

(2) *Borrowings between affiliated foreign nationals*

Affiliated foreign nationals should be permitted to loan funds to other affiliated foreign nationals within the permissible limits of FDIR section 1000.505 without tax implication to the direct investor.

(3) *Permissive investments*

The repatriation requirements imposed upon a direct investor under FDIR section 1000.202 should be satisfied by permitting an affiliated foreign national to invest in U.S. Treasury obligations and long-term certificates of deposit of U.S. banks. This would provide U.S. international corporations with considerable more flexibility in complying with the mandatory rules of the Commerce Department regulations than exists under the present regulations. Further, permitting foreign subsidiaries of such corporations to invest in such property would not require a change in the existing tax laws since this would not be considered an investment in U.S. property under the exception provided for in section 956(b) (2) (A) of the code.

However, in order to facilitate the use of U.S. Treasuries for this purpose, consideration should be given to the elimination of U.S. withholding tax on interest payments applicable thereto. Alternatively, the United States could grant the direct investor either a direct or indirect tax credit for the U.S. withholding tax paid on such interest income.

*B. Foreign Tax Credits*

As previously stated, the foreign direct investment regulations require mandatory repatriations, within prescribed limits, of amounts representing earnings of affiliated foreign nationals in which the direct investor has a 10-percent interest, whether direct or indirect and irrespective of the number of tiers of ownership. On the other hand, under section 902 of the Code, foreign tax credits are allowable to U.S. corporate taxpayers only with respect to taxes paid by first tier foreign corporations in which the U.S. taxpayer has an interest of at least 10 percent and for taxes paid by second tier foreign corporations in which the ownership by the first tier corporation is at least 50 percent. Thus, under the foreign direct investment regulations repatriation of earnings of foreign affiliates will be required with respect to which foreign tax credits are not allowed under present law.

This result seems clearly inequitable. The U.S. taxpayer should be permitted to receive, in addition to the tax credit provided under present law, the benefit of a credit for any foreign taxes relating to the earnings required to be repatriated under the Department of Commerce regulations or which are voluntarily repatriated in excess of such requirements regardless of the number of tiers of ownership or the degree of ownership between tiers.

Accordingly, any foreign income taxes attributable to the foreign earnings repatriated under the foreign direct investment regulations should qualify for credit under section 902 of the Code.

*C. Reduced Rate of Tax*

An increase of U.S. exports would ease the balance-of-payments situation. Accordingly, it may now be the time to consider a reduced rate of U.S. tax on income derived from foreign sources.