITY FOR WITHHELD TAX.*—Section 1461 (relating to return and payment of withheld tax) is amended to read as follows:

"SEC. 1461. *LIABILITY FOR WITHHELD TAX.*

"Every person required to deduct and withhold any tax under this chapter is hereby made liable for such tax and is hereby indemnified against the claims and demands of any

1 person for the amount of any payments made in accordance
2 with the provisions of this chapter.”

3 (j) *DECLARATION OF ESTIMATED INCOME TAX BY*
4 *INDIVIDUALS.*—Section 6015 (relating to declaration of esti-
5 mated income tax by individuals) is amended—

6 (1) by striking out that portion of subsection (a)
7 which precedes paragraph (1) and inserting in lieu
8 thereof the following:

9 “(a) *REQUIREMENT OF DECLARATION.*—Except as
10 otherwise provided in subsection (i), every individual shall
11 make a declaration of his estimated tax for the taxable year
12 if—”;

13 (2) by redesignating subsection (i) as subsection
14 (j); and

15 (3) by inserting after subsection (h) the follow-
16 ing new subsection:

17 “(i) *NONRESIDENT ALIEN INDIVIDUALS.*—No dec-
18 laration shall be required to be made under this section by a
19 nonresident alien individual unless—

20 “(1) withholding under chapter 24 is made appli-
21 cable to the wages, as defined in section 3401(a), of
22 such individual,

23 “(2) such individual has income (other than com-
24 pensation for personal services subject to deduction and
25 withholding under section 1441) which is effectively

connected with the conduct of a trade or business within the United States, or

“(3) such individual is a resident of Puerto Rico during the entire taxable year.”

(k) *COLLECTION OF INCOME TAX AT SOURCE ON WAGES.*—Subsection (a) of section 3401 (relating to definition of wages for purposes of collection of income tax at source) is amended by striking out paragraphs (6) and (7) and inserting in lieu thereof the following:

“(6) for such services, performed by a nonresident alien individual, as may be designated by regulations prescribed by the Secretary or his delegate; or”.

(l) *DEFINITIONS OF FOREIGN ESTATE OR TRUST.*—

(1) Section 7701(a)(31) (defining foreign estate or trust) is amended by striking out “from sources without the United States” and inserting in lieu thereof “, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States,”.

(2) Section 1493 (defining foreign trust for purposes of chapter 5) is repealed.

(m) *CONFORMING AMENDMENT.*—The first sentence of section 932(a) (relating to citizens of possessions of the United States) is amended to read as follows: “Any in-

1 *dividual who is a citizen of any possession of the United*
 2 *States (but not otherwise a citizen of the United States)*
 3 *and who is not a resident of the United States shall be sub-*
 4 *ject to taxation under this subtitle in the same manner and*
 5 *subject to the same conditions as in the case of a nonresident*
 6 *alien individual."*

7 *(n) EFFECTIVE DATES.—*

8 *(1) The amendments made by this section (other*
 9 *than the amendments made by subsections (h), (i), and*
 10 *(k)) shall apply with respect to taxable years beginning*
 11 *after December 31, 1966.*

12 *(2) The amendments made by subsection (h) shall*
 13 *apply with respect to payments made in taxable years*
 14 *of recipients beginning after December 31, 1966.*

15 *(3) The amendments made by subsection (i) shall*
 16 *apply with respect to payments occurring after Decem-*
 17 *ber 31, 1966.*

18 *(4) The amendments made by subsection (k) shall*
 19 *apply with respect to remuneration paid after Decem-*
 20 *ber 31, 1966.*

21 **SEC. 104. FOREIGN CORPORATIONS.**

22 *(a) TAX ON INCOME NOT CONNECTED WITH*
 23 *UNITED STATES BUSINESS.—Section 881 (relating to tax*
 24 *on foreign corporations not engaged in business in the United*
 25 *States) is amended to read as follows:*

1 "SEC. 881. TAX ON INCOME OF FOREIGN CORPORATIONS
2 NOT CONNECTED WITH UNITED STATES
3 BUSINESS.

4 "(a) IMPOSITION OF TAX.—There is hereby imposed
5 for each taxable year a tax of 30 percent of the amount
6 received from sources within the United States by a foreign
7 corporation as—

8 "(1) interest, dividends, rents, salaries, wages, pre-
9 miums, annuities, compensations, remunerations, emolu-
10 ments, and other fixed or determinable annual or
11 periodical gains, profits, and income,

12 "(2) gains described in section 631 (b) or (c),

13 "(3) in the case of bonds or other evidences of
14 indebtedness issued after September 28, 1965, amounts
15 which under section 1232 are considered as gains from
16 the sale or exchange of property which is not a capital
17 asset, and

18 "(4) gains from the sale or exchange after October
19 4, 1966, of patents, copyrights, secret processes and
20 formulas, good will, trademarks, trade brands, fran-
21 chises, and other like property, or of any interest in
22 any such property, to the extent such gains are from
23 payments which are contingent on the productivity, use,
24 or disposition of the property or interest sold or ex-

1 *changed, or from payments which are treated as being*
 2 *so contingent under section 871(e),*
 3 *but only to the extent the amount so received is not effec-*
 4 *tively connected with the conduct of a trade or business*
 5 *within the United States.*

6 *“(b) DOUBLING OF TAX.—*

“For doubling of tax on corporations of certain foreign countries, see section 891.”

7 *(b) TAX ON INCOME CONNECTED WITH UNITED*
 8 *STATES BUSINESS.—*

9 *(1) Section 882 (relating to tax on resident for-*
 10 *ign corporations) is amended to read as follows:*

11 *“SEC. 882. TAX ON INCOME OF FOREIGN CORPORATIONS*
 12 *CONNECTED WITH UNITED STATES BUSI-*
 13 *NESS.*

14 *“(a) NORMAL TAX AND SURTAX.—*

15 *“(1) IMPOSITION OF TAX.—A foreign corporation*
 16 *engaged in trade or business within the United States*
 17 *during the taxable year shall be taxable as provided in*
 18 *section 11 or 1201(a) on its taxable income which is*
 19 *effectively connected with the conduct of a trade or busi-*
 20 *ness within the United States.*

21 *“(2) DETERMINATION OF TAXABLE INCOME.—In*
 22 *determining taxable income for purposes of paragraph*
 23 *(1), gross income includes only gross income which is*

effectively connected with the conduct of a trade or business within the United States.

“(b) *GROSS INCOME*.—In the case of a foreign corporation, gross income includes only—

“(1) gross income which is derived from sources within the United States and which is not effectively connected with the conduct of a trade or business within the United States, and

“(2) gross income which is effectively connected with the conduct of a trade or business within the United States.

“(c) *ALLOWANCE OF DEDUCTIONS AND CREDITS*.—

“(1) *ALLOCATION OF DEDUCTIONS*.—

“(A) *GENERAL RULE*.—In the case of a foreign corporation, the deductions shall be allowed only for purposes of subsection (a) and (except as provided by subparagraph (B)) only if and to the extent that they are connected with income which is effectively connected with the conduct of a trade or business within the United States; and the proper apportionment and allocation of the deductions for this purpose shall be determined as provided in regulations prescribed by the Secretary or his delegate.

1 “(B) CHARITABLE CONTRIBUTIONS.—The de-
 2 duction for charitable contributions and gifts pro-
 3 vided by section 170 shall be allowed whether or
 4 not connected with income which is effectively con-
 5 nected with the conduct of a trade or business
 6 within the United States.

7 “(2) DEDUCTIONS AND CREDITS ALLOWED ONLY
 8 IF RETURN FILED.—A foreign corporation shall receive
 9 the benefit of the deductions and credits allowed to it
 10 in this subtitle only by filing or causing to be filed with
 11 the Secretary or his delegate a true and accurate return,
 12 in the manner prescribed in subtitle F, including therein
 13 all the information which the Secretary or his delegate
 14 may deem necessary for the calculation of such deduc-
 15 tions and credits. The preceding sentence shall not
 16 apply for purposes of the tax imposed by section 541
 17 (relating to personal holding company tax), and shall
 18 not be construed to deny the credit provided by section
 19 32 for tax withheld at source or the credit provided by
 20 section 39 for certain uses of gasoline and lubricating oil.

21 “(3) FOREIGN TAX CREDIT.—Except as provided
 22 by section 906, foreign corporations shall not be allowed
 23 the credit against the tax for taxes of foreign countries
 24 and possessions of the United States allowed by section
 25 901.

1 “(4) CROSS REFERENCE.—

“For rule that certain foreign taxes are not to be taken into account in determining deduction or credit, see section 906(b)(1).

2 “(d) ELECTION TO TREAT REAL PROPERTY INCOME
3 AS INCOME CONNECTED WITH UNITED STATES BUSI-
4 NESS.—

5 “(1) IN GENERAL.—A foreign corporation which
6 during the taxable year derives any income—

7 “(A) from real property located in the United
8 States, or from any interest in such real property,
9 including (i) gains from the sale or exchange of
10 real property or an interest therein, (ii) rents or
11 royalties from mines, wells, or other natural de-
12 posits, and (iii) gains described in section 631 (b)
13 or (c), and

14 “(B) which, but for this subsection, would not
15 be treated as income effectively connected with the
16 conduct of a trade or business within the United
17 States,

18 may elect for such taxable year to treat all such income
19 as income which is effectively connected with the con-
20 duct of a trade or business within the United States. In
21 such case, such income shall be taxable as provided in
22 subsection (a)(1) whether or not such corporation is
23 engaged in trade or business within the United States

during the taxable year. An election under this paragraph for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary or his delegate with respect to any taxable year.

“(2) *ELECTION AFTER REVOCATION, ETC.*—Paragraphs (2) and (3) of section 871(d) shall apply in respect of elections under this subsection in the same manner and to the same extent as they apply in respect of elections under section 871(d).

“(e) *INTEREST ON UNITED STATES OBLIGATIONS RECEIVED BY BANKS ORGANIZED IN POSSESSIONS.*—In the case of a corporation created or organized in, or under the law of, a possession of the United States which is carrying on the banking business in a possession of the United States, interest on obligations of the United States shall—

“(1) for purposes of this subpart, be treated as income which is effectively connected with the conduct of a trade or business within the United States, and

“(2) shall be taxable as provided in subsection (a)(1) whether or not such corporation is engaged in trade or business within the United States during the taxable year.

1 “(f) *RETURNS OF TAX BY AGENT.*—If any foreign
2 corporation has no office or place of business in the United
3 States but has an agent in the United States, the return
4 required under section 6012 shall be made by the agent.”

5 (2)(A) Subsection (e) of section 11 (relating to
6 exceptions from tax on corporations) is amended by in-
7 serting “or” at the end of paragraph (2), by striking
8 out “, or” at the end of paragraph (3) and inserting
9 a period in lieu thereof, and by striking out paragraph
10 (4).

11 (B) Section 11 (relating to tax on corporations) is
12 amended by adding at the end thereof the following
13 new subsection:

14 “(f) *FOREIGN CORPORATIONS.*—In the case of a foreign
15 corporation, the tax imposed by subsection (a) shall apply
16 only as provided by section 882.”

17 (3) The table of sections for subpart B of part II
18 of subchapter N of chapter 1 is amended by striking out
19 the items relating to sections 881 and 882 and inserting
20 in lieu thereof the following:

“Sec. 881. Tax on income of foreign corporations not con-
nected with United States business.

“Sec. 882. Tax on income of foreign corporations connected
with United States business.”

1 (c) *WITHHOLDING OF TAX ON FOREIGN CORPORA-*
 2 *TIONS.*—Section 1442 (relating to withholding of tax on
 3 foreign corporations) is amended to read as follows:

4 “SEC. 1442. *WITHHOLDING OF TAX ON FOREIGN CORPO-*
 5 *RATIONS.*

6 “(a) *GENERAL RULE.*—In the case of foreign corpora-
 7 tions subject to taxation under this subtitle, there shall be
 8 deducted and withheld at the source in the same manner and
 9 on the same items of income as is provided in section 1441
 10 or section 1451 a tax equal to 30 percent thereof; except
 11 that, in the case of interest described in section 1451 (relat-
 12 ing to tax-free covenant bonds), the deduction and with-
 13 holding shall be at the rate specified therein. For purposes
 14 of the preceding sentence, the references in section 1441(b)
 15 to sections 871(a)(1) (C) and (D) shall be treated as re-
 16 ferring to sections 881(a) (3) and (4), the reference in
 17 section 1441(c)(1) to section 871(b)(1) shall be treated
 18 as referring to section 842 or section 882(a), as the case
 19 may be, and the reference in section 1441(c)(5) to section
 20 871(a)(1)(D) shall be treated as referring to section
 21 881(a)(4).

22 “(b) *EXEMPTION.*—Subject to such terms and condi-
 23 tions as may be provided by regulations prescribed by the
 24 Secretary or his delegate, subsection (a) shall not apply in
 25 the case of a foreign corporation engaged in trade or business

1 *within the United States if the Secretary or his delegate de-*
 2 *termines that the requirements of subsection (a) impose an*
 3 *undue administrative burden and that the collection of the*
 4 *tax imposed by section 881 on such corporation will not be*
 5 *jeopardized by the exemption."*

6 *(d) DIVIDENDS RECEIVED FROM CERTAIN FOREIGN*
 7 *CORPORATIONS.—Subsection (a) of section 245 (relating to*
 8 *the allowance of a deduction in respect of dividends received*
 9 *from a foreign corporation) is amended—*

10 *(1) by striking out "and has derived 50 percent*
 11 *or more of its gross income from sources within the*
 12 *United States," in that portion of subsection (a) which*
 13 *precedes paragraph (1) and by inserting in lieu thereof*
 14 *"and if 50 percent or more of the gross income of such*
 15 *corporation from all sources for such period is effectively*
 16 *connected with the conduct of a trade or business within*
 17 *the United States,";*

18 *(2) by striking out "from sources within the United*
 19 *States" in paragraph (1) and inserting in lieu thereof*
 20 *"which is effectively connected with the conduct of a*
 21 *trade or business within the United States";*

22 *(3) by striking out "from sources within the United*
 23 *States" in paragraph (2) and inserting in lieu thereof*
 24 *", which is effectively connected with the conduct of a*
 25 *trade or business within the United States,"; and*

1 (4) by adding after paragraph (2) the following
2 new sentence:

3 *"For purposes of this subsection, the gross income of the*
4 *foreign corporation for any period before the first taxable*
5 *year beginning after December 31, 1966, which is effec-*
6 *tively connected with the conduct of a trade or business*
7 *within the United States is an amount equal to the gross*
8 *income for such period from sources within the United*
9 *States."*

10 (e) *DIVIDENDS RECEIVED FROM CERTAIN WHOLLY-*
11 *OWNED FOREIGN SUBSIDIARIES.—*

12 (1) *Section 245 (relating to dividends received*
13 *from certain foreign corporations) is amended by re-*
14 *designating subsection (b) as (c), and by inserting after*
15 *subsection (a) the following new subsection:*

16 *"(b) CERTAIN DIVIDENDS RECEIVED FROM WHOLLY*
17 *OWNED FOREIGN SUBSIDIARIES.—*

18 *"(1) IN GENERAL.—In the case of dividends de-*
19 *scribed in paragraph (2) received from a foreign cor-*
20 *poration by a domestic corporation which, for its taxable*
21 *year in which such dividends are received, owns (di-*
22 *rectly or indirectly) all of the outstanding stock of such*
23 *foreign corporation, there shall be allowed as a deduction*
24 *(in lieu of the deduction provided by subsection (a)) an*
25 *amount equal to 100 percent of such dividends.*

1 “(2) *ELIGIBLE DIVIDENDS*.—Paragraph (1) shall
2 *apply only to dividends which are paid out of the earn-*
3 *ings and profits of a foreign corporation for a taxable*
4 *year during which—*

5 “(A) *all of its outstanding stock is owned (di-*
6 *rectly or indirectly) by the domestic corporation to*
7 *which such dividends are paid; and*

8 “(B) *all of its gross income from all sources*
9 *is effectively connected with the conduct of a trade or*
10 *business within the United States.*

11 “(3) *EXCEPTION*.—Paragraph (1) shall not apply
12 *to any dividends if an election under section 1562 is*
13 *effective for either—*

14 “(A) *the taxable year of the domestic corpora-*
15 *tion in which such dividends are received, or*

16 “(B) *the taxable year of the foreign corpora-*
17 *tion out of the earnings and profits of which such*
18 *dividends are paid.”*

19 (2) *Subsection (a) of such section 245 is amended*
20 *by adding at the end thereof (after the sentence added*
21 *by subsection (d)(4)) the following new sentence: “For*
22 *purposes of paragraph (2), there shall not be taken into*
23 *account any taxable year within such uninterrupted pe-*
24 *riod if, with respect to dividends paid out of the earnings*

1 and profits of such year, the deduction provided by
2 subsection (b) would be allowable."

3 (3) Subsection (c) of such section 245 (as redesign-
4 nated by paragraph (1)) is amended by striking out
5 "subsection (a)" and inserting in lieu thereof "subsections
6 (a) and (b)".

7 (f) DISTRIBUTIONS OF CERTAIN FOREIGN CORPORA-
8 TIONS.—Section 301(b)(1)(C) (relating to certain cor-
9 porate distributees of foreign corporations) is amended—

10 (1) by striking out "gross income from sources
11 within the United States" in clause (i) and inserting in
12 lieu thereof "gross income which is effectively connected
13 with the conduct of a trade or business within the United
14 States";

15 (2) by striking out "gross income from sources with-
16 out the United States" in clause (ii) and inserting in
17 lieu thereof "gross income which is not effectively con-
18 nected with the conduct of a trade or business within
19 the United States"; and

20 (3) by adding at the end thereof the following new
21 sentences: "For purposes of clause (i), the gross income
22 of a foreign corporation for any period before its first
23 taxable year beginning after December 31, 1966, which
24 is effectively connected with the conduct of a trade or
25 business within the United States is an amount equal

1 to the gross income for such period from sources within
 2 the United States. For purposes of clause (ii), the
 3 gross income of a foreign corporation for any period
 4 before its first taxable year beginning after December
 5 31, 1966, which is not effectively connected with the
 6 conduct of a trade or business within the United States
 7 is an amount equal to the gross income for such period
 8 from sources without the United States.”

9 (g) *UNRELATED BUSINESS TAXABLE INCOME.*—The
 10 last sentence of section 512(a) (relating to definition) is
 11 amended to read as follows: “In the case of an organiza-
 12 tion described in section 511 which is a foreign organiza-
 13 tion, the unrelated business taxable income shall be its
 14 unrelated business taxable income which is effectively con-
 15 nected with the conduct of a trade or business within the
 16 United States.”

17 (h) *CORPORATIONS SUBJECT TO PERSONAL HOLD-*
 18 *ING COMPANY TAX.*—

19 (1) Paragraph (7) of section 542(c) (relating
 20 to corporations not subject to personal holding company
 21 tax) is amended to read as follows:

22 “(7) a foreign corporation (other than a corpora-
 23 tion which has income to which section 543(a)(7) ap-
 24 plies for the taxable year), if all of its stock outstanding

1 during the last half of the taxable year is owned by
 2 nonresident alien individuals, whether directly or indi-
 3 rectly through foreign estates, foreign trusts, foreign
 4 partnerships, or other foreign corporations;”.

5 (2) Section 543(b)(1) (relating to definition of
 6 ordinary gross income) is amended—

7 (A) by striking out “and” at the end of sub-
 8 paragraph (A),

9 (B) by striking out the period at the end of
 10 subparagraph (B) and inserting in lieu thereof “,
 11 and”, and

12 (C) by inserting after subparagraph (B) the
 13 following new subparagraph:

14 “(C) in the case of a foreign corporation all of
 15 the outstanding stock of which during the last half
 16 of the taxable year is owned by nonresident alien in-
 17 dividuals (whether directly or indirectly through
 18 foreign estates, foreign trusts, foreign partnerships,
 19 or other foreign corporations), all items of income
 20 which would, but for this subparagraph, constitute
 21 personal holding company income under any para-
 22 graph of subsection (a) other than paragraph (7)
 23 thereof.”

24 (3) Section 545 (relating to definition of undis-
 25 tributed personal holding company income) is amended—

1 (A) by striking out subsection (a) and insert-
2 ing in lieu thereof the following:

3 “(a) *DEFINITION.*—For purposes of this part, the term
4 ‘undistributed personal holding company income’ means the
5 taxable income of a personal holding company adjusted in
6 the manner provided in subsections (b), (c), and (d), minus
7 the dividends paid deduction as defined in section 561. In
8 the case of a personal holding company which is a foreign
9 corporation, not more than 10 percent in value of the out-
10 standing stock of which is owned (within the meaning of
11 section 958(a)) during the last half of the taxable year by
12 United States persons, the term ‘undistributed personal hold-
13 ing company income’ means the amount determined by multi-
14 plying the undistributed personal holding company income
15 (determined without regard to this sentence) by the percent-
16 age in value of its outstanding stock which is the greatest per-
17 centage in value of its outstanding stock so owned by United
18 States persons on any one day during such period.”; and

19 (B) by adding at the end thereof the following
20 new subsection:

21 “(d) *CERTAIN FOREIGN CORPORATIONS.*—In the case
22 of a foreign corporation all of the outstanding stock of which
23 during the last half of the taxable year is owned by nonresi-
24 dent alien individuals (whether directly or indirectly through

1 *foreign estates, foreign trusts, foreign partnerships, or other*
 2 *foreign corporations), the taxable income for purposes of*
 3 *subsection (a) shall be the income which constitutes personal*
 4 *holding company income under section 543(a)(7), reduced*
 5 *by the deductions attributable to such income, and adjusted,*
 6 *with respect to such income, in the manner provided in sub-*
 7 *section (b)."*

8 (4)(A) Subchapter B of chapter 68 (relating to
 9 assessable penalties) is amended by adding at the end
 10 thereof the following new section:

11 "SEC. 6683. FAILURE OF FOREIGN CORPORATION TO FILE
 12 RETURN OF PERSONAL HOLDING COMPANY
 13 TAX.

14 "Any foreign corporation which—

15 "(1) is a personal holding company for any tax-
 16 able year, and

17 "(2) fails to file or to cause to be filed with the
 18 Secretary or his delegate a true and accurate return of
 19 the tax imposed by section 541,

20 shall, in addition to other penalties provided by law, pay a
 21 penalty equal to 10 percent of the taxes imposed by chapter 1
 22 (including the tax imposed by section 541) on such foreign
 23 corporation for such taxable year."

1 (B) The table of sections for such subchapter B is
 2 amended by adding at the end thereof the following new
 3 item:

 “Sec. 6683. Failure of foreign corporation to file return of
 personal holding company tax.”

4 (i) AMENDMENTS WITH RESPECT TO FOREIGN
 5 CORPORATIONS CARRYING ON INSURANCE BUSINESS IN
 6 UNITED STATES.—

7 (1) Section 842 (relating to computation of gross
 8 income) is amended to read as follows:

9 “SEC. 842. FOREIGN CORPORATIONS CARRYING ON IN-
 10 SURANCE BUSINESS.

11 “If a foreign corporation carrying on an insurance busi-
 12 ness within the United States would qualify under part I,
 13 II, or III of this subchapter for the taxable year if (without
 14 regard to income not effectively connected with the conduct
 15 of any trade or business within the United States) it were
 16 a domestic corporation, such corporation shall be taxable
 17 under such part on its income effectively connected with its
 18 conduct of any trade or business within the United States.
 19 With respect to the remainder of its income, which is from
 20 sources within the United States, such a foreign corpora-
 21 tion shall be taxable as provided in section 881.”

22 (2) The table of sections for part IV of subchapter

L of chapter 1 is amended by striking out the item relating to section 842 and inserting in lieu thereof the following:

"Sec. 842. Foreign corporations carrying on insurance business."

(3) Section 819 (relating to foreign life insurance companies) is amended—

(A) by striking out subsections (a) and (d) and by redesignating subsections (b) and (c) as subsections (a) and (b),

(B) by striking out "In the case of any company described in subsection (a)," in subsection (a)(1) (as redesignated by subparagraph (A)) and inserting in lieu thereof "In the case of any foreign corporation taxable under this part,"

(C) by striking out "subsection (c)" in the last sentence of subsection (a)(2) (as redesignated by subparagraph (A)) and inserting in lieu thereof "subsection (b)",

(D) by adding at the end of subsection (a) (as redesignated by subparagraph (A)) the following new paragraph:

"(3) REDUCTION OF SECTION 881 TAX.—In the case of any foreign corporation taxable under this part, there shall be determined—

1 “(A) the amount which would be subject to
2 tax under section 881 if the amount taxable under
3 such section were determined without regard to sec-
4 tions 103 and 894, and

5 “(B) the amount of the reduction provided
6 by paragraph (1).

7 The tax under section 881 (determined without regard
8 to this paragraph) shall be reduced (but not below
9 zero) by an amount which is the same proportion of
10 such tax as the amount referred to in subparagraph (B)
11 is of the amount referred to in subparagraph (A); but
12 such reduction in tax shall not exceed the increase in
13 tax under this part by reason of the reduction provided
14 by paragraph (1).”,

15 (E) by striking out “for purposes of subsec-
16 tion (a)” each place it appears in subsection (b)
17 (as redesignated by subparagraph (A)) and insert-
18 ing in lieu thereof “with respect to a foreign
19 corporation”,

20 (F) by striking out “foreign life insurance
21 company” each place it appears in such subsection
22 (b) and inserting in lieu thereof “foreign corpora-
23 tion”,

1 (G) by striking out "subsection (b)(2)(A)"
 2 each place it appears in such subsection (b) and
 3 inserting in lieu thereof "subsection (a)(2)(A)",
 4 (H) by striking out "subsection (b)(2)(B)"
 5 in paragraph (2)(B)(ii) of such subsection (b)
 6 and inserting in lieu thereof "subsection (a)(2)
 7 (B)", and

8 (I) by adding at the end thereof the following
 9 new subsection:

10 “(c) *CROSS REFERENCE.*—

**“For taxation of foreign corporations carrying on life
 insurance business within the United States, see section
 842.”**

11 (4) Section 821 (relating to tax on mutual insur-
 12 ance companies to which part II applies) is amended—

13 (A) by striking out subsection (e) and by
 14 redesignating subsections (f) and (g) as sub-
 15 sections (e) and (f), and

16 (B) by adding at the end of subsection (f)
 17 (as redesignated by subparagraph (A)) the fol-
 18 lowing:

**“(3) For taxation of foreign corporations carrying on
 an insurance business within the United States, see sec-
 tion 842.”**

19 (5) Section 822 (relating to determination of tax-
 20 able investment income) is amended by striking out

subsection (e) and by redesignating subsection (f) as subsection (e).

(6) Section 831 (relating to tax on certain other insurance companies) is amended—

(A) by striking out subsection (b) and by redesignating subsection (c) as subsection (b), and

(B) by amending subsection (d) to read as follows:

“(c) **CROSS REFERENCES.**—

“(1) *For alternative tax in case of capital gains, see section 1201(a).*

“(2) *For taxation of foreign corporations carrying on an insurance business within the United States, see section 842.*”

(7) Section 832 (relating to insurance company taxable income) is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(8) The second sentence of section 841 (relating to credit for foreign taxes) is amended by striking out “sentence,” and inserting in lieu thereof “sentence (and for purposes of applying section 906 with respect to a foreign corporation subject to tax under this subchapter),”.

(j) **SUBPART F INCOME.**—Section 952(b) (relating

1 to exclusion of United States income) is amended to read
2 as follows:

3 “(b) *EXCLUSION OF UNITED STATES INCOME.*—In
4 the case of a controlled foreign corporation, subpart F in-
5 come does not include any item of income from sources
6 within the United States which is effectively connected
7 with the conduct by such corporation of a trade or business
8 within the United States unless such item is exempt from
9 taxation (or is subject to a reduced rate of tax) pursuant
10 to a treaty obligation of the United States.”

11 (k) *GAIN FROM CERTAIN SALES OR EXCHANGES*
12 *OF STOCK IN CERTAIN FOREIGN CORPORATIONS.*—Para-
13 graph (4) of section 1248(d) (relating to exclusions from
14 earnings and profits) is amended to read as follows:

15 “(4) *UNITED STATES INCOME.*—Any item in-
16 cludible in gross income of the foreign corporation under
17 this chapter—

18 “(A) for any taxable year beginning before
19 January 1, 1967, as income derived from sources
20 within the United States of a foreign corporation
21 engaged in trade or business within the United
22 States, or

23 “(B) for any taxable year beginning after
24 December 31, 1966, as income effectively con-