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Interest
Equaliza-
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(U.S.)

L.Nurick

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| Interest Equalization Tax (US) - 1963-1965 | 1850571 |

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| 23 September, 1965 | Letter |

**Correspondents / Participants**
To: Mr. Aron Broches
From: Acting Assistant Commissioner, U. S. Treasury Department, IRS

**Subject / Title**
Imposition of the interest equalization tax section 4911 of the Internal Revenue Code of 1954

**Exception(s)**
Attorney-Client Privilege

**Additional Comments**

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| Sherrine M. Thompson | February 09, 2023 |

## No. 11284

May 28, 1966, 31 F.R. 7669

### SUSPENSION OF THE PROVISIONS OF SECTIONS 5701(a)(1) AND 6371 OF TITLE 10, UNITED STATES CODE, WHICH RELATE TO THE CONTINUATION ON THE ACTIVE LIST OF REAR ADMIRALS IN THE LINE OF THE NAVY NOT RESTRICTED IN THE PERFORMANCE OF DUTY

By virtue of the authority vested in me by Sections 5711(b) and 6386 (c) of Title 10 of the United States Code,[6] I hereby suspend the provisions of Sections 5701(a)(1) and 6371 of Title 10 of the United States Code.

LYNDON B. JOHNSON

THE WHITE HOUSE,
*May 27, 1966.*

## No. 11285

June 11, 1966, 31 F.R. 8211

### DESIGNATION OF CERTAIN FOREIGN COUNTRIES AS ECONOMICALLY LESS DEVELOPED COUNTRIES FOR PURPOSES OF THE INTEREST EQUALIZATION TAX

WHEREAS notice was given on December 7, 1965, that I intended to notify the Senate and House of Representatives of my intention to terminate the designation of Abu Dhabi, Bahrain, Iran, Iraq, Kuwait-Saudi Arabia Neutral Zone, Libya, Qatar, and Saudi Arabia as economically less developed countries for purposes of the tax imposed by section 4911 of the Internal Revenue Code; and

WHEREAS the Senate and House of Representatives have been duly notified of my intention to terminate the designation of these countries as economically less developed countries for such purposes;

NOW, THEREFORE, by virtue of the authority vested in me by section 4916(b) of the Internal Revenue Code of 1954, as added by section 2 of the Interest Equalization Tax Act, approved September 2, 1964 (Public Law 88–563),[7] by section 301 of title 3 of the United States Code,[8] and as President of the United States, it is hereby ordered as follows:

**Section 1. Economically less developed countries.** For purposes of the tax imposed by section 4911 of the Internal Revenue Code,[9] the following areas are designated as economically less developed countries:

(a) All foreign countries (including Trust Territories) in existence on or after the effective date of this order, other than Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, France, Iran, Iraq, Ireland, Italy, Japan, Kuwait, Kuwait-Saudi Arabia Neutral Zone, Libya, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Saudi Arabia, Spain, Sweden, Switzerland, Union of South Africa, United Kingdom, and any foreign country within the Sino-Soviet bloc, as defined in section 2;

(b) Each territory, department, province, and possession (other than Abu Dhabi, the Bahamas, Bahrain, Bermuda, Hong Kong, and Qatar), of any foreign country in existence on or after the effective date of this order, other than a foreign country within the Sino-Soviet bloc, as defined in section 2, if the territory, department, province, or possession is overseas from the foreign country of which it is a territory, department, province, or possession; and

6. 10 U.S.C.A. § 6386(c).
7. 26 U.S.C.A. (I.R.C.1954) § 4916(b).
8. 3 U.S.C.A. § 301.
9. 26 U.S.C.A. (I.R.C.1954) § 4911.

(c) The Commonwealth of Puerto Rico and all possessions of the United States.

**Sec. 2. Definition of the term "foreign country within the Sino-Soviet bloc."** For purposes of this order, the term "foreign country within the Sino-Soviet bloc" shall mean Albania, Bulgaria, any part of China which is dominated or controlled by International Communism, Cuba, Czechoslovakia, Estonia, Hungary, any part of Korea which is dominated or controlled by International Communism, Latvia, Lithuania, Outer Mongolia, Poland (including any area under its provisional administration), Rumania, Soviet Zone of Germany and the Soviet Sector of Berlin, Tibet, Union of Soviet Socialist Republics and the Kurile Islands, Southern Sakhalin, and areas in East Prussia which are under the provisional administration of the Union of Soviet Socialist Republics, and any part of Viet Nam which is dominated or controlled by International Communism.

**Sec. 3. Prior commitments to acquire.** Notwithstanding the provisions of sections 1 and 2 of this order, any area which had the status of an economically less developed country under Executive Order No. 11224 prior to the effective date of this order shall be deemed to be an economically less developed country for purposes of section 4916 with respect to an acquisition of stock or a debt obligation—

(a) If such acquisition is made pursuant to an obligation to acquire which, prior to December 7, 1965, was unconditional or was subject only to conditions contained in a formal contract under which partial performance had occurred; or

(b) If, with respect to such acquisition, the acquiring United States person (or, in a case where two or more United States persons are making acquisitions as part of a single transaction, a majority in interest of such persons), had taken every action prior to December 7, 1965, to signify approval of the acquisition under the procedures ordinarily employed by such person (or persons) in similar transactions and had sent or deposited for delivery to the foreign person from whom the acquisition was made written evidence of such approval in the form of a commitment letter, memorandum of terms, draft purchase contract, or other document setting forth, or referring to a document sent by the foreign person from whom the acquisition was made which set forth, the principal terms of such acquisition, subject only to the execution of formal documents evidencing the acquisition and to customary closing conditions.

**Sec. 4. Rules and regulations.** The Secretary of the Treasury or his delegate is authorized to prescribe from time to time regulations, rulings, directions, and instructions to carry out the purposes of this order.

**Sec. 5. Effective date.** This order shall become effective upon its filing for publication in the FEDERAL REGISTER.

**Sec. 6. Supersedure of Executive Order No. 11224.** The Executive Order No. 11224, dated May 13, 1965,[10] is hereby superseded.

LYNDON B. JOHNSON

THE WHITE HOUSE,
*June 10, 1966.*

10. 26 U.S.C.A. (I.R.C.1954) § 4916 note.

89TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
*1st Session* } { No. 602

# INTEREST EQUALIZATION TAX EXTENSION ACT OF 1965

JULY 7, 1965.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MILLS, from the Committee on Ways and Means, submitted the following

# REPORT

[To accompany H.R. 4750]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4750) to provide a 2-year extension of the interest equalization tax, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

The amendment to the text strikes out all of the House bill and inserts in lieu thereof a substitute which appears in the reported bill in italic type.

The other amendment modifies the title of the bill to make it conform to the changes made by the amendment to the text.

## I. SUMMARY

H.R. 4750, as reported, extends the interest equalization tax from December 31, 1965, to July 31, 1967, or for 1 year and 7 months beyond its present termination date. Thus, this tax, which is designed to aid our balance-of-payments position, will be in effect for a further temporary period. This tax raises the cost to foreigners of obtaining capital in the U.S. capital market to a level more closely alined with the costs prevailing in capital markets of the other industrialized countries. The present act accomplishes this objective by imposing a tax resulting in an additional annual cost, ultimately borne by the foreign issuers or security holders, equal to approximately a 1-percent rise in interest costs. The tax was first imposed for the period July 19, 1963 (August 17, 1963, for listed securities), through December 31, 1965.

The interest equalization tax as initially enacted authorized the President to extend the application of the tax to bank loans of 1 year

maturity or more, should he determine that the acquisition of foreign debt obligations by commercial banks materially impaired the effectiveness of the interest equalization tax, because the bank loans were being directly or indirectly substituted for other debt obligations of foreigners which were already subject to the interest equalization tax. Under the terms of Executive Order 11198, issued on February 10, 1965, the President made such a determination and extended the interest equalization tax to bank loans with a maturity of 1 or more years. Other debt obligations under the law as initially enacted were subject to tax only if they had a period to maturity of 3 years or more. This bill provides that the interest equalization tax is also to apply to these other debt obligations having a period to maturity of 1 year or more. The tax rates applicable to this newly taxed category of debt obligations with a maturity of 1 to 3 years are the same as those provided for bank loans of similar maturity and range from 1.05 percent on obligations with a maturity of 1 to 1¼ years up to 2.75 percent for those with a maturity of 2¾ to 3 years.

These rates of tax will apply to obligations acquired after February 10, 1965, unless a binding commitment to acquire them existed before that date or they were acquired through a foreclosure or under certain other limited types of situations. The tax also does not apply in the case of public offerings where the debt obligation was acquired on or before April 12, 1965, if, in general, official notice of the offering had been given on or before February 10, 1965.

This bill is in accord with the recommendations of the administration except that it extends the interest equalization tax for 1 year and 7 months (or until July 31, 1967) instead of for 2 full years (until December 31, 1967) as recommended by the administration.

In addition to the extension of the interest equalization tax and its application to debt obligations of 1 to 3 years' maturity, this bill also makes a series of perfecting amendments designed to meet problems which have arisen since the enactment of the tax on September 2, 1964. Some of these problems were first called to the attention of your committee by the Treasury Department while others were called to its attention in statements submitted to it by affected persons. These amendments can be summarized as follows:

1. *Export leases.*—The bill excludes from the tax obligations acquired by a U.S. person in connection with a lease of personal property to a foreigner if at least 85 percent of the amount to be paid under the lease is attributable to tangible property which was produced or extracted in this country by the U.S. person or to the performance of services (pursuant to the lease) by such a person.

2. *Construction loans.*—The bill excludes from the tax debt obligations arising out of construction loans to foreigners. The exclusion is limited to loans secured by real property located in the United States on which improvements are under construction by the foreign borrower. The exclusion is limited to those cases in which at least 25 percent of the cost of construction is paid from funds obtained from non-U.S. sources and at least 85 percent of the cost of construction (attributable to property or services) is attributable to property produced in the United States or services performed by the U.S. person.

3. *Student loans.*—The bill exempts from tax loans up to $2,500 to foreigners who are full-time students at American educational institutions.

4. *Tangible property held for personal use.*—The bill exempts from tax loans made by a U.S. person in connection with sales of tangible property located abroad which was held by the U.S. person for his personal use.

5. *Foreign branch bank acquisitions.*—The bill exempts from tax securities acquired by a branch of a U.S. corporation which is engaged in the commercial banking business in a foreign country if the following principal conditions are met. The branch must be a member of a foreign stock exchange all the members of which on June 29, 1965, were banks. The branch must also have had this same status on July 18, 1963. In addition, at the time of the acquisition of stock or debt the branch's holdings of specified securities must not exceed 3 percent of the deposits of customers (other than U.S. banks and affiliates) which are payable in the currency of the country in which the branch is located.

6. *Investments in partnerships in less-developed countries.*—The bill extends to U.S. persons making equity investments in partnerships operating in less-developed countries the same exclusion which is presently applicable in the case of purchases of stock in less-developed-country corporations.

7. *Resale of foreign stock by dealers.*—The bill extends to indirect stock resales, executed by dealers in over-the-counter transactions, the refund or credit applicable under present law in the case of indirect resales by dealers in over-the-counter bond transactions.

8. *Foreign branches of U.S. financing companies.*—The bill permits a U.S. financing corporation which operates abroad through a branch to treat the branch as a foreign corporation, thereby exempting the loans made by the branch from the interest equalization tax. For the exemption to be applicable, the branch must be primarily engaged in the trade or business of making loans for the purchase of products produced or assembled by related corporations and the loans must be repayable exclusively in foreign currency. In addition, the branch must have been located outside the United States on February 10, 1965, and have been regularly engaged in such business for at least 12 consecutive months before that date.

9. *Foreign stock issues treated as domestic issues.*—The bill provides that, for purposes of the present exemption which excludes from the application of the tax classes of stock of foreign corporations which are predominantly owned by U.S. persons, additional shares issued are to be exempt if on July 19, 1963, the corporation had at least 250 shareholders and was actively engaged in a trade or business. The corporation must also continue to meet the American involvement tests (i.e., it must be 65-percent owned by U.S. persons or 50-percent owned by U.S. persons and have been listed on a national securities exchange which constituted the principal market for the stock in 1962). Additionally the new stock issue must be one which would qualify for exemption from the tax at the time of the initial sale because of the less-developed country corporation provision, or because of the international monetary stability exclusion, or the exclusion relating to certain reorganizations.

10. *Insurance companies.*—A technical amendment provides insurance companies at least 30 days after the date of enactment of the bill for the designation of debt of 1 to 3 years' maturity acquired since February 10, 1965, to be included in the tax-free pool relating to foreign policies.

11. *International monetary stability exemption.*—A technical amendment provides that the notices of acquisition of debt with a maturity of 1 to 3 years which were acquired during the period February 11, 1965, to the date of enactment of this bill and are eligible for the international monetary stability exemption can be filed within a period (presumably at least 30 days) after the date of enactment of this bill.

12. *Deductibility of tax payments.*—The bill provides for the deductibility for income tax purposes of an amount paid as interest equalization tax where an amount received as reimbursement of the tax is includible in gross income for the taxable year, even though the interest equalization tax was paid in an earlier year.

13. *Foreign currency deposits of foreign branch banks.*—The bill provides that in the event the President exercises his authority to make loans by foreign commerical bank branches of U.S. persons taxable to the extent they exceed 110 percent of foreign currency deposits, the branches are to be permitted to include in their tax-free loan base the foreign currency deposits received by them from any other bank other than a U.S. person engaged in the banking business or an affiliate of such a person.

14. *Tax-free acquisitions by banks from American owners.*—The bill provides that commercial banks may acquire foreign debt obligations, with a period to maturity of 1 to 3 years, from prior American owners without payment of tax.

## II. REASONS FOR THE BILL

The U.S. balance of international payments has been in a deficit position in every year but one since 1949. These persistent deficits, which have averaged $2,326 million a year during the period 1950–64 (on a regular transactions basis), have led to a significant drain on the U.S. stock of gold, which declined by $9,092 million between 1950 and 1964. The enactment of the interest equalization tax, together with other programs undertaken in recent years, for a period substantially reduced the payments deficit. The problem remains serious, however, due in large part to outflows of funds which in the past were not covered by the tax.

As indicated in table 1, the deficit in 1959 (on a regular transactions basis) was $4,178 million. The size of the deficit fell to $3,071 million by 1961, but then increased to $3,605 million in 1962. The deficit then rose to an annual rate of $4,868 million, significantly more than the 1959 rate, in the first half of 1963. In the last half of the year, however, after the announcement of the interest equalization tax, the deficit was reduced sharply to an annual rate of $1,706 million. In 1964, the deficit was $3,106 million, one of the lower annual deficits since 1957, but still higher than can be sustained without threatening the stability of the dollar. The deficit would have been substantially less—in the first three quarters of the year it was $2,073 million on an annual rate basis—were it not for a large outflow of bank loan funds in the last quarter of the year. In the first quarter of 1965—the last part of which occurred after tax was imposed on bank borrowings—the deficit on regular transactions was $2,932 million on a seasonally adjusted annual rate basis.

TABLE 1.—*U.S. balance of payments: Balance on regular transactions and changes in U.S. gold stock for the period 1949–64, and quarterly for 1963, 1964, and 1965 to date*

[In millions of dollars; quarterly data are seasonally adjusted annual rates]

| | Balance on regular transactions (− deficit) | Change in gold stock (− decrease) | | Balance on regular transactions (− deficit) | Change in gold stock (− decrease) |
|---|---|---|---|---|---|
| 1949 | 175 | 164 | 1962 | −3, 605 | −890 |
| 1950 | −3, 580 | −1, 743 | 1963 | −3, 287 | −461 |
| 1951 | −305 | 53 | 1964 | −3, 106 | −125 |
| 1952 | −1, 046 | 379 | 1963—I | −5, 228 | −111 |
| 1953 | −2, 152 | −1, 161 | II | −4, 508 | −116 |
| 1954 | −1, 550 | −298 | III | −1, 744 | −196 |
| 1955 | −1, 145 | −41 | IV | −1, 668 | −38 |
| 1956 | −935 | 306 | 1964—I | −1, 668 | −46 |
| 1957 | 520 | 798 | II | −2, 180 | 73 |
| 1958 | −3, 529 | −2, 275 | III | −2, 372 | 20 |
| 1959 | −4, 178 | −1, 075 | IV | −6, 204 | −172 |
| 1960 | −3, 918 | −1, 702 | 1965—I | −2, 932 | −832 |
| 1961 | −3, 071 | −857 | | | |

Source: U.S. Department of Commerce.

The outflow of gold in 1963 and 1964 was much less than might normally have been expected in view of the size of the balance-of-payments deficits. In 1964, the $125 million decline in the U.S. gold stock, the smallest decline since 1957, was minimal in relation to a balance-of-payments deficit of slightly over $3 billion. In 1961, when the balance-of-payments deficit was of roughly the same magnitude, the gold stock declined by $857 million, and in 1958 a deficit of $3.5 billion was associated with a gold loss of $2,275 million. In the long run, however, the U.S. gold stock cannot be protected against erosion if balance-of-payments deficits persist. This is suggested by the $832 million gold drain in the first quarter of 1965. Efforts to reduce the gold outflow associated with such deficits, although helpful, are essentially shortrun palliatives in a situation in which the United States continually is running large payment deficits.

In the effort to eliminate the deficit in the U.S. balance of payments, reliance has been placed on policies focused directly on the major areas of weakness in our international accounts. The interest equalization tax is one of the key policies in meeting this objective. Other policies followed to attain this objective include a campaign to encourage exports, efforts to reduce the foreign drain of our AID programs and of our overseas military commitments, elimination of the attractiveness of foreign tax havens, and a drive to enlist the voluntary cooperation of banks and business firms in a program to cut back on the outflow of capital, including short-term bank loans, direct investments, etc.

Other alternative solutions for the balance-of-payments problem generally appear undesirable. For example, deflation of the domestic economy, through higher interest rates or other measures at a time when the objective is to achieve further reductions in unemployment, is an unacceptable solution to the balance-of-payments problem. Your committee believes instead that solutions must be found within the framework of a domestic economy operating at or near its full potential with price stability. Moreover, it is only such a domestic environment which will promote the productivity improvements which are necessary to enhance the competitive standing of our exports and improve the climate for domestic investment. Increased

exports and a more favorable climate for domestic investments, of course, are essential to lasting improvement in our balance of payments.

Another alternative sometimes suggested is to use a capital issues committee to limit sales of foreign securities in the United States. This would substitute the arbitrary judgments of a selected group of men for the impartial judgments of the marketplace. The board would undoubtedly be faced with difficult decisions concerning securities originating in different countries and issued by different types of businesses and, as a result, would probably be subjected to severe pressures and harsh criticism. Moreover, such a board could not be used to limit sales of outstanding issues.

*The problem of capital outflows.*—The interest equalization tax raises the cost to foreigners of obtaining capital in U.S. markets through the sale of securities. It is, therefore, addressed to a principal source of weaknesses in our balance-of-payments position. This is apparent in a comparison of the U.S. balance-of-payments position in 1961 with our position in 1964. These were years in which the overall deficit on a regular payments basis was of roughly comparable magnitude. However, the U.S. commercial trade surplus in 1964 was $0.6 billion greater than in 1961, and net earnings from U.S. private investments were $1.1 billion greater. Furthermore, net military expenditures (excluding advances on military exports) were $0.5 billion less in 1964 than in 1961 and government grants and capital payments abroad were $0.4 billion less. Had all other elements in the balance of payments remained the same from 1961 to 1964, these factors would have reduced the balance-of-payments deficit by $2.6 billion. In this 3-year period, however, the outflow of U.S. private capital rose by $2.3 billion and the net drain due to tourism increased by $0.3 billion. As a result, there was no reduction in the balance-of-payments deficit. Moreover, were it not for the interest equalization tax, whose impact substantially reduced foreign security sales here, the deficit in 1964 almost certainly would have been much larger than in 1961. Details of the U.S. balance of payments in the period 1960 through the first quarter of 1965 are shown in table 2.

TABLE 2.—*U.S. balance of payments, 1960—1st quarter 1965* [1]

[In millions of dollars]

| Line No. | | 1960 | 1961 | 1962 | 1963 | 1964 | Seasonally adjusted | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | 1964 | | | | 1965 |
| | | | | | | | I | II | III | IV | I |
| 1 | Commercial merchandise exports [2] | 17,575 | 17,716 | 18,221 | 19,276 | 22,476 | 5,478 | 5,384 | 5,640 | 5,974 | 4,974 |
| 2 | Commercial merchandise imports | −14,732 | −14,507 | −16,173 | −16,992 | −18,619 | −4,410 | −4,599 | −4,709 | −4,901 | −4,663 |
| 3 | Commercial trade balance | 2,843 | 3,209 | 2,048 | 2,284 | 3,857 | 1,068 | 785 | 931 | 1,073 | 311 |
| 4 | Commercial services, remittances, pensions (net) [2] | 1,051 | 1,617 | 1,870 | 1,667 | 2,529 | 652 | 633 | 699 | 545 | 744 |
| 5 | Commerical balance | 3,894 | 4,826 | 3,918 | 3,951 | 6,386 | 1,720 | 1,418 | 1,630 | 1,618 | 1,055 |
| 6 | Military expenditures (net) [3] | −2,712 | −2,560 | −2,409 | −2,283 | −2,053 | −533 | −536 | −512 | −472 | −485 |
| 7 | Government grants and capital payments abroad | −1,110 | −1,139 | −1,057 | −833 | −699 | −131 | −187 | −183 | −198 | −194 |
| 8 | Government debt payments excluding fundings, prepayments | 543 | 516 | 501 | 466 | 454 | 132 | 143 | 136 | 43 | 139 |
| 9 | Private long-term capital (net) | −2,107 | −2,177 | −2,609 | −3,345 | −4,037 | −732 | −702 | −1,031 | −1,572 | −1,442 |
| | (*a*) U.S. direct investment (net) | −1,674 | −1,599 | −1,654 | −1,976 | −2,376 | −464 | −540 | −551 | −821 | −1,003 |
| | (*b*) New issues of foreign securities | −555 | −523 | −1,076 | −1,250 | −1,063 | −124 | −183 | −157 | −599 | −299 |
| | (*c*) Outstanding securities and redemptions | −108 | −239 | 107 | 146 | 386 | 148 | 78 | 73 | 87 | 90 |
| | (*d*) Other long-term U.S. capital | −200 | −263 | −258 | −591 | −1,298 | −298 | −151 | −528 | −321 | −475 |
| | (*e*) Foreign long-term capital (net) | 430 | 447 | 272 | 326 | [4] 314 | 6 | 94 | [4] 132 | 82 | 245 |
| 10 | Short-term capital (net) | −1,438 | −1,492 | −752 | −842 | −1,996 | −585 | −529 | −342 | −540 | 288 |
| 11 | Errors and omissions | −988 | −1,045 | −1,197 | −401 | −1,161 | −288 | −152 | −291 | −430 | −94 |
| 12 | Balance on regular transactions | −3,918 | −3,071 | −3,605 | −3,287 | −3,106 | −417 | −545 | −593 | −1,551 | −733 |
| 13 | Nonscheduled receipts on Government loans and advances on military and other exports | 37 | 701 | 1,151 | 660 | 344 | 215 | −29 | 2 | 156 | 65 |
| 14 | Nonmarketable medium-term Government securities: | | | | | | | | | | |
| | (*a*) Nonconvertible | | | 251 | −43 | −36 | −55 | −8 | −2 | 29 | |
| | (*b*) Convertible | | | | 703 | 375 | | 122 | 203 | 50 | 51 |
| 15 | Balance including special Government transactions excluding nonmarketable, convertible, medium-term securities | −3,881 | −2,370 | −2,203 | −2,670 | −2,798 | −257 | −582 | −593 | −1,366 | −668 |

[1] Excluding military transfers under grants.
[2] Excluding exports and services financed by Government grants and capital.
[3] Excluding advances on military exports.
[4] Includes $204 million in Canadian Government purchases of nonmarketable, medium-term U.S. Government securities.

Source: Survey of Current Business.

Private long-term capital outflows increased sharply in the period preceding the introduction of the interest equalization tax. Net private long-term capital outflows increased from $2,177 million in 1961 to $2,609 million in 1962, or by 20 percent. In the first 6 months of 1963, the outflow of private capital rose to a level, which, if sustained throughout the year, would have resulted in an annual outflow of over $4 billion, or approaching twice the 1961 outflow.

Issues of new foreign securities in U.S. capital markets accounted for much of the increase in capital outflows in 1962 and the first half of 1963. Purchases of these issues by United States citizens rose from $523 million in 1961 to a seasonally adjusted annual rate of $1,798 million in the first 6 months of 1963. As table 3 indicates, most of the new issues were sold by companies located in Canada, Western Europe, and Japan. Relatively little of the increased outflow was directed to less developed countries.

TABLE 3.—*New issues of foreign securities purchased by U.S. residents by area, 1962, 1st quarter 1965*

[In millions of dollars; not seasonally adjusted]

| | 1962—year | 1963 | | 1964 | | | | | 1965 |
|---|---|---|---|---|---|---|---|---|---|
| | | 1st half | 2d half | Year | I | II | III | IV [1] | I [1] |
| Total, new issues | 1,076 | 999 | 251 | 1,063 | 127 | 284 | 71 | 581 | 302 |
| Subject to IET: | | | | | | | | | |
| Western Europe | 195 | 219 | 53 | [5] 20 | ------ | 4 | ------ | 16 | ------ |
| Japan | 101 | 107 | 57 | ------ | ------ | ------ | ------ | ------ | ------ |
| Other developed countries [2] | 60 | 17 | ------ | ------ | ------ | ------ | ------ | ------ | ------ |
| Subtotal (IET) | 356 | 343 | 110 | [5] 20 | ------ | 4 | ------ | 16 | ------ |
| Exempt: | | | | | | | | | |
| Canada | 457 | 608 | 85 | 700 | 86 | 187 | 44 | 383 | 99 |
| Latin America [3] | 102 | 13 | 23 | 208 | 13 | 56 | 14 | 125 | 5 |
| Other less-developed countries [4] | 77 | 35 | 33 | 131 | 24 | 37 | 13 | 57 | 30 |
| International institutions | 84 | ------ | ------ | 4 | 4 | ------ | ------ | ------ | 160 |
| Subtotal (exempt) | 720 | 656 | 141 | 1,043 | 127 | 280 | 71 | 565 | 294 |

[1] Preliminary.
[2] Australia, New Zealand, South Africa.
[3] Includes Inter-American Development Bank.
[4] Including Finland and Portugal.
[5] City of Milan issue under 3 years, not subject to IET.

Source: Survey of Current Business.

The interest equalization tax was introduced in response to this sudden upsurge in private capital investment in foreign portfolio securities. The tax was applied to outstanding issues as well as new issues to prevent avoidance of the tax through the substitution, directly or indirectly, of new issues for outstanding issues in the hands of foreigners and the subsequent sale of outstanding issues to Americans. It also provided a restraint on purchases of outstanding issues.

*The effect of the tax.*—The introduction of the interest equalization tax, effective on July 19, 1963 (August 17, 1963, for listed securities), has been followed by a reduction in U.S. private investment in those foreign securities which come under the tax. In the three quarters following July 1963 sales of new foreign issues fell to half of the volume of such sales which existed in the three quarters preceding the

announcement of the tax. Furthermore, with the exception of issues sold in late 1963 under commitments which had been made prior to the announcement of the tax, purchases by U.S. persons of new issues originating in countries covered by the tax have been negligible, as indicated in table 4.

Purchases of outstanding securities by U.S. persons from foreign owners have also declined. Net purchases of outstanding foreign bonds by U.S. persons have been slight since the announcement of the tax while sales of foreign stocks by U.S. persons to foreigners have exceeded purchases of such stocks from foreigners, reversing the pretax pattern.

TABLE 4.—*U.S. private capital outflows*

[In millions of dollars; outflow—]

| | 1961 | 1962 | 1963 | 1964 | Seasonally adjusted | | | |
|---|---|---|---|---|---|---|---|---|
| | | | | | 1963 | | 1964 | |
| | | | | | January-June | July-December | January-June | July-December |
| Total private outflow | −4,180 | −3,425 | −4,456 | −6,462 | −2,632 | −1,824 | −2,671 | −3,791 |
| Long term | −2,624 | −2,881 | −3,671 | −4,351 | −2,240 | −1,431 | −1,535 | −2,816 |
| New foreign security issues | −523 | −1,076 | −1,250 | −1,063 | −899 | −351 | −307 | −756 |
| (of IET countries)[1] | (−161) | (−356) | (−453) | (−11) | (−310) | (−143) | (......) | (−11) |
| Redemptions | 148 | 203 | 195 | 193 | 93 | 102 | 92 | 101 |
| Transactions in foreign outstanding securities | −387 | −96 | −49 | 193 | −151 | 102 | 134 | 59 |
| Long-term bank claims | −136 | −127 | −754 | −942 | −194 | −560 | −365 | −577 |
| Other long term | −127 | −131 | [2] 163 | [3] −356 | 3 | [2] 160 | −84 | [3] −272 |
| Direct investment | −1,599 | −1,654 | −1,976 | −2,376 | −1,092 | −884 | −1,004 | −1,372 |
| Short term | −1,556 | −544 | −785 | −2,111 | −392 | −393 | −1,137 | −974 |
| Bank claims | −1,125 | −324 | −781 | −1,523 | −302 | −479 | −906 | −617 |
| Other short term | −431 | −220 | −4 | −588 | −90 | 86 | −231 | −357 |

[1] All issues during period covered by IET (July 1963–December 1964) were exempt from tax under various provisions of the law.
[2] Reflects transfer of $150,000,000 to long-term banking credits.
[3] Includes $254,000,000 loaned to Canada in connection with Columbia River power project.

NOTE.—Subtotals may not add due to rounding.

Source: Treasury Department.

The exemption extended (by Executive order) under the provisions of the Interest Equalization Tax Act to new issues originating in Canada was required because Canada relies heavily on inflows of U.S. capital to maintain equilibrium in its balance of payments. The limited exemption recently provided (by Executive order) for Japan—when bank loans were first brought under the tax—was provided for similar reasons. The full application of the tax in these two cases might have impaired the stability of the international monetary system. These exemptions, however, have not impaired the effectiveness of the tax. The two countries have not enjoyed unlimited recourse to the U.S. capital market. In the case of Japan, the exemption is limited to the first $100 million annually of new debt issues. With respect to Canada, the Secretary of the Treasury reported to your committee that Canadian officials have indicated they do not intend to increase that country's foreign exchange reserves out of the proceeds of borrowings from the United States. The

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Canadians have also indicated that they are fully aware of the importance of avoiding the use of the Canadian exemption as a method of channeling American funds through Canada to other countries,

*Extension of the tax required.*—The interest equalization tax raises the cost to foreigners of obtaining capital in the United States to a level more nearly comparable to the levels which prevail in most other industrialized countries. In the absence of this tax, U.S. capital markets would be favored by many foreign borrowers over their own domestic capital markets and a much larger outflow of portfolio capital would resume, undermining the recent improvement in our balance-of-payments position. Foreign businessmen and foreign governmental units are aware of the efficient marketing facilities and relatively low long-term interest rates that exist in this country. European capital markets are not yet organized to supply the rapidly expanding business needs in their countries as effective as U.S. markets. Moreover, U.S. underwriters have become familiar with foreign securities and are aware of the relatively high-interest rates such securities would carry in the absence of the tax. The experience of the 1920's and 1930's no longer seriously affects appraisals of foreign securities and the restoration of currency convertibility has lessened the fear that the payment of interest and principal of foreign loans will be impeded.

The tax is an integral component of a broad program to narrow the balance-of-payments deficit. Measures taken to limit the foreign exchange costs of Federal operations abroad, the effect of increases in our trade surplus, efforts to reduce the net drain of tourist expenditures and other such programs, can only be effective as a part of a general program which attacks all troublesome areas. Efforts to restrain the outflow of U.S. private capital is a necessary part of such a general program.

The tax also has an important bearing on the program of voluntary cooperation announced by the President on February 10, 1965. The voluntary program seeks to curb credits to foreigners extended by banks and other financial institutions and to reduce nontaxable outflows of funds associated with direct foreign transactions by American business firms. In the absence of the tax, many more foreign borrowers would seek to raise funds in the U.S. market, thereby greatly increasing the pressure of foreign demand with which the voluntary program would be faced. Moreover, the tax, by reaching investors who cannot be reached under a voluntary program, assures participants in the voluntary program that they will not be asked to assume a disproportionately large share of the burden of eliminating the payments deficit.

If the interest equalization tax were allowed to lapse, the success of the program now being undertaken to restore equilibrium to the balance of payments would be jeopardized. Furthermore, if the measures now being employed do not succeed, the United States might well be forced to turn to less-desirable alternative methods for eliminating the deficit. For these reasons, your committee's bill extends the interest equalization tax beyond the December 31, 1965, termination date of existing law.

*A temporary extension.*—The tax is extended only until July 31, 1967. This temporary extension emphasizes the fact that the tax is a measure adopted to meet the immediate problem of a balance-of-

payments deficit and is not considered as a permanent component of the tax structure.

Your committee has selected July 31, 1967, as the termination date so as to provide Congress and the administration with sufficient time to assess carefully trends in the balance of payments which result from the President's program announced on February 10 of this year and from other developments. The relatively short extension provided (19 months) assures that this tax can be allowed to lapse relatively soon if conditions permit.

*Bank loans.*—The interest equalization tax as originally applied affected only one segment of financial transactions involving U.S. residents and foreigners. Thus, while the tax successfully curbed the outflow of funds for portfolio investment in the tax countries, the increase in types of capital outflows not covered by the tax was substantial (as shown in table 4). For example, net long-term bank loans to foreigners by U.S. banks exceeded $900 million in 1964, or nearly $200 million more than in 1963. At the same time, net short-term bank loans exceeded $1,500 million, or nearly $750 million more than in 1963. Other net short-term capital outflows, many of which represented the temporary investment of corporate funds, amounted to nearly $600 million in 1964, as compared to almost nothing in 1963. Finally, net direct investment abroad by U.S. companies amounted to $2,400 million in 1964, or over $400 million more than in 1963.

In the case of long-term bank loans, it became increasingly apparent during the last half of 1964 that, to a substantial extent, such loans were being substituted, directly or indirectly, for the sale of securities in the U.S. capital market. This was particularly true of continental West Europe. Following a sharp increase in private capital outflows in the final months of 1964—including a substantial increase in long-term commercial bank loans to industrial countries (as shown in table 5)—the President, on February 10, exercised the authority granted him under the act to make the tax applicable to commercial bank loans to foreigners where the loans had a maturity of 1 year or more.

TABLE 5.—*Long-term commercial bank loan commitments to foreign countries, 1964–65 (through May)*

[In millions of dollars]

| | 1964 | | 1965 | |
|---|---|---|---|---|
| | January–June | July–December | Jan. 1–Feb. 10 [1] | Feb. 11–May [2] |
| Total all areas | 902 | 1,379 | 788 | 289 |
| Industrial countries | 582 | 772 | 571 | [3] 62 |
| Western Europe | 271 | 495 | 233 | 23 |
| Other | 313 | 278 | 337 | 39 |
| Less-developed countries | 320 | 607 | 217 | 227 |
| Latin America | 203 | 404 | 98 | 133 |
| Other | 117 | 203 | 120 | 95 |

[1] Date of President's balance-of-payments message to the Congress.
[2] Preliminary.
[3] Of which about $20,000,000 was exempt from tax.

NOTE.—Subtotals may not add due to rounding.

Source: Treasury Department.

Your committee believes that the action taken by the President in applying the tax to bank loans was justified. It is necessary to supplement this action, however, by applying the tax to purchases by Americans of foreign debt obligations with maturities of 1 year or more. In the absence of such a provision, the tax would discriminate against American banks as sources of 1- to 3-year term credit. Extension of the tax to these other 1- to 3-year debt obligations was also necessary to prevent widespread avoidance through the issuance of these debt obligations as a substitute for bank loans. Your committee's bill, therefore, applies the tax to purchases by Americans of foreign debt obligations with a maturity of 1 year or more. The provision thereby applies the same treatment to nonbank lenders as is now applied to bank lenders.

## III. GENERAL EXPLANATION OF THE BILL

*1. Short title, etc. (sec. 1 of the bill)*

This act is to be cited as the Interest Equalization Tax Extension Act of 1965.

*2. Extension of interest equalization tax (sec. 2 of the bill and sec. 4911(d) of the code)*

Under present law the interest equalization tax terminates as of December 31, 1965. Your committee has extended the application of this tax for a year and seven months or until July 31, 1967. The reasons for continuing this tax have been set forth in part II "Reasons for the Bill."

*3. Imposition of tax on debt obligations having maturity of 1 to 3 years (sec. 3 of the bill and sec. 4911 of the code)*

Under present law, the interest equalization tax applies only to debt obligations (other than bank loans) having a period to maturity of 3 years or more. For these debt obligations, present law provides a sliding schedule of tax rates varying from 15 percent on obligations with a maturity of 28½ years or more down to 2.75 percent for those with a maturity of 3 to 3½ years. Under the authority granted the President in the initial act to apply the tax to bank loans was included the authority to impose the tax on bank loans with a period to maturity of 1 year or more. It was thought that in the case of bank loans the President might well find it desirable to apply the tax to loans for a period of 1 year or more rather than merely to those for 3 years or more because of the ease with which the longer term bank loans could be converted to shorter term periods. The President, in exercising his authority to tax bank loans, under Executive Order 11198, decided to tax those with periods to maturity of 1 year or more. At the same time, however, he recommended that Congress tax other debt obligations with periods to maturity of 1 to 3 years. This was proposed in order to equate the treatment of these obligations with that provided for bank loans under the Executive order. In addition, this was believed desirable in order to prevent avoidance of tax by shortening the term of maturity of debt obligations below the 3-year period.

For the reasons indicated above, your committee's bill extends the interest equalization tax to debt obligations of 1 to 3 years (not already taxed as bank loans) under the following schedule of rates:

| | Percent |
|---|---|
| At least 1 year, but less than 1¼ years | 1.05 |
| At least 1¼ years, but less than 1½ years | 1.30 |
| At least 1½ years, but less than 1¾ years | 1.50 |
| At least 1¾ years, but less than 2¼ years | 1.85 |
| At least 2¼ years, but less than 2¾ years | 2.30 |
| At least 2¾ years, but less than 3 years | 2.75 |

This is the same schedule of rates applying to bank loans.

The bill provides generally that debt obligations with a period to maturity of 1 to 3 years, initially subjected to tax by this bill, are to be taxed if acquired after February 10, 1965, the date of the announcement made by the President. However, tax is not to apply to acquisitions made after that date in the case of certain preexisting commitments, in much the same manner as under the original act. The tax is not to apply to acquisitions after that date in the case of commitments to acquire obligations which on February 10 were unconditional or were subject only to conditions contained in a formal contract under which partial performance had already occurred. Alternatively, tax is not to apply in the case of acquisitions after February 10, where before that date the U.S. person acquiring the debt had taken every action to signify approval of the acquisition under procedures ordinarily employed in these types of transactions and had sent to the foreign person written evidence of the approval in the form of a commitment letter, etc.

In the case of public offerings, the bill will not apply to debt obligations with a maturity of 1 to 3 years where the obligations were acquired on or before April 12, 1965, if certain actions signifying an intent to offer the bonds were taken on or before February 10. For the April 12 date to apply, a registration statement must have been in effect at the time the debt obligation was acquired, the registration statement must have been first filed with SEC on February 10 or within the period of 90 days before that time and no amendment can have been filed with SEC after February 10 and before the date of the acquisition increasing the amount of debt obligations covered by the registration statement.

Additionally, the new provision with respect to tax on maturities of 1 to 3 years is not to apply to debt obligations acquired as the result of a foreclosure under terms of an instrument held by the creditor on February 10, 1965.

The bill makes special provision for filing returns with respect to acquisitions made subject to tax because of the shorter maturities covered by the bill during the period commencing on February 11, 1965, and closing at the end of the calendar quarter in which the bill is enacted. For acquisitions in this period, returns are to be filed on or before the last day of the first month following the close of the calendar quarter in which the enactment of this bill occurs (or at any later time provided in regulations prescribed by the Secretary of the Treasury or his delegate).

*4. Exception for export leases (sec. 4(a) of the bill and sec. 4914 (c)(6) of the code)*

Present law provides a series of exclusions from the tax for stock and debt obligations of foreign issuers or obligors which are acquired in connection with export trade transactions. One of these is the exclusion for debt obligations acquired by a U.S. person from a foreign obligor in connection with a sale of tangible personal property or services to the foreigner by an American. This exclusion is designed to prevent the interest equalization tax from adversely affecting American export trade since this trade has a favorable effect on the U.S. balance of payments. In general, this exclusion is applicable if the sale by the American is made in the ordinary course of his trade or business, and not less than 85 percent of the purchase price is attributable to the sale of property manufactured, produced, grown or extracted in the United States or to the performance of services by the American.

It has come to the attention of your committee that some U.S. export transactions take the form of a lease instead of a sale—the American acquiring a debt obligation from the foreign lessee as part of the transaction. The exclusion in present law for export sales does not apply to these export leases. Since an export lease may be entered into for valid business reasons as an alternative to an export sale and has the same favorable effect on the U.S. balance of payments, your committee concluded that the tax should not apply to the acquisition of foreign debt obligations in an export lease transaction.

Your committee's bill therefore provides an exclusion, paralleling the export sale exclusion, excepting from the tax foreign debt obligations acquired in an export lease transaction. Under this exception, the tax is not to apply to acquisitions by an American of debt obligations from a foreign obligor if the debt obligation arises out of a lease of personal property to the obligor by the American, and if at least 85 percent of the amount to be paid under the lease is attributable to the use of tangible personal property which was manufactured, produced, grown, or extracted in the United States by the American, or to the performance of services (pursuant to the terms of the lease) by the American with respect to the personal property, or to both. For purposes of this provision there is no requirement that the period of the debt obligation and the period of the lease be the same.

In addition, as in the case of export sales, the bill makes applicable to the acquisition of one of these debt obligations of a foreign lessee the provisions of existing law which, in effect, make the acquisition taxable if the American transfers the obligation to another American other than a commercial bank (in the ordinary course of its commercial banking business) or other than to an agency or wholly owned instrumentality of the United States.

The bill exempts from the tax the acquisition by a commercial bank of an export-lease debt obligation if the extension of credit and the acquisition of a debt obligation by the bank are reasonably necessary to accomplish the leasing of the property or services out of which the debt obligation arises. Also, the terms of the debt obligation must not be unreasonable in the light of credit practices in the business in which the U.S. person leasing the property or services is engaged.

These amendments are effective with respect to export lease debt obligations acquired after February 10, 1965.

*5. Construction loans (sec. 4(b) of the bill and sec. 4914(h) of the code)*

Presently, the interest equalization tax does not apply to the acquisition of a foreign debt obligation which is part of the purchase price of real property located in the United States (or if the obligation arises out of a loan used to purchase the real property) provided the debt obligation is secured by the property purchased, the seller is a U.S. person, and 25 percent or more of the purchase price is paid to the seller by the foreign person, at the time of sale, in U.S. currency not obtained from Americans.

Although the above-described provision exempts from tax debt obligations arising in connection with the purchase of real property located in the United States, it does not exempt from tax loans made to finance construction of buildings in the United States by foreigners. Your committee believes that the reasons for the present exemption are also applicable to loans made to finance construction by foreigners in the United States.

The bill therefore provides an exemption for construction loans to foreigners where the loans obtained in the United States finance no more than 75 percent of the construction costs with at least 25 percent coming from foreign sources. Also, at least 85 percent of the cost of the construction must be attributable to property produced in the United States and to the performance of services by Americans. The exemption also applies if the loan is used to refinance a previous construction loan (which would have qualified under this provision) if the repayment occurs within 5 years after the loan is made.

In determining whether 75 percent of the loan came from U.S. sources, construction costs which are not attributable to tangible property or services, such as interest and taxes, are to be taken into account. However, in determining whether 85 percent of the cost of the construction is attributable to property produced in the United States and the performance of service by Americans, these indirect costs are not to be taken into account (in either the numerator or the denominator). In addition, cost of construction for purposes of this provision is intended to include the cost of building materials on hand for use as well as those already used.

Questions have been raised with your committee as to whether FHA-insured loans to a U.S. corporation for construction purposes, where more than 75 percent of the construction cost is provided through the loan and a minority stock interest is held by shareholders who are foreigners constitute taxable transactions (under sec. 4912(b)(3)) on the grounds that the corporation is being availed of primarily for avoidance purposes. Your committee does not believe that this represents a case where the corporation is being availed of for avoidance purposes and has been assured by the Treasury Department that it also shares this view.

This provision applies to acquisitions made after February 10, 1965.

*6. Student loans (sec. 4(c) of the bill and sec. 4914(b)(13) of the code)*

Presently, due to the fact that the President has exercised his authority to extend the interest equalization tax to commercial bank loans with a period to maturity of 1 year or more, loans made by U.S.

banks to foreign students, even though in the United States for the purpose of attending a college or university, are subject to the interest equalization tax. Furthermore, since this bill extends the application of the interest equalization tax generally to debt obligations of foreigners with a period remaining to maturity of 1 year or more, any college or university making such a loan directly to a foreign student would also be liable for the tax.

Your committee believes that loans to foreign students for educational purposes should be exempt from tax. These loans are expended in the United States and therefore have no adverse effect on the balance of payments. Also, this exemption can be considered an extension of the present export exemption since the schools in effect are "exporting" educational services to foreign students.

The bill therefore provides an exemption for loans made by an American to a foreign student attending an American educational institution on a full-time basis to the extent the loans do not exceed $2,500 in any one calendar year.

This amendment is effective with respect to acquisition of debt obligations made after February 10, 1965.

*7. Tangible property held for personal use (sec. 4(d) of the bill and sec. 4914(b)(14) of the code)*

Under present law, debt obligations arising from the sale of a residence, an automobile used for personal purposes, or other tangible property used for personal purposes are subject to interest equalization tax where the person making the sale and acquiring the debt is an American even though residing abroad and selling the property to a foreigner. Under present law, however, tax is unlikely to be applied to any appreciable extent in these cases since only debt obligations with 3 years or more to maturity are subject to tax. However, as previously explained this bill extends the tax to 1- to 3-year debt obligations and therefore many of these types of transactions occurring after February 10, 1965, would (in the absence of this provision) be taxable.

Your committee believes that transactions of this type should not come within the purview of the interest equalization tax. For that reason, the bill provides that debt obligations acquired by Americans in connection with the sale of tangible property located outside of the United States where the property has been held for personal use are not to be subject to the interest equalization tax.

This amendment is effective with respect to debt obligations acquired after February 10, 1965.

*8. Certain foreign branch acquisitions (sec. 4(e) of the bill and sec. 4914(b)(2) of the code)*

The interest equalization tax as initially enacted did not apply to loans made to foreign persons by a commercial bank in the ordinary course of its commercial banking business. However, that act authorized the President to extend the tax to commercial banks if he determined that such transactions had materially impaired the effectiveness of the tax. The President exercised a portion of this authority (Executive Order 11198) on February 10, 1965, but did not extend the tax to loans by foreign branches of commercial banks repayable exclusively in foreign currency. However, banks performing other

than banking functions have been subject to the tax to this extent, from the time of its initial imposition.

It has come to the attention of your committee that in at least one country, commercial banks are permitted to acquire securities in the ordinary course of their banking business as a means of investing bank funds for short periods of time (due to the absence of a short-term money market) and because under the country's banking laws it is considered a proper function of banks to effect securities transactions as brokers and dealers for their depositors and customers. At least one branch of an American corporation is engaged in such a banking business.

Your committee concluded that an exemption from tax was appropriate in such a case. In part this conclusion is based on the fact that the bank, although to a limited extent dealing in securities, is performing no more than what is considered a normal banking function in the foreign country and would (except for the security transactions) be exempt from tax. In part the view that an exemption should be available is based on the fact that all such transactions are carried on with foreign currency deposits of foreign depositors and therefore do not adversely affect our balance of payments.

For the reasons indicated above, the bill provides a limited exemption for stock and debt obligations acquired by a foreign banking branch of a U.S. person which do not constitute debt obligations acquired in the ordinary course of the bank's business. To qualify the adjusted basis of such stock and debt obligation may not exceed 3 percent of the deposits of its non-U.S. bank customers which are payable in the currency of the country in which the branch is located. The provisions of the amendment also require that the branch must be a member of a foreign stock exchange all the members of which are banks (determined under the laws of the country wherein the branch is located). This must have been true both when the interest equalization tax was first effective, July 18, 1963, and when the announcement was made of this decision by your committee; namely, June 29, 1965.

The exemption is available only in the case of stock or debt obligations acquired by a foreign branch in connection with its banking business. For this purpose, banking business is to have the same meaning as under the banking laws of the country in which the branch is located. However, the reference in the bill to stock or debt obligations which would be excluded from tax without regard to the new provision are to stock and debt obligations which would be excludable as loans made in the ordinary course of its commercial banking business.

If a branch acquires stock or debt obligations which qualify for this exemption, it may not issue certificates of American ownership if they are transferred.

This provision applies to acquisitions made after July 18, 1963.

*9. Current designation by insurance companies (sec. 4(f) of the bill and sec. 4914(e)(3)(B) of the code)*

Under present law, insurance companies are allowed to acquire tax-free foreign securities equal to 110 percent of reserves required for foreign insurance policies. However, generally, the foreign securities held in such a fund must have been designated by the company within

30 days of their acquisition for the tax-free status to be available. In the past, debt obligations with a maturity of less than 3 years were not designated for such a fund because in any event they were not subject to interest equalization tax. For acquisitions beginning after February 10, 1965, however, this bill provides that 1- to 3-year term debt obligations are to be subject to tax. However, these 1- to 3-year term obligations cannot properly be designated for allocation to such a fund until they become taxable. They become taxable only after this bill is enacted but then are given this status as of February 11, 1965, or long after the 30-day designation period has expired in the case of many of the acquisitions.

Your committee's bill, therefore, provides a special 30-day period for designation of these 1- to 3-year bonds acquired after February 10 and before the date of enactment of this bill. This special 30-day period begins with the date of enactment of the bill or such designation may be made at such later time as the Secretary of the Treasury or his delegate prescribes by regulations.

*10. Less developed country exclusions (sec. 4(g) of the bill and sec. 4916(c)(1) of the code)*

Under present law, corporations meeting certain tests are classified as "less developed country corporations." In general, these are corporations which derive 80 percent or more of their income from less developed countries and use, or hold for use, 80 percent or more of their assets in connection with the production of income in less developed countries. Investments in these less developed country corporations are not subject to the interest equalization tax.

Your committee's bill extends to U.S. purchasers of interests in partnerships which qualify as less developed country partnerships the same exclusion which is presently extended to stock investments of less developed country corporations. This is provided because your committee sees no reason for distinguishing for this purpose between interests in partnerships and holdings in corporations.

This provision is effective with respect to partnerships interests acquired after February 10, 1965.

Your committee also is concerned with the listing of countries presently qualifying as less developed countries. In part, present law specifies the countries not to be characterized as less developed countries. These include a listing of clearly developed countries and also countries within the Sino-Soviet bloc. The President has authority to specify other countries not treated as less developed countries for purposes of the exclusion from the interest equalization tax and has exercised this authority to list five additional countries as developed. Your committee believes that the administration should continually review the listing of countries considered less developed to be sure that the list is appropriate for purposes of the interest equalization tax.

*11. Notice of acquisition for exclusion of original or new issues (sec. 4(h) of the bill and sec. 4917(a) of the code)*

Under present law, the interest equalization tax applies only to the acquisition of debt obligations (other than bank loans) having a period remaining to maturity of 3 or more years. As explained elsewhere, this bill extends the tax to acquisitions after February 10, 1965, of debt obligations with a period remaining to maturity of 1 to 3 years.

However, debt obligations having this 1- to 3-year maturity period may still quality for the exemption under the provision relating to international monetary stability. However, to be exempt under that provision, the required notice of acquisition must be filed with respect to the acquisition.

A special problem is presented for the period between February 10, 1965, and the date of enactment of this bill for Americans who acquire the 1- to 3-year term debt obligations which are eligible for exemption under the international monetary stability provision (in much the same way as in the case of designations by insurance companies with foreign policies described in No. 9 above). The application of the tax to these debt obligations will cause their acquisition to be subject to the tax in the absence of the filing of the notice of acquisition. At the same time it is impossible to file notices of examption under the international monetary stability provision because, until the enactment of this bill, these obligations would in no event be subject to tax and therefore until the date of enactment an exemption with respect to them could not be filed under the international monetary stability provision.

The bill provides that in the case of acquisitions of debt obligations of the type described above, which will be subject to the tax after February 10, 1965, but which are excludable under the international monetary stability provision, the notice of acquisition can be filed during a period to be designated by the Secretary of the Treasury or his delegate beginning after the date of enactment of this bill. Presumably this will be at least a 30-day period.

*12. Dealers' stock resale exemption (sec. 4(i) of the bill and sec. 4919(a)(3) of the code)*

Generally, dealers are subject to the interest equalization tax on their acquisition of foreign stock or debt obligations. However, they may recover the tax in certain cases if they resell to foreign persons. In the case of debt obligations, a refund or credit is available if the obligations are resold to a foreign person within 90 days after purchase. In the case of stock, the resale must occur on the day of purchase or the next 2 business days for the exemption to apply. This latter provision is known as the arbitrage exemption. In addition, refund or credit is available in the case of sales on a national securities exchange where a second dealer undertakes to resell a debt obligation on the day of purchase or the next day of business to a foreign person, or where a dealer sells stock subject to a "special contract" or, in effect, sells it on the foreign market. In addition, debt obligations may be sold in over-the-counter markets from one dealer to another where the second dealer resells the debt obligation on the day of purchase or on the next business day to a foreign person. No such procedure in the case of over-the-counter sales is available, however, in the case of the sales of stock from one dealer to another.

This disparity of treatment of stocks and debt obligations in the case of the over-the-counter market was necessary at the time of the enactment of the interest equalization tax because no confirmation procedure had at that time been worked out by the National Association of Securities Dealers for foreign stock resales corresponding to the procedures they had worked out for foreign debt obligations. However, the necessary rules for confirmation procedures are now being established.

The bill, therefore, allows a dealer to claim a credit or refund for sales of stock in over-the-counter transactions where the sale is made to another dealer who then sells the stock on the same day or on the next business day to foreign persons. This accords the same credit or refund procedure for sales of stock in over-the-counter transactions as is presently available for stocks sold through national securities exchanges or bonds sold either through such exchanges or over the counter.

This provision is to become effective for acquisitions after February 10, 1965.

*13. Foreign branches of U.S. financing companies (sec. 4(j) of the bill and sec. 4920(a)(5A) of the code)*

Under present law, the interest equalization tax generally applies to acquisitions by Americans of stock of a foreign corporation or of foreign debt obligations with a remaining maturity of 3 years or more. As a result tax generally does not apply where foreign branches of U.S. financing companies lend local currency to finance the purchase of products manufactured or assembled by related corporations because such consumer-type loans usually have a period to maturity of less than 3 years.

This bill's extension of the interest equalization tax to foreign debt obligations with a remaining maturity of 1 to 3 years would (in the absence of this exclusion) subject to tax foreign consumer loans of this type. Imposing tax on these loans might well have an adverse effect on the already existing business of the related corporation which produced the products financed by these loans. Moreover such loans, because they can be expected to be financed out of foreign funds, would generally have little adverse effect on our balance of payments.

The bill provides an election which exempts loans such as those described above by treating certain foreign branches of American financing corporations as separate foreign corporations. In order to qualify, the branch, and the financing company as a whole, must, for the taxable year involved, be primarily engaged (90 percent) in the trade or business of making consumer-type loans to finance the purchase of products produced or assembled by a related corporation. The branch's loans must be repayable exclusively in foreign currency. The foreign branch also must have been in operation on February 10, 1965, and for the prior 12 months and must maintain separate books and records. A branch which elects to avail itself of this exemption will not be allowed to issue certificates of American ownership. Transfers (including transfers for consideration) made to it will be taxable as if made to a foreign corporation.

A separate election may be made for different branch offices but all branches located within a single country must be treated as a single branch for this purpose. As a result, all of the tests described above must be met on the basis of the entire business done within a single country by all branches.

This provision applies to acquisitions made after February 10, 1965.

*14. Foreign stock issues treated as domestic (sec. 4(k) of the bill and sec. 4920(a)(8) of the code)*

Under present law a class of stock of a foreign corporation which was chiefly owned by Americans or primarily traded on U.S. security markets prior to the application of the interest equalization tax is treated as stock of a domestic corporation. Therefore, the shares of such class of stock can be traded free of the tax. Specifically, the tax does not apply if as of the latest record date before July 19, 1963: (1) more than 65 percent of such class of stock was held of record by U.S. persons; or (2) the class of stock was traded on one or more national securities exchanges registered with the Securities and Exchange Commission which constituted the principal market during 1962 for the class of stock and 50 percent of such class of stock was held of record by U.S. persons.

The Internal Revenue Service has interpreted this provision as exempting only those shares of a class which were issued and outstanding as of the corporation's latest record date before July 19, 1963 (Rev. Proc. 64-50). However, since this interpretation had not generally been expected by taxpayers, the Service took the position that in addition to the shares which it considered exempt, the exemption would also apply to identical shares which were: (1) issued on or before November 10, 1964; (2) issued after that date pursuant to a written commitment made on or before that date; or (3) issued after that date in exchange solely for otherwise qualifying shares of stock. Shares issued after November 10, 1964, to employees of a foreign corporation pursuant to stock option plans in existence on or before that date would be treated as part of an exempt class of stock under this provision if such shares are identical with shares of an exempt class of stock, whether or not such employees were employed by the issuing corporation until after November 10, 1964, and whether or not the corporation was required to authorize the issuance of additional shares after that date in order to meet its obligations under the plan.

Since this provision was originally intended to grant an exemption for stocks of a foreign corporation in which there was substantial American ownership, there appears no reason not to extend the exemption to new shares of the same class issued by such a corporation so long as certain safeguards are met and the original tests requiring a specific degree of American involvement continue to be satisfied.

The bill provides that the exemption provided by the present law is to continue and the Internal Revenue Service interpretation of what constitutes a "class of stock" is codified. Additionally, identical shares of a class of stock exempt under the present provision can be issued after November 10, 1964, provided on July 19, 1963, the corporation had 250 shareholders and was actively engaged in a trade or business. The corporation must also continue to meet the American involvement tests (65 percent U.S. ownership, or 50 percent U.S. ownership for those which were principally traded on American exchanges). In addition the entire new issue must be such as would qualify for an exemption as an issue of a less-developed country corporation, of a corporation in a country to which the international monetary stabilization exemption applies (Canada) or made in certain tax-free reorganizations.

This provision applies to acquisitions made after November 10, 1964.

*15. Foreign currency deposits of foreign branch banks (sec. 4(l) of the bill and sec. 4931(c)(2) of the code)*

Although the President has exercised his authority and extended the interest equalization tax to commercial bank loans, acquisitions by commercial banks at branches located outside of the United States of foreign debt obligations repayable in foreign currencies still are exempt (Executive Order 11198). However, the President has the authority at some future time to subject foreign branch acquisitions to the interest equalization tax although the act provides a minimum exemption in the event he takes this action. Under the minimum foreign branch exemption, a foreign branch of a commercial bank is not to be taxable on the acquisition of debt obligations of foreigners, made in the ordinary course of the commercial banking business, to the extent that such loans do not exceed 110 percent of the branches' foreign currency deposits of other than banks.

The deposits of foreign banks may constitute a substantial proportion of a branch's foreign currency deposits with the result that the amount of the foreign currency which the branch could lend free of the interest equalization tax could be substantially reduced. Your committee sees no reason for excluding the deposits of foreign banks from such a branch's permissible loan base since these also represent foreign currency deposits and are no more likely to have an adverse effect on our balance of payments than the branch's other foreign currency deposits.

The bill provides that if the President exercises his authority, to make loans by foreign bank branches of U.S. persons taxable, the branches will be permitted to include within their loan base (for purposes of computing the 110-percent fund representing foreign securities free of tax) the foreign currency deposits received by them from any bank other than a U.S. person engaged in the commercial banking business, or its affiliates.

This provision applies for acquisitions made after February 10, 1965.

*16. Acquisitions from U.S. persons (sec. 4(l)(2) of the bill and sec. 4931(c) of the code)*

Under present law, generally where there is prior American ownership foreign stock or debt obligations can be purchased free of tax. This exemption was denied U.S. commercial bank acquisitions of foreign debt obligations, with remaining maturity of 1 to 3 years, because if the President chose, and he subsequently did, to exercise his authority to extend the interest equalization tax to commercial bank loans with a period to maturity of 1 year or more, commercial banks would be the only group of lenders which would be subject to the tax on loans of 1 to 3 years' maturity. To have permitted them to acquire 1 to 3 year term debt free of tax because of a certificate of prior American ownership would have enabled them to avoid the tax by purchasing 1 to 3 year term foreign obligations from Americans who in turn had just acquired them from foreigners.

This bill provides that all lenders are to be taxable on 1- to 3-year loans and since commercial banks will no longer be the only group of lenders subject to the tax on loans of such a maturity, there is no longer a need for the prohibition on the use of American ownership certificates by commercial banks acquiring 1- to 3-year debt obligations. Therefore, the bill will permit commercial banks to acquire

these 1 to 3 year term obligations under certificates of American ownership without payment of tax.

This provision applies to acquisitions after February 10, 1965.

*17. Deductibility of interest equalization tax (sec. 4(m) of the bill and sec. 263(d) of the code)*

Under present law the income tax treatment of the interest equalization tax depends upon whether or not the taxpayer is reimbursed for any part of the tax. To the extent that he is not reimbursed, the interest equalization tax is a nondeductible capital expenditure. If he is reimbursed for any part of the tax, the amount received as reimbursement is included in his income and an equal amount of tax is deductible by him. However, the deduction is allowed only if, and to the extent that, the reimbursement income and the tax deduction are both properly taken into account for the same taxable year.

The present income tax deduction was granted on the basis that it would not be equitable to impose the interest equalization tax on a person and also impose an income tax on the reimbursement.

Therefore, the bill contains an amendment to allow a deduction for interest equalization tax paid or accrued to the extent the reimbursement is included in income in either the same year or a subsequent year.

This provision is effective for taxable years ending after September 2, 1964.

## IV. TECHNICAL EXPLANATION OF THE BILL

### SECTION 1. SHORT TITLE, ETC.

(*a*) *Short title.*—Subsection (a) of section 1 of the bill as reported provides that the bill may be cited as the "Interest Equalization Tax Extension Act of 1965."

(*b*) *Amendment of 1954 code.*—Subsection (b) of section 1 of the bill provides that, except as otherwise expressly provided, whenever in the bill an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Internal Revenue Code of 1954.

### SECTION 2. EXTENSION OF INTEREST EQUALIZATION TAX

Section 2 of the bill amends section 4911(d) of the code to extend the termination date of the interest equalization tax from December 31, 1965, to July 31, 1967.

### SECTION 3. IMPOSITION OF TAX WITH RESPECT TO DEBT OBLIGATIONS HAVING MATURITY OF 1 TO 3 YEARS

(*a*) *Imposition of tax.*—Subsection (a) of section 3 of the bill imposes a tax on the acquisition of a debt obligation of a foreign obligor having a period remaining to maturity of at least 1 year but less than 3 years by striking out "3 years" each place it appears and inserting in lieu thereof "1 year" in sections 4911(a), 4914(e)(3)(D), 4914(e)(3)(E)(ii), and 4920(a)(7)(B)(iv).

(*b*) *Amount of tax.*—Subsection (b) of section 3 of the bill amends section 4911(b)(2) of the code by striking from the table the line reading:

| | |
|---|---|
| "At least 3 years, but less than 3½ years | 2.75 percent", |

and inserting in lieu thereof the following:

| | |
|---|---|
| "At least 1 year, but less than 1¼ years | 1.05 percent |
| At least 1¼ years, but less than 1½ years | 1.30 percent |
| At least 1½ years, but less than 1¾ years | 1.50 percent |
| At least 1¾ years, but less than 2¼ years | 1.85 percent |
| At least 2¼ years, but less than 2¾ years | 2.30 percent |
| At least 2¾ years, but less than 3½ years | 2.75 percent". |

(*c*) *Effective date.*—Subsection (c) of section 3 of the bill contains the effective date provisions applicable to the amendments made by subsections (a) and (b) of section 3.

*General rule*

Paragraph (1) of section 3(c) of the bill sets forth the general rule that, except as otherwise provided in paragraphs (2), (3), and (4), the amendments made by subsections (a) and (b) of section 3 of the bill apply with respect to acquisitions of debt obligations, and designations of debt obligations described in section 4914(e)(3)(D) or 4914(e)(3)(E)(ii) of the code, made after February 10, 1965.

*Preexisting commitments*

Paragraph (2) of section 3(c) of the bill provides that the amendments made by subsections (a) and (b) of section 3 do not apply to an acquisition—

(A) made pursuant to an obligation to acquire which on February 10, 1965, was unconditional, or was subject only to conditions contained in a formal contract under which partial performance had occurred; or

(B) as to which on or before February 10, 1965, the acquiring U.S. person (or, in a case where two or more U.S. persons are making acquisitions as part of a single transaction, a majority in interest of such persons) had taken every action to signify approval of the acquisition under the procedures ordinarily employed by such person (or persons) in similar transactions and had sent or deposited for delivery to the foreign person from whom the acquisition was made written evidence of such approval in the form of a commitment letter, memorandum of terms, draft purchase contract, or other document setting forth, or referring to a document sent by the foreign person from whom the acquisition was made which set forth, the principal terms of such acquisition, subject only to the execution of formal documents evidencing the acquisition and to customary closing conditions.

*Public offering*

Paragraph (3) of section 3(c) of the bill provides that the amendments made by subsections (a) and (b) of section 3 do not apply to an acquisition of debt obligations made on or before April 12, 1965, if—

(A) a registration statement (within the meaning of the Securities Act of 1933) was in effect with respect to the debt obligation acquired at the time of its acquisition;

(B) the registration statement was first filed with the Securities and Exchange Commission on February 10, 1965, or within 90 days before that date; and

(C) no amendment was filed with the Securities and Exchange Commission after February 10, 1965, and before the acquisition which had the effect of increasing the aggregate face amount of the debt obligations covered by the registration statement.

*Foreclosures*

Paragraph (4) of section 3(c) of the bill provides that the amendments made by subsections (a) and (b) of section 3 do not apply to an acquisition of debt obligations as a result of a foreclosure by a creditor pursuant to the terms of an instrument held by such creditor on February 10, 1965.

*Executive order not affected*

Executive Order 11198, issued February 10, 1965, will not be affected by the provisions of paragraphs (2), (3), and (4) of section 3(c) of the bill. For rules governing preexisting commitments with respect to acquisitions of debt obligations by commercial banks, see existing section 4931(d)(3) of the code.

(*d*) *Returns*.—Subsection (d)(1) of section 3 of the bill provides that, notwithstanding any provision of section 6011(d)(1) of the code, the first period for which returns are to be made under such section 6011(d)(1) with respect to acquisitions made subject to tax by section

3 of the bill is the period commencing February 11, 1965, and ending at the close of the calendar quarter in which the enactment of the bill occurs.

Paragraph (2) of section 3(d) of the bill provides that, notwithstanding any provision of section 6076 of the code, the first return with respect to acquisitions made subject to tax by section 3 of the bill must be filed on or before the last day of the first month following the close of the calendar quarter in which the enactment of the bill occurs, or at such later time as may be provided in regulations prescribed by the Secretary of the Treasury or his delegate.

(*e*) *Conforming amendments*.—Section 3(e)(1) of the bill provides that, effective as provided in section 3(e)(2), section 4931 of the code is amended by striking out subsection (c) and redesignating subsections (d) and (e) as (c) and (d), respectively, and by making certain other conforming changes.

Section 3(e)(2) of the bill provides that Executive Order 11198, issued February 10, 1965, is not affected by the amendments made by section 3 of the bill and continues to apply as though such amendments had not been made. The amendments made by section 3(e) of the bill take effect only at such time as may be provided in a modification hereafter made (in accordance with section 4931 of the code) in such Executive order.

## SECTION 4. OTHER AMENDMENTS

(*a*) *Certain export leases*.—Paragraphs (1) and (2) of section 4(a) of the bill amend section 4914 (b)(6) and (c) to provide an exclusion from interest equalization tax for the acquisition from a foreign obligor of a debt obligation of such foreign obligor arising out of a lease of personal property to such obligor by the acquiring U.S. person if not less than 85 percent of the amount to be paid under the lease (determined as of the date of acquisition of the debt obligation) is attributable to—

(1) the use of tangible personal property which was manufactured, produced, grown, or extracted in the United States by such U.S. person (or by one or more includible corporations in an affiliated group, as defined in sec. 1504 of the code, of which such person is a member), or

(2) the performance of services pursuant to the terms of the lease by such U.S. person (or by one or more such corporations) with respect to such personal property.

Paragraph (3) of section 4(a) of the bill amends section 4914(j)(1) (relating to loss of entitlement to exclusion in case of certain subsequent transfers) to extend the provisions of that section to transfers of debt obligations described in section 4914 (b)(6) and (c)(6), as amended by the bill.

Paragraph (4) of section 4(a) of the bill amends the provision redesignated as section 4931(c)(1) to allow commercial banks to acquire debt obligations arising out of a lease of property described in that paragraph whether the acquisition occurs through making a loan, paying an amount of money, or giving other consideration to acquire such debt obligation.

(*b*) *Construction loans*.—Section 4914 (b)(11) and (h) of existing law provide for an exclusion from the interest equalization tax for

acquisitions of debt obligations arising out of the purchase of real property and related personal property located in the United States. Section 4(b) of the bill amends section 4914 (b)(11) and (h) to provide an exclusion for the acquisition of debt obligations relating to construction of improvements on real property located in the United States.

Paragraphs (1)(A) and (2)(A) of the new section 4914(h) restate the provisions of existing section 4914(h) (1) and (2) which permit the exclusion from tax of the acquisition of a debt obligation which is part of the purchase price of improved or unimproved real property (and related personal property) located in the United States, or of a debt obligation arising out of a loan made for the purpose of purchasing such real property, if (1) the debt obligation is secured by such real property, (2) the seller of such real property is a U.S. person, and (3) at least 25 percent of the purchase price of the property sold is, at the time of such sale, paid in U.S. currency from funds which have not been obtained from U.S. persons for the purpose of purchasing such property. For purposes of section 4914(h)(1)(A), the term "related personal property" means personal property which is sold in connection with the sale of real property for use in the operation of such real property.

Under the new section 4914(h)(1)(B), the interest equalization tax does not apply to the acquisition of a debt obligation from a foreign obligor which is secured by real property located in the United States on which improvements are under construction by the obligor, if such debt obligation arises out of a loan made by such U.S. person all of the proceeds of which are used to finance the construction of such improvements. The exclusion also applies if the proceeds of a loan are used to repay all or any part of a loan made to finance such construction, if the construction loan has qualified under section 4914(h)(2)(B) (or would have so qualified if such provision had been in effect at the time of the making of the construction loan) and the repayment occurs within 5 years after such construction loan is made.

Section 4914(h)(2)(B) contains two conditions which must be satisfied before the exclusion relating to construction loans is applicable. First, at the time any proceeds of the loan out of which such debt obligation arises are advanced, an amount equal to at least one-third of the amount of such advance, plus one-third of the amount of any previous advances of such proceeds, must have been expended for such construction by the foreign obligor in U.S. currency from funds not obtained from U.S. persons for the purpose of financing such construction. Second, not less than 85 percent of the cost of such construction attributable to property or services must be attributable to property grown, extracted, manufactured, or produced in the United States, or to services performed by U.S. persons, or to both.

For purposes of section 4914(h), the term "real property" includes a leasehold interest in real property.

(c) *Student loans.*—Section 4(c) of the bill amends section 4914(b) of the code by adding to the excluded acquisitions set forth in that section a new paragraph (13). The new paragraph provides an exclusion from tax of certain debt obligations acquired by a U.S. person from a foreign obligor registered as a full-time student at an educational institution (as such an institution is defined in sec. 151(e)(4) of the code) in the United States. The exclusion would

only apply to acquisitions of such debt obligations from any one obligor which, during any calendar year, amounted to $2,500 or less. This dollar limitation is to be applied (1) separately with respect to each acquiring person, and (2) only with respect to debt obligations having (at the time of acquisition) a period remaining to maturity of 1 year or more.

The application of section 4914(b)(13) is illustrated by the following example: On September 1, 1965, A and B, domestic banking corporations, each lend $1,500 to F, a foreign student registered as a full-time student at X University (an educational institution within the meaning of sec. 151(e)(4)) located in the United States and each receives from F a promissory note which matures on October 1, 1966. These acquisitions are excluded from tax. On December 15, 1965, A makes another loan to F in the amount of $1,500 and receives a promissory note which matures on June 15, 1967. Since $500 of A's second loan is not excluded from tax, A's acquisitions of the debt obligations from F are taxable to the extent of $500. The period remaining to maturity is 18 months and the amount of A's tax liability is $7.50 (1.50 percent of $500).

(*d*) *Tangible property held for personal use.*—Section 4(d) of the bill adds a paragraph (14) to section 4914(b) which provides that the interest equalization tax does not apply to the acquisition of debt obligations arising out of the sale of tangible property located outside the United States which was held for his personal use by the person acquiring such obligation.

(*e*) *Certain foreign branches engaged in the commercial banking business which are members of foreign stock exchanges.*—Section 4914(b)(2)(A) of existing law provides that the interest equalization tax does not apply to the acquisition of debt obligations by a commercial bank in the ordinary course of the commercial banking business. Section 4(e)(1) of the bill provides that stock or debt obligations acquired by a foreign branch of a domestic corporation in the course of its banking business are to be considered debt obligations described in section 4914(b)(2)(A) if—

(1) such branch is engaged in the commercial banking business and is also a member of a foreign stock exchange all of the members of which on June 29, 1965, were banks,

(2) on July 18, 1963, such branch was so engaged and was such a member,

(3) such stock or debt obligations would not (but for this provision) be excludable under section 4914(b)(2)(A), and

(4) at the time of such acquisition such branch does not hold stock or debt obligations described in paragraph (3) which have an aggregate adjusted basis in excess of 3 percent of the deposits of the customers (other than the deposits of U.S. persons engaged in the commercial banking business and members of an affiliated group (determined under sec. 48(c)(3)(C) of the code) of which such U.S. person is a member) of such branch payable in the currency of the country in which such branch is located.

Section 4(e)(2) of the bill amends section 4914(j)(2) to provide that for purposes of chapter 41 of the code, if, after July 18, 1963, a U.S. person sells or otherwise disposes of stock or a debt obligation to the acquisition of which the last sentence of section 4914(b)(2) (as added by the bill) applies, such person will not, with respect to that

stock or debt obligation, be considered a U.S. person eligible to issue a certificate of American ownership.

In cases to which section 4914(j)(2) applies, no liability for tax is imposed upon the U.S. person making the sale or other disposition. Since such person is not considered a U.S. person for this purpose, however, such person may become subject to penalty under section 6681 or 7241 of the code if he executes a certificate of American ownership with respect to such stock or debt obligation or sells such stock or debt obligation under the coverage of a blanket certificate of American ownership.

Section 4(e)(3) of the bill provides that the amendments made by section 4(e) apply to acquisitions made after July 18, 1963.

(*f*) *Certain current designations by insurance companies.*—Section 4(f) of the bill amends section 4914(e)(3)(B) of the code.

Existing section 4914(e)(3)(B) (which, under the bill, becomes sec. 4914(e)(3)(B)(i)) provides for the designation within the limits of section 4914(e)(3)(E), of stock of a foreign issuer or debt obligations of a foreign obligor, acquired after July 18, 1963, as an asset of a fund maintained by an insurance company under section 4914(e), if such stock or debt obligation is designated within 30 days after the date of acquisition and is still owned by the company at the time of designation. However, with respect to such stock or debt obligations designated as assets of a fund at the same time the initial designation is made, the 30-day and continued ownership requirements are waived.

The new section 4914(e)(3)(B)(ii) permits an insurance company to designate as an asset of a fund, without regard to the 30-day and continued ownership requirements of section 4914(e)(3)(B)(i), a debt obligation of a foreign obligor having a period remaining to maturity (at the time of acquisition) of at least 1 year but less than 3 years, if such debt obligation has been acquired during the period beginning February 11, 1965, and ending on the date of the enactment of the bill. Such designation, however, must be made on or before the 30th day after such date of enactment, unless the Secretary of the Treasury or his delegate by regulation extends the time for making the designation.

(*g*) *Exclusion for investments in less developed country partnerships.*— Section 4(g) of the bill amends section 4916(c)(1) of the code to provide that a foreign partnership, as defined in section 7701(a) (2) and (5), the assets and gross income of which, for the applicable periods set forth in section 4916(c)(3), satisfy the requirements of subparagraph (A) or (B) of section 4916(c)(1), is to be treated as a less developed country corporation for purposes of section 4916. Therefore, an acquisition of a partner's interest in such a partnership will be treated as an acquisition of stock in a less developed country corporation.

(*h*) *Notice of acquisition for exclusion of original or new issues.*— Section 4917(a) of existing law provides an exclusion for original or new issues when required for international monetary stability if the President specifies by Executive order that the interest equalization tax is not to apply and the acquiring person files a notice of acquisition. Section 4(h) of the bill amends section 4917(a) to provide that in the case of acquisitions of debt obligations having a period remaining to maturity of 1 year or more but less than 3 years made during the period beginning February 11, 1965, and ending with the date of enactment of the bill, the notice of acquisition with respect

to acquisitions excludable under an Executive order described in that section is to be filed within such period following the date of such enactment as the Secretary of the Treasury or his delegate may prescribe by regulations.

(*i*) *Credit or refund for sales of stock by dealers to foreign persons.*—Section 4(i)(1) of the bill amends section 4919(a)(3) to allow a dealer to claim a credit or refund for overpayment of tax on the acquisition of stock in certain cases where he sells the stock to another dealer. Under the amended section 4919(a)(3), the credit or refund will be available to the dealer where—

(1) the stock is acquired by him in the ordinary course of his business and sold by him on the day of purchase or on either of the 2 succeeding business days (A) to persons other than U.S. persons, or (B) to another dealer who resells them on the same or the next business day to persons other than U.S. persons, or

(2) the stock is acquired by such dealer in the ordinary course of his business to cover short sales made by him on the day of purchase or on either of the 2 preceding business days (A) to persons other than U.S. persons, or (B) to another dealer who resold them on the same or the next business day to persons other than U.S. persons.

Existing section 4919(b)(3)(B) sets forth the rules under which a written confirmation from a member of a member organization of a registered national securities association constitutes conclusive proof in the case of a claim for credit or refund by a dealer with respect to qualifying over-the-counter sales of debt obligations to persons other than U.S. persons. Section 4(i)(3) of the bill amends section 4919(b)(3)(B) to provide that the same requirements apply with respect to the qualifying over-the-counter sales of stock described above.

(*j*) *Commercial financing.*—Section 4(j)(1) amends section 4920(a) by inserting a new paragraph (5A) after paragraph (5). The new paragraph permits a domestic corporation to elect to treat a branch office located outside the United States as a foreign corporation for purposes of chapter 41 of the code if four conditions are met:

(A) The corporation must be primarily engaged in the trade or business of acquiring debt obligations arising out of the sale of tangible personal property produced, manufactured, or assembled by one or more includible corporations in an affiliated group (determined under sec. 48(c)(3)(C) of the code except that clause (i) of such section does not apply) of which such acquiring corporation is a member;

(B) The branch office must be primarily engaged in the trade or business of acquiring debt obligations described in subparagraph (A) which are repayable exclusively in one or more currencies other than U.S. currency;

(C) The branch office must have been located outside the United States on February 10, 1965, and must have been regularly engaged in the trade or business of acquiring debt obligations described in subparagraph (B) for a period of not less than 12 consecutive months before February 10, 1965; and

(D) The branch office must maintain separate books and records reasonably reflecting the assets and liabilities properly attributable to such office.

A corporation or a branch office is treated as primarily engaged in the trade or business described in subparagraph (A) during the taxable year if at least 90 percent of the face amount of the debt obligations acquired by such corporation or branch office during such taxable year consists of debt obligations described in subparagraph (A) and if throughout such taxable year such corporation or branch office is exclusively engaged in the trade or business of acquiring debt obligations (whether or not described in subpar. (A)). The election must be made by such corporation in accordance with regulations prescribed by the Secretary of the Treasury or his delegate. A separate election may be made with respect to each branch office of such corporation except that, for purposes of the new section 4920(a)(5A), all branch offices of such corporation located in a country are to be treated as a single branch office. Under this provision, a corporation which had one or more qualifying branch offices in a country may open additional branch offices (to which the election will apply) in that country. Such election will be effective as of February 10, 1965, and will remain in effect until revoked in accordance with such regulations. If, at any time, such corporation ceases to meet the requirements of subparagraph (A), all elections made by such corporation under this paragraph will be deemed revoked. If, at any time, a branch office (within the meaning of the new par. (5A)) ceases to meet the requirements of subparagraph (B) or (D), the election with respect to such office will thereupon be deemed revoked. When an election is revoked, a new election may be made subject to such conditions and limitations as may be prescribed by the Secretary of the Treasury or his delegate. For rules applicable to transfers to or borrowings by a branch with respect to which an election is made under section 4920(a)(5A), see section 4912(b)(2) as amended by section 4(j)(3) of the bill.

Section 4(j)(2) of the bill amends section 4920(a)(5) by adding a new sentence which provides that a corporation or partnership making an election under section 4920(a) (5) or (5A) with respect to a branch office located outside the United States must not, at any time, execute a certificate of American ownership (within the meaning of sec. 4918) either with respect to stock or a debt obligation of a foreign issuer or obligor held by such branch office at the time the election is made with respect to such branch office or with respect to stock or a debt obligation of a foreign issuer or obligor acquired by such branch office while the election with respect to such branch office is in effect. Insofar as the amendment to section 4920(a)(5) with respect to certificates of American ownership relates to elections under section 4920(a)(5), it applies to dispositions made by electing corporations or partnerships after June 28, 1965. Insofar as such amendment relates to elections made under section 4920(a)(5A), it applies to dispositions made after February 10, 1965.

Section 4(j)(3) of the bill amends section 4912(b)(2)(B) to provide that such section applies to transfers to (including transfers made for consideration) or borrowings by a branch with respect to which an election is made under section 4920(a)(5A).

(*k*) *Foreign stock issues treated as domestic.*—Section 4(k) of the bill amends section 4920 of the code by inserting a new subsection (b) which replaces existing section 4920(a)(8).

Paragraph (1) of the new section 4920(b) in substance incorporates existing section 4920(a)(8) and provides that, for purposes of chapter

41 of the code, a foreign corporation (other than a company registered under the Investment Company Act of 1940) is not to be considered a foreign issuer with respect to any class of its stock if (A) as of the corporation's latest record date before July 19, 1963, more than 65 percent of such class of stock was held of record by U.S. persons, or (B) the class of stock had its principal market during the calendar year 1962 on one or more national securities exchanges registered with the Securities and Exchange Commission, and, as of the corporation's latest record date before July 19, 1963, more than 50 percent of such class of stock was held of record by U.S. persons.

Paragraph (2) of section 4920(b) provides that, for purposes of section 4920(b), the term "class of stock" means all shares of stock of a corporation issued and outstanding as of the corporation's latest record date before July 19, 1963, which are identical with respect to the rights and interest such shares represent in the control, profits, and assets of the corporation. Such term also includes additional shares possessing rights and interests identical with the rights and interests of shares described in the preceding sentence if such additional shares are—

(A) issued on or before November 10, 1964;

(B) issued after November 10, 1964, pursuant to a written commitment made by the corporation on or before such date;

(C) issued after November 10, 1964, to a shareholder with respect to or in exchange solely for shares described in section 4920(b)(2); or

(D) issued after November 10, 1964, and if—

(i) such corporation was actively engaged in a trade or business on July 19, 1963;

(ii) shares of such class were held of record by more than 250 shareholders on the corporation's latest record date before July 19, 1963;

(iii) the percentage of shares of such class held of record by U.S. persons as of the corporation's latest record date before the issuance of such additional shares is not less than the percentage required to be held by U.S. persons as of the latest record date before July 19, 1963, in order for the class of stock to qualify under section 4920(b)(1) (A) or (B);

(iv) all such additional shares, if acquired by U.S. persons, would be excluded from the tax imposed by section 4911 by reason of section 4914(a)(6), 4916, or 4917; and

(v) at least 15 days before the date such additional shares are issued (or, in the case of an issue occurring on or before the 60th day after the date of enactment of this provision, within such period as may be prescribed by the Secretary of the Treasury or his delegate) the issuing corporation files (in accordance with regulations prescribed by the Secretary of the Treasury or his delegate) a notice of intent to issue such shares.

For purposes of section 4920(b)(2)(D), the issuance of an option or similar right to acquire stock or of any debt obligation convertible into stock is treated as the issuance of the stock which may be obtained upon exercise of such option or similar rights or upon a conversion of such obligation.

(*l*) *Commercial bank loans.*—Section 4931(d)(2) of existing law provides that any Executive order under section 4931(b) will not apply

to acquisitions of debt obligations arising out of foreign currency loans of foreign branches of a commercial bank to the extent that such acquisitions are designated as part of a fund of assets to be established by such bank for one of its branches located outside the United States. The adjusted basis of the assets of such a fund must not, after such designation, exceed 110 percent of such branch's deposits payable in foreign currency to its customers other than banks. Section 4(l) of the bill amends section 4931(d)(2) to provide that the limiting phrase "other than banks" refers only to U.S. persons engaged in a commercial banking business or a member of an affiliated group determined under section 48(c)(3)(C) of the code of which such a U.S. person is a member.

Section 4931(c) of existing law provides that the President may by Executive order extend the interest equalization tax to acquisitions by commercial banks of debt obligations having from 1 to 3 years remaining to maturity except that the provisions of section 4918 do not apply. Thus, commercial banks cannot receive certificates of American ownership with respect to such debt obligations. Section 3(a) of the bill extends the tax to acquisitions of such debt obligations by all U.S. persons and does not contain a limitation on the use of certificates of American ownership. Accordingly, section 4(l) of the bill amends section 4931(c) to delete the prohibition on the receipt of certificates of American ownership by commercial banks with respect to 1 to 3 year debt obligations.

(*m*) *Deductibility of interest equalization tax.*—Section 263(a)(3) of existing law provides that no deduction is to be allowed for any amount paid as interest equalization tax except to the extent that any amount attributable to the amount paid as tax is included in gross income for the taxable year. Where amounts paid as interest equalization tax are reimbursed to the U.S. taxpayer (and includible in gross income) in years subsequent to the taxable year in which the tax is paid, a literal reading of the provision might result in a disallowance of the deduction.

Section 4(m) of the bill amends section 263 to provide that no deduction is to be allowed for any amount paid or accrued as interest equalization tax except that, for taxable years ending after September 2, 1964, the deduction allowed by section 162(a) or 212 (whichever is appropriate) shall include any amount paid or accrued in the taxable year or a preceding taxable year as interest equalization tax to the extent that any amount attributable to the amount paid or accrued as tax is included in gross income for the taxable year. Under regulations prescribed by the Secretary of the Treasury or his delegate, such deduction is not to apply with respect to any amount attributable to an amount for which a deduction has been claimed for the taxable year or a preceding taxable year under section 171 (relating to amortization of bond premium).

(*n*) *Effective date.*—Subsection (n) of section 4 of the bill contains the effective date for such section 4. The amendments made by that section are to apply to acquisitions of stock and debt obligations made after February 10, 1965, except as otherwise specifically provided in that section or in the amendments made thereby. To the extent that Executive Order 11198 is inconsistent with the amendments made by section 4 of the bill, such Executive Order is to be deemed modified by such amendments.

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## V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

# INTERNAL REVENUE CODE OF 1954

## CHAPTER 1—NORMAL TAXES AND SURTAXES

* * * * * * *

**SEC. 263. CAPITAL EXPENDITURES.**

(a) GENERAL RULE.—No deduction shall be allowed for—

(1) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate. This paragraph shall not apply to—

(A) expenditures for the development of mines or deposits deductible under section 616,

(B) research and experimental expenditures deductible under section 174,

(C) soil and water conservation expenditures deductible under section 175,

(D) expenditures by farmers for fertilizer, etc., deductible under section 180, or

(E) expenditures by farmers for clearing land deductible under section 182.

(2) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made.

(3) [Any] *Except as provided in subsection (d), any* amount paid as tax under section 4911 (relating to imposition of interest equalization tax) [except to the extent that any amount attributable to the amount paid as tax is included in gross income for the taxable year].

(b) EXPENDITURES FOR ADVERTISING AND GOOD WILL.—If a corporation has, for the purpose of computing its excess profits tax credit under chapter 2E or subchapter D of chapter 1 of the Internal Revenue Code of 1939 claimed the benefits of the election provided in section 733 or section 451 of such code, as the case may be, no deduction shall be allowable under section 162 to such corporation for expenditures for advertising or the promotion of good will which, under the rules and regulations prescribed under section 733 or section 451 of such code, as the case may be, may be regarded as capital investments.

(c) INTANGIBLE DRILLING AND DEVELOPMENT COSTS IN THE CASE OF OIL AND GAS WELLS.—Notwithstanding subsection (a), regulations shall be prescribed by the Secretary or his delegate under this subtitle corresponding to the regulations which granted the option to deduct as expenses intangible drilling and development costs in the case of oil and gas wells and which were recognized and approved by the Congress in House Concurrent Resolution 50, Seventy-ninth Congress.

*(d) REIMBURSEMENT OF INTEREST EQUALIZATION TAX.—The deduction allowed by section 162(a) or 212 (whichever is appropriate) shall include any amount paid or accrued in the taxable year or a preceding taxable year as tax under section 4911 (relating to imposition of interest equalization tax) to the extent that any amount attributable to the amount paid or accrued as tax is included in gross income for the taxable year. Under regulations prescribed by the Secretary or his delegate, the preceding sentence shall not apply with respect to any amount attributable to that part of the tax so paid or accrued which is attributable to an amount for which a deduction has been claimed for the taxable year or a preceding taxable year under section 171 (relating to amortization of bond premium).*

* * * * * * *

## CHAPTER 41—INTEREST EQUALIZATION TAX

SUBCHAPTER A. Acquisitions of foreign stock and debt obligations.
SUBCHAPTER B. Acquisitions by commercial banks.

### Subchapter A—Acquisitions of Foreign Stock and Debt Obligations

Sec. 4911. Imposition of tax.
Sec. 4912. Acquisitions.
Sec. 4913. Limitation on tax on certain acquisitions.
Sec. 4914. Exclusion for certain acquisitions.
Sec. 4915. Exclusion for direct investments.
Sec. 4916. Exclusion for investments in less developed countries.
Sec. 4917. Exclusion for original or new issues where required for international monetary stability.
Sec. 4918. Exemption for prior American ownership.
Sec. 4919. Sales by underwriters and dealers to foreign persons.
Sec. 4920. Definitions and special rules.

**SEC. 4911. IMPOSITION OF TAX**

(a) IN GENERAL.—There is hereby imposed, on each acquisition by a United States person (as defined in section 4920(a)(4)) of stock of a foreign issuer, or of a debt obligation of a foreign obligor (if such obligation has a period remaining to maturity of [3 years] *1 year* or more), a tax determined under subsection (b).

(b) AMOUNT OF TAX.—

(1) STOCK.—The tax imposed by subsection (a) on the acquisition of stock shall be equal to 15 percent of the actual value of the stock.

(2) DEBT OBLIGATIONS.—The tax imposed by subsection (a) on the acquisition of a debt obligation shall be equal to a percentage of the actual value of the debt obligation measured by the

period remaining to its maturity and determined in accordance with the following table:

| If the period remaining to maturity is: | The tax, as a percentage of actual value, is: |
|---|---|
| [At least 3 years, but less than 3½ years | 2.75 percent] |
| *At least 1 year, but less than 1¼ years* | *1.05 percent* |
| *At least 1¼ years, but less than 1½ years* | *1.30 percent* |
| *At least 1½ years, but less than 1¾ years* | *1.50 percent* |
| *At least 1¾ years, but less than 2¼ years* | *1.85 percent* |
| *At least 2¼ years, but less than 2¾ years* | *2.30 percent* |
| *At least 2¾ years, but less than 3½ years* | *2.75 percent* |
| At least 3½ years, but less than 4½ years | 3.55 percent |
| At least 4½ years, but less than 5½ years | 4.35 percent |
| At least 5½ years, but less than 6½ years | 5.10 percent |
| At least 6½ years, but less than 7½ years | 5.80 percent |
| At least 7½ years, but less than 8½ years | 6.50 percent |
| At least 8½ years, but less than 9½ years | 7.10 percent |
| At least 9½ years, but less than 10½ years | 7.70 percent |
| At least 10½ years, but less than 11½ years | 8.30 percent |
| At least 11½ years, but less than 13½ years | 9.10 percent |
| At least 13½ years, but less than 16½ years | 10.30 percent |
| At least 16½ years, but less than 18½ years | 11.35 percent |
| At least 18½ years, but less than 21½ years | 12.25 percent |
| At least 21½ years, but less than 23½ years | 13.05 percent |
| At least 23½ years, but less than 26½ years | 13.75 percent |
| At least 26½ years, but less than 28½ years | 14.35 percent |
| 28½ years or more | 15.00 percent. |

(c) PERSONS LIABLE FOR TAX.—

(1) IN GENERAL.—The tax imposed by subsection (a) shall be paid by the person acquiring the stock or debt obligation involved.

(2) CROSS REFERENCE.—

**For imposition of penalty on maker of false certificate in lieu of or in addition to tax on acquisition in certain cases, see section 6681.**

(d) TERMINATION OF TAX.—The tax imposed by subsection (a) shall not apply to any acquisition made after [December 31, 1965] *July 31, 1967*.

**SEC. 4912. ACQUISITIONS.**

(a) IN GENERAL.—For purposes of this chapter, the term "acquisition" means any purchase, transfer, distribution, exchange, or other transaction by virtue of which ownership is obtained either directly or through a nominee, custodian, or agent. A United States person acting as a fiscal agent in connection with the redemption or purchase for retirement of stock or debt obligations (whether or not acting under a trust arrangement) shall not be considered to obtain ownership of such stock or debt obligations. The exercise of a right to convert a debt obligation (as defined in section 4920(a)(1)) into stock shall be deemed an acquisition of stock from the foreign issuer by the person exercising such right. Any extension or renewal of an existing debt obligation requiring affirmative action of the obligee shall be considered the acquisition of a new debt obligation.

(b) SPECIAL RULES.—For purposes of this chapter—

(1) CERTAIN TRANSFERS TO FOREIGN TRUSTS.—Any transfer (other than in a sale or exchange for full and adequate consideration) of money or other property to a foreign trust shall, if such trust acquires stock or debt obligations (of one or more foreign issuers or obligors) the direct acquisition of which by the transferor would be subject to the tax imposed by section

4911, be deemed an acquisition by the transferor (as of the time of such transfer) of stock of a foreign issuer in an amount equal to the actual value of the money or property transferred or, if less, the actual value of the stock or debt obligations so acquired by such trust. Contributions made by an employer to a foreign pension or profit-sharing trust established by such employer for the exclusive benefit of employees (who are not owner-employees as defined in section 401(c)(3)) who perform personal services for such employer on a full-time basis in a foreign country, and contributions to a foreign pension or profit-sharing trust established by an employer, made by an employee who performs personal services for such employer on a full-time basis in a foreign country (and is not an owner-employee as defined in section 401(c)(3)), shall not be considered under the preceding sentence as transfers which may be deemed acquisitions of stock of a foreign issuer.

(2) CERTAIN TRANSFERS.—

(A) TRANSFERS TO FOREIGN CORPORATIONS AND PARTNERSHIPS.—Any transfer of money or other property to a foreign corporation or a foreign partnership—

(i) as a contribution to the capital of such corporation or partnership, or

(ii) in exchange for one or more debt obligations of such corporation or partnership, if it is a foreign corporation or partnership which is formed or availed of by the transferor for the principal purpose of acquiring (in the manner described in section 4915(c)(1)) an interest in stock or debt obligations the direct acquisition of which by the transferor would be subject to the tax imposed by section 4911,

shall be deemed an acquisition by the transferor of stock of a foreign corporation or partnership in an amount equal to the actual value of the money or property transferred.

(B) TRANSFERS TO FOREIGN BRANCHES.—If a domestic corporation or partnership transfers money or other property *(including, in the case of a transfer to a branch office described in section 4920(a)(5A), a transfer made for consideration)* to, or applies money or other property for the benefit of, a branch office of such corporation or partnership with respect to which there is in effect an election under [section 4920(a)(5)(E)] *paragraph (5) or (5A) of section 4920(a)*, or if funds are borrowed by such branch office from a bank (as defined in section 581), other than from a branch of such a bank located outside the United States lending such funds in the ordinary course of its business, such domestic corporation or partnership shall be deemed to have acquired stock of a foreign corporation or partnership in an amount equal to the actual value of the money or property transferred or applied, or the funds borrowed.

(3) ACQUISITIONS FROM DOMESTIC CORPORATION OR PARTNERSHIP FORMED OR AVAILED OF TO OBTAIN FUNDS FOR FOREIGN ISSUER OR OBLIGOR.—The acquisition of stock or a debt obligation of a domestic corporation (other than a domestic corporation described in section 4920(a)(3)(B)), or a domestic partnership, formed or availed of for the principal purpose of obtaining funds

(directly or indirectly) for a foreign issuer or obligor, shall be deemed an acquisition (from such foreign issure or obligor) of stock or a debt obligation of such foreign issuer or obligor.

(4) REORGANIZATION EXCHANGES.—Any acquisition of stock or debt obligations of a foreign issuer or obligor in an exchange to which section 354, 355, or 356 applies (or would, but for section 367, apply) shall be deemed an acquisition from the foreign issuer or obligor in exchange for its stock or for its debt obligations. For purposes of this paragraph, in determining whether section 354, 355, or 356 applies, or would apply, to any transaction—

(A) such transaction shall, if it took place before the date of the enactment of this chapter, be treated as taking place on such date, and

(B) section 368(a)(1)(B) shall be treated as permitting the receipt by a United States person of money or other property in addition to voting stock.

* * * * * * *

**SEC. 4914. EXCLUSION FOR CERTAIN ACQUISITIONS.**

(a) TRANSACTIONS NOT CONSIDERED ACQUISITIONS.—The term "acquisition" shall not include—

(1) any transfer between a person and his nominee, custodian, or agent;

(2) any transfer described in section 4343(a) (relating to certain transfers by operation of law from decedents, minors, incompetents, financial institutions, bankrupts, successors, foreign governments and aliens, trustees, and survivors) as in effect on January 1, 1965;

(3) any transfer by legacy, bequest, or inheritance to a United States person, or by gift to a United States person who is an individual;

(4) any distribution by a corporation of its stock or debt obligations to a shareholder with respect to or in exchange for its stock;

(5) any distribution to a shareholder by a corporation of stock or debt obligations owned by such corporation on July 18, 1963, in complete or partial liquidation of such corporation, to the extent such shareholder acquired his stock ownership in such corporation in a transaction other than in an acquisition excluded from tax under subsection (b) of this section, or under section 4915, 4916, or 4917;

(6) any exchange to which section 361 applies (or would, but for section 367, apply), where the transferor corporation was a domestic corporation and was engaged in the active conduct of a trade or business, other than as a dealer in securities, immediately before the date on which the assets involved are transferred to the acquiring corporation;

(7) any exercise of a right to convert indebtedness, pursuant to its terms, into stock, if such indebtedness is treated as stock pursuant to section 4920(a)(2)(D); or

(8) the grant of a stock option or similar right to a United States person who is an individual, for any reason connected with his employment by a corporation, if such option or right (A) is granted by the employer corporation, or its parent or subsidiary corporation, to purchase stock of any such corporations, and (B)

by its terms is not transferable by such United States person otherwise than by will or the laws of descent and distribution, and is exercisable, during his lifetime, only by him.

(b) EXCLUDED ACQUISITIONS.—The tax imposed by section 4911 shall not apply to the acquisition—

(1) THE UNITED STATES.—Of stock or debt obligations by an agency or wholly owned instrumentality of the United States.

(2) COMMERCIAL BANK LOANS.—

(A) Of debt obligations by a commercial bank in making lonas in the ordinary course of its commercial banking business.

(B) Of stock or debt obligations by a commercial bank through foreclosure, where such stock or debt obligations were held as security for loans made in the ordinary course of its commercial banking business.

*Stock or debt obligations acquired by a foreign branch of a corporation, in connection with its banking business, shall be considered debt obligations described in subparagraph (A) of the preceding sentence if—*

*(i) such branch is engaged in the commercial banking business and is also a member of a foreign stock exchange all the members of which on June 29, 1965, were banks,*

*(ii) on July 18, 1963, such branch was so engaged and was such a member,*

*(iii) such stock or debt obligations would not (but for this sentence) be excludable under the preceding sentence, and*

*(iv) at the time of such acquisition, such branch does not hold stock and debt obligations described in clause (iii) which have an adjusted basis in excess of 3 percent of the deposits of the customers (other than deposits of United States persons engaged in the commercial banking business and members of an affiliated group (determined under section 48(c)(3)(C)) of which such a United States person is a member) of such branch payable in the currency of the country in which such branch is located.*

(3) ACQUISITIONS REQUIRED UNDER FOREIGN LAW.—Of stock or debt obligations by a United States person doing business in a foreign country to the extent that such acquisitions are reasonably necessary to satisfy minimum requirements relating to holdings of stock or debt obligations of foreign issuers or obligors imposed by the laws of such foreign country; except that if any of such requirements relate to the holding of insurance reserves, the exclusion otherwise allowable under this paragraph with respect to acquisitions made by such United States person during any calendar year shall be reduced by the maximum amount of the exclusion which could be allowed under subsection (e) with respect to acquistions made by such person during that year, or by the amount of the insurance reserves which must be held in order to satisfy such requirements, whichever is less.

(4) ACQUISITIONS IN LIEU OF PAYMENT OF FOREIGN TAX.—Of stock or debt obligations by a United States person doing business in a foreign country, to the extent such acquisition is made, in conformity with the laws of such foreign country, as a substitute for the payment of tax to such foreign country.

(5) ACQUISITIONS OF STOCK IN COOPERATIVE HOUSING CORPORATIONS.—Of stock of a foreign corporation which entitles the holder, solely by reason of his ownership of such stock, to occupy for

dwelling purposes a house, or an apartment in a building, owned or leased by such corporation.

(6) EXPORT CREDIT, ETC., TRANSACTIONS.—Of stock or debt obligations arising from the sale *or lease* of property or services by United States persons, to the extent provided in subsection (c)

(7) LOANS TO ASSURE RAW MATERIALS SOURCES.—Of debt obligations by United States persons in connection with loans made to foreign corporations to assure raw materials sources, to the extent provided in subsection (d).

(8) ACQUISITIONS BY INSURANCE COMPANIES DOING BUSINESS IN FOREIGN COUNTRIES.—Of stock or debt obligations by insurance companies doing business in foreign countries, to the extent provided in subsection (e).

(9) ACQUISITIONS BY CERTAIN TAX-EXEMPT LABOR, FRATERNAL, AND SIMILAR ORGANIZATIONS, HAVING FOREIGN BRANCHES OR CHAPTERS.—Of stock or debt obligations by certain tax-exempt United States persons operating in foreign countries through local organizations, to the extent provided in subsection (f).

(10) ACQUISITIONS OF DEBT OBLIGATIONS ON SALE OR LIQUIDATION OF WHOLLY FOREIGN SUBSIDIARIES.—Of debt obligations acquired in connection with the sales or liquidation of a wholly owned foreign corporation, to the extent provided in subsection (g).

[(11) ACQUISITIONS OF DEBT OBLIGATIONS ARISING OUT OF PURCHASE OF REAL PROPERTY LOCATED IN THE UNITED STATES.—Of debt obligations secured by real property located in the United States and arising out of the purchase of such property from United States persons, to the extent provided in subsection (h).]

*(11) ACQUISITIONS OF CERTAIN DEBT OBLIGATIONS SECURED BY REAL PROPERTY IN THE UNITED STATES.—Of debt obligations secured by real property in the United States, to the extent provided in subsection (h).*

(12) ACQUISITIONS BY UNITED STATES PERSONS RESIDING IN FOREIGN COUNTRIES OF STOCK OF CERTAIN FOREIGN ISSUERS INVESTING EXCLUSIVELY IN THE UNITED STATES.—Of stock of foreign issuers investing exclusively in the United States by United States persons residing in foreign countries, to the extent provided in subsection (i).

*(13) STUDENT LOANS.—Of debt obligations which arise out of loans to a foreign obligor registered as a full-time student at an educational institution (as defined in section 151(e)(4)) in the United States, to the extent that the acquisition by the acquiring person of such debt obligations with a period remaining to maturity of 1 year or more from such obligor in any calendar year does not exceed $2,500.*

*(14) TANGIBLE PROPERTY HELD FOR PERSONAL USE.—Of debt obligations arising out of the sale of tangible property located outside the United States which was held for his personal use by the person acquiring such obligation.*

(c) EXPORT CREDIT, ETC., TRANSACTIONS.—

(1) IN GENERAL.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign obligor of a debt obligation arising out of the sale of tangible personal property or services (or both) to such obligor by any United States person, if—

(A) payment of such debt obligation (or of any related debt obligation arising out of such sale) is guaranteed or insured, in whole or in part, by an agency or wholly owned instrumentality of the United States; or

(B) the United States person acquiring such debt obligation makes the sale in the ordinary course of his trade or business and not less than 85 percent of the purchase price is attributable to the sale of property manufactured, produced, grown, or extracted in the United States, or to the performance of services by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 1504, of which such person is a member), or to both.

The term "services", as used in this paragraph and paragraph (2), shall not be construed to include functions performed as an underwriter.

(2) ALTERNATE RULE FOR PRODUCING EXPORTERS.—The tax imposed by section 4911 shall not apply to the acquisition by a United States person from a foreign issuer or obligor of its stock in payment for, or of a debt obligation arising out of, the sale of tangible personal property or services (or both) to such issuer or obligor, if

(A) at least 30 percent of the purchase price, or 60 percent of the actual value of the stock or debt obligation acquired, is attributable to the sale of property manufactured, produced, grown, or extracted in the United States by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 1504, of which such person is a member), or to the performance of services by such United States person (or by one or more such corporations), or to both, and

(B) at least 50 percent of the purchase price, or 100 percent of the actual value of the stock or debt obligation acquired, is attributable to the sale of property manufactured, produced, grown, or extracted in the United States, or to the performance of services by United States persons, or to both.

(3) CERTAIN INTERESTS IN INTANGIBLE PERSONAL PROPERTY.—The tax imposed by section 4911 shall not apply to the acquisition by a United States person from a foreign issuer or obligor of its stock in payment for, or of a debt obligation arising out of, the sale or license to such issuer or obligor of—

(A) any interest in patents, inventions, models or designs (whether or not patented), copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, or other like property (or any combination thereof), or

(B) any such interest together with services to be performed in connection with any such interest sold or licensed by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 1504, of which such person is a member).

if not less than 85 percent of the purchase price, or license fee, is attributable to the sale or license of any interest in property described in subparagraph (A) which was produced, created, or

developed in the United States by such United States person (or by one or more such includible corporations), or is attributable to the sale or license of any interest in such property so produced, created, or developed and to the performance of services described in subparagraph (B).

(4) EXPORT-RELATED LOANS.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign obligor by a United States person of a debt obligation arising out of a loan made to the obligor to increase or maintain sales of tangible personal property produced, grown, or extracted in the United States by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 1504, of which such person is a member), but only if the proceeds of the loan will be used by the obligor for the installation, maintenance, or improvement of facilities outside the United States which (during the period the loan is outstanding) will be used for the storage, handling, transportation, processing, packaging, or servicing of property a substantial portion of which is tangible personal property produced, grown, or extracted in the United States by such person (or one or more such corporations).

(5) OTHER LOANS RELATED TO CERTAIN SALES BY UNITED STATES PERSONS.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign obligor by a United States person of a debt obligation of such obligor if such debt obligation—

(A) was received by such United States person as all or part of the purchase price provided in a contract under which the foreign obligor agrees to purchase for a period of 3 years or more ores or minerals (or derivatives thereof)—

(i) extracted outside the United States by such United States person or by one or more includible corporations in an affiliated group (as defined in section 48(c)(3)(C)) of which such United States person is a member,

(ii) extracted outside the United States by a corporation at least 10 percent of the total combined voting power of all classes of stock of which is owned, directly or indirectly, by such United States person, by one or more such includible corporations, or by domestic corporations which own, directly or indirectly, at least 50 percent of the total combined voting power of all classes of stock of such United States person,

(iii) obtained under a contract entered into on or before July 18, 1963, by such United States person, by one or more such includible corporations, or by such domestic corporations, or

(iv) extracted outside the United States and obtained by such United States person, by one or more such includible corporations, or by such domestic corporations in exchange for similar ores or minerals (or derivatives thereof) described in clause (i), (ii), or (iii); or

(B) arises out of a loan (made by such United States person to such foreign obligor) the proceeds of which will be used by such obligor (or by a person controlled by, or controlling, such obligor) for the installation, maintenance, or improvement of facilities outside the United States which

(during the period the loan is outstanding) will be used for the storage, handling, transportation, processing, or servicing of ores or minerals (or derivatives thereof) a substantial portion of which is extracted outside the United States by such United States person or by a corporation referred to in clause (i) or (ii) of subparagraph (A), is obtained under a contract described in clause (iii) of subparagraph (A), or is obtained in an exchange described in clause (iv) of subparagraph (A).

*(6) CERTAIN EXPORT LEASES.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign obligor by a United States person of a debt obligation of such obligor arising out of a lease of personal property to such obligor by such United States person if not less than 85 percent of the amount to be paid under the lease (determined as of the date of acquisition of the debt obligation) is attributable to the use of tangible personal property which was manufactured, produced, grown, or extracted in the United States by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 1504, of which such person is a member), or to the performance of services pursuant to the terms of the lease by such United States person (or by one or more such corporations) with respect to such personal property, or to both.*

[(6)] *(7)* CROSS REFERENCE.—

**For loss of exclusion otherwise allowable under this subsection in case of certain subsequent transfers, see subsection (j).**

(d) LOANS TO ASSURE RAW MATERIALS SOURCES.—

(1) GENERAL RULE.—The tax imposed by section 4911 shall not apply to the acquisition by a United States person of a debt obligation arising out of a loan made by such person to a foreign corporation, if—

(A) such foreign corporation extracts or processes ores or minerals the available deposits of which in the United States are inadequate to satisfy the needs of domestic producers;

(B) United States persons own at the time of such acquisition at least 50 percent of the total combined voting power of all classes of stock of such foreign corporation; and

(C) such loan will be amortized under a contract or contracts in which persons owning stock of such corporation (including at least one of the United States persons referred to in subparagraph (B)) agree to pay during the period remaining to maturity of such obligation, by purchasing a part of the production of such corporation or otherwise, a portion of such corporation's costs of operation and costs of amortizing outstanding loans.

(2) LIMITATION.—The exclusion from tax provided by paragraph (1) shall apply to the acquisition of any debt obligation of a foreign corporation only to the extent that—

(A) the applicable percentage of (i) the actual value of the debt obligation acquired, plus (ii) the actual value (determined as of the time of such acquisition) of all other debt obligations representing loans which were theretofore made to the foreign corporation during the same calendar

year and which are amortizable under contracts of the type described in paragraph (1)(C), exceeds

(B) the actual value of the debt obligations described in subparagraph (A) (ii) representing loans made by United States persons, to the extent that the acquisition of such obligations was excluded from tax under this subsection.

As used in this paragraph with respect to the acquisition of a debt obligation, the term "applicable percentage" means the lesser of (i) the percentage of the total combined voting power of all classes of stock of the foreign corporation which is owned by the United States persons at the time of such acquisition, or (ii) the percentage of the corporation's operating and amortization costs for the calendar year which all such United States persons have agreed to pay (as of the time of such acquisition) under contracts of the type described in paragraph (1)(C).

(e) ACQUISITIONS BY INSURANCE COMPANIES DOING BUSINESS IN FOREIGN COUNTRIES.—

(1) IN GENERAL.—The tax imposed by section 4911 shall not apply to the acquisition of stock or a debt obligation by a United States person which is an insurance company subject to taxation under section 802, 821, or 831, if such stock or debt obligation is designated (in accordance with paragraph (3)) as part of a fund of assets established and maintained by such insurance company (in accordance with paragraph (2)) with respect to foreign risks insured or reinsured by such company under contracts (including annuity contracts) the proceeds of which are payable only in the currency of a foreign country. As used in this subsection, the term "foreign risks" means risks in connection with property outside, or liability arising out of activity outside, or in connection with the lives or health of residents of countries other than, the United States.

(2) ESTABLISHMENT AND MAINTENANCE OF FUND OF ASSETS.—Each insurance company which desires to obtain the benefit of exclusions under this subsection shall (as a condition of entitlement to any such exclusion) establish and maintain a fund (or funds) of assets in accordance with this paragraph and paragraph (3). A life insurance company (as defined in section 801(a)) shall establish such a fund of assets separately for each foreign currency (other than the currency of a country which qualifies as a less developed country) in which the proceeds of its insurance contracts are payable and for which insurance reserves are maintained by such company, and with respect to which it desires to obtain the benefits of exclusions under this subsection; and the preceding sentence shall be applied separately to each such fund in determining the company's entitlement to exclude acquisitions of stock and debt obligations designated as a part thereof. An insurance company other than a life insurance company (as so defined) shall establish a single fund of assets for all foreign currencies (other than currencies of countries which qualify as less developed countries at the time of the initial designation) in which the proceeds of its insurance contracts are payable and for which insurance reserves are maintained by such company.

(3) DESIGNATION OF ASSETS.—

(A) INITIAL DESIGNATION.—

(i) REQUIREMENT OF INITIAL DESIGNATION.—An insurance company desiring to establish a fund (or funds) of assets under paragraph (2) shall initially designate, as part or all of such fund (or funds), stock and debt obligations owned by it on July 18, 1963, as follows: First, stock of foreign issuers, and debt obligations of foreign obligors having a period remaining to maturity (on July 18, 1963) of 3 years or more and payable in foreign currency; second, if the company so elects, debt obligations of foreign obligors having a period remaining to maturity (on July 18, 1963) of less than 3 years and payable in foreign currency; and third, debt obligations of foreign obligors having a period remaining to maturity (on July 18, 1963) of 3 years or more and payable solely in United States currency. The designation under the preceding sentence with respect to any fund shall be made, in the order set forth, to the extent that the adjusted basis (within the meaning of section 1011) of the designated stock and debt obligations was (on July 18, 1963) not in excess of 110 percent of the allowable reserve applicable to such fund (determined in accordance with paragraph (4)(B)(ii)), and shall in no case include any stock or debt obligation described in section 4916(a).

(ii) TIME AND MANNER OF INITIAL DESIGNATION.—Any initial designation which an insurance company is required to make under this subparagraph shall be made on or before the 30th day after the date of the enactment of this chapter (or at such later time as the Secretary or his delegate may by regulations prescribe) by the segregation on the books of such company of the stock or debt obligations (or both) designated.

[(B) CURRENT DESIGNATIONS TO MAINTAIN FUND.—To the extent permitted by subparagraph (E), stock of a foreign issuer or a debt obligation of a foreign obligor acquired by an insurance company after July 18, 1963, may be designated as part of a fund of assets described in paragraph (2), if such designation is made before the expiration of 30 days after the date of such acquisition and the company continues to own the stock or debt obligation until the time the designation is made; except that any such stock or debt obligation acquired before the initial designation of assets to the fund is actually made as provided in subparagraph (A)(ii) may be designated under this subparagraph at the time of such initial designation without regard to such 30-day and continued ownership requirements.]

*(B) CURRENT DESIGNATIONS TO MAINTAIN FUND.—*

*(i) IN GENERAL.—To the extent permitted by subparagraph (E), stock of a foreign issuer or a debt obligation of a foreign obligor acquired by an insurance company after July 18, 1963, may be designated as part of a fund of assets described in paragraph (2), if such desig-*

*nation is made before the expiration of 30 days after the date of such acquisition and the company continues to own the stock or debt obligation until the time the designation is made; except that any such stock or debt obligation acquired before the initial designation of assets to the fund is actually made as provided in subparagraph* (*A*)(*ii*) *may be designated under this clause at the time of such initial designation without regard to such 30-day and continued ownership requirements.*

(*ii*) *CERTAIN DEBT OBLIGATIONS HAVING MATURITY OF LESS THAN 3 YEARS.—A debt obligation having a period remaining to maturity* (*on the date of acquisition*) *of at least 1 year but less than 3 years, which is acquired during the period beginning February 11, 1965, and ending on the date of the enactment of the Interest Equalization Tax Extension Act of 1965, may be designated as part of a fund of assets described in paragraph* (*2*) *on or before the 30th day after the date of such enactment* (*or at such later time as the Secretary or his delegate may by regulations prescribe*) *without regard to the 30-day and continued ownership requirements provided in clause* (*i*).

(C) ADDITIONAL DESIGNATIONS AFTER CLOSE OF YEAR.—If the adjusted basis of the assets held in a fund of assets described in paragraph (2) at the close of a calendar year after 1963 is less than 110 percent of the allowable reserve applicable to such fund at the close of such year, the insurance company may, to the extent permitted by subparagraph (E), designate additional stock or debt obligations (or both) which were acquired during such calendar year as part of such fund, so long as the company still owns such stock or debt obligations at the time of designation. Any designation under this subparagraph shall be made on or before January 31 following the close of the calendar year. Any tax paid by such company under section 4911 on the acquisition of the additional stock or debt obligations so designated shall constitute an overpayment of tax; and, under regulations prescribed by the Secretary or his delegate, credit or refund (without interest) shall be allowed or made with respect to such overpayment.

(D) SUPPLEMENTAL REQUIRED DESIGNATIONS AFTER CLOSE OF YEAR.—If during any calendar year an insurance company acquires stock or debt obligations which are excluded from the tax imposed by section 4911 under an Executive order described in section 4917, and if at the close of the calendar year (and after the designation of additional assets under subparagraph (C)) the adjusted basis of all assets in a fund described in paragraph (2) is less than 110 percent of the allowable reserve applicable to such fund, such company shall, to the extent permitted by subparagraph (E), designate as part of such fund stock and debt obligations acquired by it during the calendar year and owned by it at the close of the calendar year, as follows: First, stock, and debt obligations having a period remaining to maturity (on the date of acquisition) of [3 years] *1 year* or more and payable in foreign-currency, which were excluded from the tax imposed by sec-

tion 4911 under such Executive order; second, if the company so elects, debt obligations of foreign obligors having a period remaining to maturity (on the date of acquisition) of less than [3 years] *1 year* and payable in foreign currency; and third, debt obligations having a period remaining to maturity (on the date of acquisition) of [3 years] *1 year* or more and payable solely in United States currency, which were excluded from the tax imposed by section 4911 under such Executive order. The designations under this subparagraph shall be made on or before January 31 following the close of the calendar year.

(E) LIMITATIONS.—

(i) IN GENERAL.—Stock or a debt obligation may be designated under subparagraph (B), (C), or (D) as part of a fund of assets described in paragraph (2) only to the extent that, immediately after such designation, the adjusted basis of all the assets held in such fund does not exceed 110 percent of the applicable allowable reserve (determined in accordance with paragraph (4)(B)(i)). To the extent any designation of stock or a debt obligation exceeds the amount permitted by the preceding sentence, such designation shall be ineffective and the provisions of this chapter shall apply with respect to the acquisition of such stock or debt obligation as if such designation had not been made.

(ii) SHORT-TERM OBLIGATIONS.—No designation may be made under subparagraph (B) or (C) of any debt obligation which has a period remaining to maturity (on the date of acquisition) of less than [3 years] *1 year.*

(4) DETERMINATION OF RESERVES.—

(A) GENERAL RULE.—For purposes of this subsection, the term "allowable reserve" means—

(i) in the case of a life insurance company (as defined in section 801(a)), the items taken into account under section 810(c) arising out of contracts of insurance and reinsurance (including annuity contracts) which relate to foreign risks and the proceeds of which are payable in a single foreign currency (other than the currency of a less developed country); and

(ii) in the case of an insurance company other than a life insurance company (as so defined), the amount of its unearned premiums (under section 832(b)(4)) and unpaid losses (under section 832(b)(5)) which relate to foreign risks insured or reinsured under contracts providing for payment in foreign currencies (other than currencies of less developed countries) and which are taken into account in computing taxable income under section 832 (for such purpose treating underwriting income of an insurance company subject to taxation under section 821 as taxable income under section 832).

(B) TIME OF DETERMINATION.—

(i) IN GENERAL.—For purposes of paragraph (3) (other than subparagraph (A) of such paragraph), the determination of an allowable reserve for any calendar year shall be made as of the close of such year.

(ii) INITIAL DESIGNATION.—For purposes of paragraph (3)(A), the determination of an allowable reserve shall be made as of July 18, 1963. If the insurance company so elects, the determination under this clause may be made by computing the mean of the allowable reserve at the beginning and at the close of the calendar year 1963.

(5) NONRECOGNITION OF ARTIFICIAL INCREASES IN ALLOWABLE RESERVE.—An insurance or reinsurance contract which is entered into or acquired by an insurance company for the principal purpose of artifically increasing the amount determined as an allowable reserve as provided in paragraph (4) shall not be recognized in computing whether an acquisition of stock or a debt obligation of a foreign issuer or obligor can be excluded under this subsection.

(f) ACQUISITIONS BY CERTAIN TAX-EXEMPT LABOR, FRATERNAL, AND SIMILAR ORGANIZATIONS HAVING FOREIGN BRANCHES OR CHAPTERS.—The tax imposed by section 4911 shall not apply to the acquisition of stock or debt obligations by a United States person which is described in section 501(c) and exempt from taxation under subtitle A, and which operates in a foreign country through a local organization or organizations, to the extent that—

(1) such acquisition results from the investment or reinvestment of contributions or membership fees paid in the currency of such country by individuals who are members of the local organization or organizations, and

(2) the stock or debt obligations acquired are held exclusively for the benefit of the members of any of such local organizations.

(g) SALE OR LIQUIDATION OF WHOLLY OWNED FOREIGN SUBSIDIARY.—

(1) IN GENERAL.—The tax imposed by section 4911 shall not apply to the acquisition by a United States person of a debt obligation of a foreign obligor is the debt obligation is acquired—

(A) in connection with the sale by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 48(c)(3)(C), of which such United States person is a member) of all of the outstanding stock, except for qualifying shares, of a foreign corporation; or

(B) in connection with the liquidation by such United States person (or by one or more such includible corporations) of a foreign corporation all of the outstanding stock of which, except for qualifying shares, is owned by such United States person (or by one or more such includible corporations), but only if such debt obligation had been received by such foreign corporation as part or all of the purchase price in a sale of substantially all of its assets.

(2) LIMITATION.—Paragraph (1) shall not apply to the acquisition of a debt obligation if any of the stock sold or surrendered in connection with its acquisition was originally acquired with the intent to sell or surrender.

[(h) CERTAIN DEBT OBLIGATIONS SECURED BY UNITED STATES MORTGAGES, ETC.—

[(1) IN GENERAL.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign obligor by a United States person of a debt obligation of such foreign obligor which is se-

cured by real property located in the United States, to the extent that—

[(A) the debt obligation is a part of the purchase price of such real property (or of such real property and related personal property); or

[(B) the debt obligation arises out of a loan made by such United States person to the foreign obligor the proceeds of which are concurrently used as part of the purchase price of such real property (or of such real property and related personal property).

[(2) LIMITATION.—Paragraph (1) shall apply to the acquisition of a debt obligation only if—

[(A) the owner of the property sold is a United States person; and

[(B) at least 25 percent of the purchase price of the property sold is, at the time of such sale, paid in United States currency to such United States person by the foreign obligor from funds not obtained from United States persons for the purpose of purchasing such property.

[(3) RELATED PERSONAL PROPERTY.—For purposes of paragraph (1), the term "related personal property" means personal property which is sold in connection with the sale of real property for use in the operation of such real property.]

*(h) CERTAIN DEBT OBLIGATIONS SECURED BY UNITED STATES MORTGAGES, ETC.—*

*(1) IN GENERAL.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign obligor by a United States person of—*

*(A) a debt obligation of such foreign obligor which is secured by real property located in the United States, to the extent that such debt obligation—*

*(i) is a part of the purchase price of such real property (or of such real property and related personal property), or*

*(ii) arises out of a loan made by such United States person to the foreign obligor the proceeds of which are concurrently used as part of the purchase price of such real property (or of such real property and related personal property); or*

*(B) a debt obligation of such foreign obligor which is secured by real property located in the United States on which improvements are under construction by the obligor, if such debt obligation arises out of a loan made by such United States person all the proceeds of which are used—*

*(i) to finance the construction of such improvements, or*

*(ii) to repay all or any part of a loan made to finance such construction, if the construction loan has qualified (or would have qualified) under paragraph (2)(B) and such repayment occurs within 5 years after such construction loan is made.*

*(2) LIMITATIONS.—Paragraph (1) shall apply to the acquisition of a debt obligation only if—*

*(A) in the case of the sale of property referred to in paragraph (1)(A)—*

*(i) the seller is a United States person, and*

*(ii) at least 25 percent of the purchase price of the property sold is, at the time of such sale, paid in United States currency to such United States person by the foreign obligor from funds not obtained from United States persons for the purpose of purchasing such property; or*

*(B) in the case of the construction of improvements referred to in paragraph (1)(B)—*

*(i) at the time any proceeds of the loan out of which such debt obligation arises are advanced, an amount equal to at least one-third of the amount of such adavnce, plus one-third of the amount of any previous advances of such proceeds, has been expended for such construction by the foreign obligor in United States currency from funds not obtained from United States persons for the purpose of financing such construction, and*

*(ii) not less than 85 percent of the cost of such construction attributable to property or services is attributable to property grown, extracted, manufactured, or produced in the United States, or to services performed by United States persons, or to both.*

*(3) RELATED PERSONAL PROPERTY.—For purposes of paragraph (1)(A), the term "related personal property" means personal property which is sold in connection with the sale of real property for use in the operation of such real property.*

(i) ACQUISITIONS OF STOCK OF FOREIGN ISSUERS INVESTING EXCLUSIVELY IN THE UNITED STATES.—

(1) IN GENERAL.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign issuer of its stock by a United States person who is a bona fide resident of a foreign country within the meaning of section 911(a)(1), or who at the time of such acquisition is regularly performing personal services on a full-time basis in a foreign country, if at the close of each calendar quarter ending on or after June 30, 1963, preceding such acquisition, during any part of which such foreign issuer is in existence—

(A) the assets of such foreign issuer, exclusive of money or deposits with persons carrying on the banking business, consist solely of:

(i) stock or debt obligations of domestic corporations (other than a corporation which has elected under section 4920(a)(3)(B) to be treated as a foreign issuer or obligor for purposes of this chapter);

(ii) debt obligations of the United States, or of any State or possession of the United States, or any political subdivision of any State or possession; or

(iii) debt obligations of citizens or residents of the United States;

(B) money and deposits with persons carrying on the banking business (other than banks as defined in section 581) constitute less than 5 percent of the value of the assets of such foreign issuer; and

(C) less than 25 percent of each class of issued and outstanding stock of such foreign issuer is held of record by United States persons.

(2) ACQUISITIONS THROUGH UNIT INVESTMENT TRUSTS.—For purposes of paragraph (1), an acquisition of an interest in a unit investment trust (within the meaning of section 4(2) of the Investment Company Act of 1940), or in an entity performing similar custodial functions, shall be deemed a direct acquisition from the foreign issuer of the stock held by such trust or entity with respect to such interest and shall not be treated as an acquisition of stock issued by such trust or entity.

(3) LIMITATIONS.—

(A) Paragraph (1) shall apply only to that portion of the total acquisitions of stock of foreign issuers described in such paragraph (determined in the order acquired) by a United States person in any one calendar year that does not exceed $5,000.

(B) If, after July 30, 1964, a United States person sells or otherwise disposes of stock the acquisition of which was excluded under paragraph (1) from the tax imposed by section 4911, such person shall not, with respect to such stock, be considered a United States person.

(j) LOSS OF ENTITLEMENT TO EXCLUSION IN CASE OF CERTAIN SUBSEQUENT TRANSFERS.—

(1) IN GENERAL.—

(A) Where an exclusion provided by paragraph (1)(B), (2), (3), (4), [or (5)] *(5), or (6)* of subsection (c), or the exclusion provided by subsection (d), has applied with respect to the acquisition of a debt obligation by any person, but such debt obligation is subsequently transferred by such person (before the termination date specified in section 4911(d)) to a United States person otherwise than—

(i) to any agency or wholly-owned instrumentality of the United States;

(ii) to a commercial bank acquiring the obligation in the ordinary course of its commercial banking business;

(iii) in the case of an exclusion provided by paragraph (1)(B), (2), or (3) of subsection (c), to any transferee where the extension of credit by such person and the acquisition of the debt obligation related thereto were reasonably necessary to accomplish the sale of property or services out of which the debt obligation arose, and the terms of the debt obligation are not unreasonable in light of credit practices in the business in which such person is engaged; or

(iv) in a transaction described in subsection (a)(1) or (2), or a transaction (other than a transfer by gift) described in subsection (a)(3).

then liability for the tax imposed by section 4911 (in an amount determined under subparagraph (D) of this paragraph) shall be incurred by the transferor (with respect to such debt obligation) at the time of such subsequent transfer.

(B) Where the exclusion provided by paragraph (2) or (3) of subsection (c) has applied with respect to the acquisition of stock by any person, but such stock is subsequently transferred by such person (before the termination date

specified in section 4911(d)) to a United States person otherwise than in a transaction described in subsection (a) (1) or (2), or a transaction (other than a transfer by gift) described in subsection (a)(3), then liability for the tax imposed by section 4911 (in an amount determined under subparagraph (D) of this paragraph) shall be incurred by the transferor (with respect to such stock) at the time of such subsequent transfer.

(C) Where the exclusion provided by subsection (f) has applied with respect to the acquisition of stock or a debt obligation by any person, but such stock or debt obligation is subsequently transferred by such person (before the termination date specified in section 4911(d)) to any United States person, then liability for the tax imposed by section 4911 (in an amount determined under subparagraph (D) of this paragraph) shall be incurred by the transferor (with respect to such stock or debt obligation) at the time of such subsequent transfer.

(D) In any case where an exclusion provided by paragraph (1)(B), (2), (3), (4), [or (5)] *(5), or (6)* of subsection (c) or by subsection (d) or (f) has applied, but a subsequent transfer described in subparagraph (A), (B), or (C) of this paragraph occurs and liability for the tax imposed by section 4911 is incurred by the transferor as a result thereof, the amount of such tax shall be equal to the amount of tax for which the transferor would have been liable under such section upon his acquisition of the stock or debt obligation involved if such exclusion had not applied with respect to such acquisition.

(2) UNITED STATES PERSON TREATED AS FOREIGN PERSON ON DISPOSITION OF CERTAIN SECURITIES.—For purposes of this chapter, if, after December 10, 1963, a United States person sells or otherwise disposed of stock or a debt obligation which it—

(A) acquired to satisfy minimum requirements imposed by foreign law and with respect to which it claimed an exclusion under subsection (b) (3), or

(B) designated (or was required to designate) as part of a fund of assets under subsection (e),

such person shall not, with respect to that stock or debt obligation, be considered a United States person. *For purposes of this chapter, if, after July 18, 1963, a United States person sells or otherwise disposes of stock or a debt obligation to the acquisition of which the last sentence of subsection (b)(2) applied, such person shall not, with respect to that stock or debt obligation, be considered a United States person.*

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**SEC. 4916. EXCLUSION FOR INVESTMENTS IN LESS DEVELOPED COUNTRIES.**

* * * * * * *

(c) LESS DEVELOPED COUNTRY CORPORATION DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "less developed country corporation" means a foreign corporation which for the applicable periods set forth in paragraph (3)—

(A) meets the requirements of section 955(c) (1) or (2); or

(B) derives 80 percent or more of its gross income, if any, from sources within less developed countries, or from deposits in the United States with persons carrying on the banking business, or both, and has assets 80 percent or more in value of which consists of—

(i) money, and deposits in the United States with persons carrying on the banking business,

(ii) stock or debt obligations of any other less developed country corporation,

(iii) debt obligations of a less developed country,

(iv) investments which are required because of restrictions imposed by a less developed country,

(v) debt obligations described in paragraph (3) of subsection (a) of this section, and

(vi) obligations of the United States.

In applying this paragraph the determination of whether a foreign country is a less developed country shall be made in accordance with subsection (b) of this section. *A foreign partnership, as defined in section 7701(a) (2) and (5), the assets and gross income of which, for the applicable periods set forth in paragraph (3), satisfy the requirements of subparagraph (A) or (B) of the first sentence of this paragraph, shall be treated as a less developed country corporation for purposes of this section.*

(2) SPECIAL RULES.—

(A) For purposes of subparagraphs (A) and (B) of paragraph (1), property described in section 956(b)(1) (regardless of when acquired), other than deposits with persons carrying on the banking business, and income derived from such property, shall not be taken into account.

(B) For purposes of subparagraph (A) of paragraph (1), obligations of any other less developed country corporation shall be taken into account under section 955(c)(1)(B)(iii) without regard to the period remaining to maturity at the time of their acquisition.

(C) For purposes of subparagraph (B) of paragraph (1), deposits outside the United States (other than deposits in a less developed country) with persons carrying on the banking business, and income from such deposits, shall not be taken into account.

(3) APPLICABLE PERIODS.—The determinations required by subparagraphs (A) and (B) of paragraph (1) shall be made (A) for the annual accounting period (if any) of the foreign corporation immediately preceding its accounting period in which the acquisition involved is made, (B) for the annual accounting period of the foreign corporation in which such acquisition is made, and (C) for the next succeeding annual accounting period of the foreign corporation.

(4) SPECIAL RULES FOR TREATMENT OF CORPORATIONS AS LESS DEVELOPED COUNTRY CORPORATIONS.—A foreign corporation shall be treated as satisfying the definition in paragraph (1) with respect to the acquisition by a United States person of stock or a debt obligation if—

(A) before the acquisition occurs (or, in the case of an acquisition occurring before or within 60 days after the date of the enactment of this chapter, pursuant to application made within such period following such date as may be prescribed by the Secretary or his delegate in regulations), it is established to the satisfaction of the Secretary or his delegate that such foreign corporation—

(i) has met the applicable requirements of paragraph (1) for the period (if any) referred to in paragraph (3)(A), and

(ii) may reasonably be expected to satisfy such requirements for the periods referred to in paragraphs (3) (B) and (C); or

(B) in the case of an acquisition occurring on or before December 10, 1963, the applicable requirements of paragraph (1) are met for the annual accounting period of the foreign corporation immediately preceding its accounting period in which the acquisition occurred.

(5) TREATMENT OF CORPORATIONS AS LESS DEVELOPED COUNTRY CORPORATIONS IN OTHER CASES.—A foreign corporation may also be treated as satisfying the definition in paragraph (1) with respect to the acquisition by a United States person of stock or a debt obligation (but subject to possible subsequent liability for tax under subsection (d)(1)), if—

(A) such corporation has met the applicable requirements of paragraph (1) for the period (if any) referred to in paragraph (3)(A), and

(B) such person reasonably believes that such corporation will satisfy such requirements for the periods referred to in paragraphs (3)(B) and (C).

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**SEC. 4917. EXCLUSION FOR ORIGINAL OR NEW ISSUES WHERE REQUIRED FOR INTERNATIONAL MONETARY STABILITY.**

(a) IN GENERAL.—If the President of the United States shall at any time determine that the application of the tax imposed by section 4911 will have such consequences for a foreign country as to imperil or threaten to imperil the stability of the international monetary system, he may by Executive order specify that such tax shall not apply to the acquisition by a United States person of stock or a debt obligation of the government of such foreign country or a political subdivision thereof, any agency or instrumentality of any such government, any corporation, partnership, or trust (other than a company registered under the Investment Company Act of 1940) organized under the laws of such country or any such subdivision, or any individual resident therein, to the extent that such stock or debt obligation is acquired as all or part of an original or new issue as to which there is filed such notice of acquisition as the Secretary or his delegate may prescribe by regulations. In the case of acquisitions made during the period beginning July 19, 1963, and ending with the date of the enactment of this chapter, the notice of acquisition may be filed within such period following the date of such enactment as the Secretary or his delegate may prescribe by regulations. *In the case of acquisitions of debt obligations having a period remaining to maturity of 1 year or*

*more but less than 3 years made during the period beginning February 11, 1965, and ending with the date of the enactment of the Interest Equalization Tax Extension Act of 1965, the notice of acquisition may be filed within such period following the date of such enactment as the Secretary or his delegate may prescribe by regulations.*

* * * * * * *

**SEC. 4919. SALES BY UNDERWRITERS AND DEALERS TO FOREIGN PERSONS.**

(a) CREDIT OR REFUND.—The tax paid under section 4911 on the acquisition of stock or debt obligations of a foreign issuer or obligor shall constitute an overpayment of tax to the extent that such stock or debt obligations—

(1) PRIVATE PLACEMENTS AND PUBLIC OFFERINGS.—Are acquired by an underwriter in connection with a private placement or a public offering by a foreign issuer or obligor (or a person or persons directly or indirectly controlling, controlled by, or under common control with such issuer or obligor) and are sold as part of such private placement or public offering by the underwriter (including sales by other underwriters who are United States persons participating in the placement or distribution of the stock or debt obligations acquired by the underwriter) to persons other than United States persons;

(2) CERTAIN DEBT OBLIGATIONS.—Consist of debt obligations—

(A) acquired by a dealer in the ordinary course of his business and sold by him, within 90 days after their purchase, to—

(i) persons other than United States persons, or

(ii) another dealer who resells them on the same or the next business day to persons other than United States persons; or

(B) acquired by a dealer in the ordinary course of his business to cover short sales made by him, within 90 days before their purchase, to—

(i) persons other than United States persons, or

(ii) another dealer who resold them on the same or the next business day to persons other than United States persons; or

[(3) CERTAIN STOCK.—Consist of stock—

[(A) acquired by a dealer in the ordinary course of his business and sold by him on the day of purchase or on either of the two succeeding business days to persons other than United States persons; or

[(B) acquired by a dealer in the ordinary course of his business to cover short sales made by him on the day of purchase or on either of the two preceding business days to persons other than United States persons.]

*(3) CERTAIN STOCK.—Consist of stock—*

*(A) acquired by a dealer in the ordinary course of his business and sold by him on the day of purchase or on either of the two succeeding business days to—*

*(i) persons other than United States persons, or*

*(ii) another dealer who resells it on the same or the next business day to persons other than United States persons; or*

*(B) acquired by a dealer in the ordinary course of his business to cover short sales made by him on the day of purchase or on either of the two preceding business days to—*

*(i) persons other than United States persons, or*

*(ii) another dealer who resold it on the same or the next business day to persons other than United States persons.*

Under regulations prescribed by the Secretary or his delegate, credit or refund (without interest) shall be allowed or made with respect to such overpayment. For purposes of paragraphs (2) and (3) of this subsection and for purposes of paragraph (3) of subsection (b), the day of purchase or sale of any stock or debt obligation is the day on which an order to purchase or to sell, as the case may be, is executed.

(b) EVIDENCE TO SUPPORT CREDIT OR REFUND.—

(1) IN GENERAL.—Credit or refund shall be allowed to an underwriter or dealer under subsection (a) with respect to any stock or debt obligation sold by him only if the underwriter or dealer—

(A) files with the return required by section 6011(d) on which credit is claimed, or with the claim for refund, such information as the Secretary or his delegate may prescribe by regulations, and

(B) establishes that such stock or debt obligation was sold to a person other than a United States person.

In any case where two or more underwriters from a group for the purpose of purchasing and distributing (through resale) stock or debt obligations of a single foreign issuer or obligor, any one of such underwriters may, to the extent provided by regulations prescribed by the Secretary or his delegate, satisfy the requirements of this paragraph on behalf of all such underwriters.

(2) CERTAIN SALES BY UNDERWRITERS.—For purposes of paragraph (1)(B), in the case of a claim for credit or refund under subsection (a)(1) with respect to stock or a debt obligation acquired by an underwriter and not sold by him directly to a person other than a United States person, a certificate of sale to a foreign person (setting forth such information, and filed in such manner, as the Secretary or his delegate may prescribe by regulations), executed by the underwriter who made such sale, shall be conclusive proof that such stock or debt obligation was sold to a person other than a United States person, unless the underwriter relying upon the certificate has actual knowledge that the certificate is false in any material respect.

(3) [SALES OF DEBT OBLIGATIONS BY DEALERS] *CERTAIN SALES BY DEALERS.—*

(A) SALES ON NATIONAL SECURITIES EXCHANGES.—For purposes of paragraph (1)(B), in the case of a claim for credit or refund under subsection (a)(2), the sale by a dealer of a debt obligation on a national securities exchange registered with the Securities and Exchange Commission subject to a special contract (and not in the regular market) shall be conclusive proof that such debt obligation was sold to a person other than a United States person, if such exchange has in effect at the time of the sale rules providing that—

(i) a member or member organization of such exchange selling a debt obligation as a dealer, or effecting

the seal as broker of a debt obligation on behalf of a dealer, on such exchange subject to a special contract (and not in the regular market) shall furnish to the member or member organization purchasing such debt obligation as a dealer, or effecting the purchase as broker of such debt obligation on behalf of a dealer, a written confirmation or comparison stating that such sale is being made as a dealer, or on behalf of a dealer; and

(ii) if the purchaser of such debt obligation is a dealer (whether or not a member or member organization of such exchange), the terms of the contract applicable to such sale shall require the purchasing dealer to undertake to resell such debt obligation on the day of purchase or the next business day to a person other than a United States person.

A dealer who acquires a debt obligation in a transaction in which a written confirmation or comparison described in clause (i) is furnished shall not be entitled to a credit or refund under subsection (a)(2) with respect to his acquisition of such debt obligation unless he establishes that such debt obligation was sold by him on the day on which it was purchased or the next business day to a person other than a United States person.

(B) OVER-THE-COUNTER SALES.—For purposes of paragraph (1)(B), in the case of a claim for credit or refund under subsection (a)(2) *or (a)(3)* with respect to a [debt obligation sold in a transaction] *sale* not on a national securities exchange, a written confirmation furnished by a member or member organization of a national securities association registered with the Securities and Exchange Commission stating that such member or member organization—

(i) effected the purchase as broker of *stock or* a debt obligation on behalf of a person other than a United States person, or

(ii) purchased *stock or* a debt obligation which he resold on the day of purchase or the next business day to a person other than a United States person,

shall be conclusive proof that such *stock or* debt obligation was sold to a person other than a United States person (unless the dealer relying upon the confirmation has actual knowledge that the confirmation is false in any material respect), if such association has in effect at the time of the purchase rules providing that a member or member organization who effects a purchase of, or purchases, a *stock or* debt obligation from a dealer who notifies such member or member organization that such *stock or* debt obligation is being sold by such dealer and that such dealer intends to claim a credit or refund under subsection (a)(2) *or (a)(3)*, shall furnish to such dealer a written confirmation stating that the purchase of such *stock or* debt obligation was (or was not) effected by such member or member organization on behalf of a person other than a United States person, or that such *stock or* debt obligation was (or was not) sold by

such member or member organization on the day of purchase or the next business day to a person other than a United States person.

(4) SALES OF STOCK BY DEALERS.—For purposes of paragraph (1)(B), in the case of a claim for credit or refund under subsection (a)(3), the sale by a dealer of stock on a national securities exchange registered with the Securities and Exchange Commission subject to a special contract (and not in the regular market) shall be conclusive proof that such stock was sold to a person other than a United States person, unless such dealer has actual knowledge at the time of such sale that the purchaser of such stock is a dealer (whether or not a member or member organization of such exchange).

(c) DEFINITIONS.—For purposes of this section—

(1) the term "underwriter" means any person who has purchased stock or debt obligations from the issuer or obligor (or from a person controlling, controlled by, or under common control with such issuer or obligor), or from another underwriter, with a view to the distribution through resale of such stock or debt obligations; and

(2) the term "dealer" means any person who is a member of a national securities association registered with the Securities and Exchange Commission and who is regularly engaged, as a merchant, in purchasing stock or debt obligations and selling them to customers with a view to the gains and profits which may be derived therefrom.

**SEC. 4920. DEFINITIONS AND SPECIAL RULES.**

(a) IN GENERAL.—For purposes of this chapter—

(1) DEBT OBLIGATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "debt obligation" means—

(i) any indebtedness, whether or not represented by a bond, debenture, note, certificate, or other writing, whether or not secured by a mortgage, and whether or not bearing interest; and

(ii) any interest in, or any option or similar right to acquire, a debt obligation referred to in this subparagraph, whether or not such interest, option, or right is in writing.

(B) EXCEPTIONS.—The term "debt obligation" shall not include any obligation which—

(i) is convertible by its terms into stock of the obligor, if it is so convertible only within a period of 5 years or less from the date on which interest begins to accrue thereon; or

(ii) arises out of the divorce, separate maintenance, or support of an individual who is a United States person.

(2) STOCK.—The term "stock" means—

(A) any stock, share, or other capital interest in a corporation;

(B) any interest of a partner in a partnership;

(C) any interest in an investment trust;

(D) any indebtedness which is convertible by its terms into stock of the obligor, if it is so convertible only within

a period of 5 years or less from the date on which interest begins to accrue thereon; and

(E) any interest in, or option or similar right to acquire, any stock described in this paragraph.

(3) FOREIGN ISSUER OR OBLIGOR.—The terms "foreign issuer", "foreign obligor", and "foreign issuer or obligor" mean any issuer of stock or obligor of a debt obligation, as the case may be, which is—

(A)(i) an international organization of which the United States is not a member,

(ii) the government of a foreign country or any political subdivision thereof, or an agency or instrumentality of such a government,

(iii) a corporation, partnership, or estate or trust which is not a United States person as defined in paragraph (4); or

(iv) a nonresident alien individual;

(B) a domestic corporation which, as of July 18, 1963, was a management company registered under the Investment Company Act of 1940 if—

(i) at least 80 percent of the value of the stock and debt obligations owned by such corporation on July 18, 1963, and at least 80 percent of the value of the stock and debt obligations owned by such corporation at the end of every calendar quarter thereafter (through the quarter preceding the quarter in which the acquisition involved is made), consists of stock or debt obligations of foreign issuers or obligors and other debt obligations having an original maturity of 90 days or less;

(ii) such corporation elects to be treated as a foreign issuer or obligor for purposes of this chapter; and

(iii) such corporation does not materially increase its assets during the period from July 18, 1963, to the date on which such election is made through borrowing or through issuance or sale of its stock (other than stock issued or sold on or before September 16, 1963, as part of a public offering with respect to which a registration statement was first filed with the Securities and Exchange Commission on July 18, 1963, or within 90 days before that date).

The election under clause (ii) shall be made on or before the 60th day after the date of the enactment of this chapter under regulations prescribed by the Secretary or his delegate. Such election shall be effective as of the date specified by the corporation, but not later than the date on which such election is made, and shall remain in effect until revoked. If, at the close of any succeeding calendar quarter, the company ceases to meet the requirement of clause (i), the election shall thereupon (with respect to quarters after such calendar quarter) be deemed revoked. When an election is revoked no further election may be made. If the assets of a foreign corporation are acquired by a domestic corporation in a reorganization described in subparagraph (D) or (F) of section 368(a)(1), the two corporations shall be considered a single domestic corporation for purposes of this subparagraph.

(4) UNITED STATES PERSON.—The term "United States person" means—

(A) a citizen or resident of the United States,

(B) a domestic partnership,

(C) a domestic corporation, other than a corporation described in paragraph (3)(B),

(D) an agency or wholly-owned instrumentality of the United States,

(E) a State or political subdivision, or any agency or instrumentality thereof, and

(F) any estate or trust—

(i) the income of which from sources without the United States is includible in gross income under subtitle A (or would be so includible if not exempt from tax under section 501(a), section 521(a), or section 584(b)), or

(ii) which is situated in the Commonwealth of Puerto Rico or a possession of the United States.

(5) DOMESTIC CORPORATION; DOMESTIC PARTNERSHIP.—The terms "domestic corporation" and "domestic partnership" mean, respectively, a corporation or partnership created or organized in the United States or under the laws of the United States or of any State, except that such terms do not include a branch office of such a corporation or partnership located outside the United States if—

(A) such corporation or partnership (without regard to the activities of such office) is a dealer (as defined in section 4919(c)(2));

(B) such office (which is operated by employees or partners of such corporation or partnership) was located outside the United States on July 18, 1963, and was regularly engaged, as a merchant, in purchasing and selling stock or debt obligations of foreign issuers or obligors with a view to the gains and profits which may be derived therefrom, for a period of not less than 12 consecutive calendar months prior to July 18, 1963;

(C) all acquisitions by such branch office of stock of foreign issuers and debt obligations of foreign obligors are made in the ordinary course of its business as such a merchant or as an underwriter (as defined in section 4919(c)(1));

(D) such office maintains separate books and records reasonably reflecting the assets and liabilities properly attributable to such office; and

(E) there is in effect an election that such branch office be treated as a foreign corporation or foreign partnership for purposes of this chapter.

The election under subparagraph (E) shall be made by such corporation or partnership on or before the 60th day after the date of the enactment of this chapter under regulations prescribed by the Secretary or his delegate. A separate election may be made with respect to each branch office of such corporation or partnership. Such election shall be effective as of July 18, 1963, and shall remain in effect until revoked in accordance with such regulations. If, at any time, a branch office ceases to meet the requirements of

subparagraph (A), (C), or (D), the election with respect to such office shall thereupon be deemed revoked. When an election is revoked, a new election under subparagraph (E) may be made subject to such conditions and limitations as may be prescribed by the Secretary or his delegate. *A corporation or partnership making an election under this paragraph or paragraph (5A) with respect to a branch office located outside the United States shall not, at any time, execute a certificate of American ownership (within the meaning of section 4918) either with respect to stock or a debt obligation of a foreign issuer or obligor held by such branch office at the time the election is made with respect to such branch office or with respect to stock or a debt obligation of a foreign issuer or obligor acquired by such branch office while the election with respect to such branch office is in effect.*

*(5A) CERTAIN COMMERCIAL FINANCING BRANCHES NOT TREATED AS DOMESTIC CORPORATIONS.—The term "domestic corporation" does not include a branch office of such a corporation located outside the United States if—*

*(A) such corporation is primarily engaged in the trade or business of acquiring debt obligations arising out of the sale of tangible personal property produced, manufactured, or assembled by one or more includible corporations in an affiliated group (determined under section 48(c)(3)(C) except that clause (i) of such section shall not apply) of which such acquiring corporation is a member;*

*(B) such office is primarily engaged in the trade or business of acquiring debt obligations described in subparagraph (A) which are repayable exclusively in one or more currencies other than United States currency;*

*(C) such office was located outside the United States on February 10, 1965, and was regularly engaged in the trade or business of acquiring debt obligations described in subparagraph (B) for a period of not less than 12 consecutive months before February 10, 1965;*

*(D) such office maintains separate books and records reasonably reflecting the assets and liabilities properly attributable to such office; and*

*(E) there is in effect an election that such branch office be treated as a foreign corporation for purposes of this chapter.*

*For purposes of this paragraph, a corporation or a branch office shall be treated as primarily engaged in the trade or business described in subparagraph (A) during the taxable year if at least 90 percent of the face amount of the debt obligations acquired by such corporation or branch office during such taxable year consists of debt obligations described in subparagraph (A) and if throughout such taxable year such corporation or branch office is exclusively engaged in the trade or business of acquiring debt obligations (whether or not described in subparagraph (A)). The election under this paragraph shall be made by such corporation in accordance with regulations prescribed by the Secretary or his delegate. A separate election may be made with respect to each branch office of such corporation except that, for purposes of this paragraph, all branch offices of such corporation located in a country shall be treated as a single branch office. Such election shall be effective as of February 10, 1965, and*

*shall remain in effect until revoked in accordance with such regulations. If, at any time, such corporation ceases to meet the requirements of subparagraph (A), all elections made by such corporation under this paragraph shall be deemed revoked. If, at any time, a branch office (within the meaning of this paragraph) ceases to meet the requirements of subparagraph (B) or (D), the election with respect to such office shall thereupon be deemed revoked. When an election is revoked, a new election under subparagraph (E) may be made subject to such conditions and limitations as may be prescribed by the Secretary or his delegate.*

(6) UNITED STATES; STATE.—The term "United States" when used in a geographical sense includes the States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States; and the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(7) PERIOD REMAINING TO MATURITY.—

(A) IN GENERAL.—Subject to the modifications set forth in subparagraph (B), the period remaining to maturity of a debt obligation shall be that period beginning on the date of its acquisition and ending on the fixed or determinable date when, according to its terms, the payment of principal becomes due.

(B) MODIFICATIONS.—The period remaining to maturity—

(i) of any interest in, or any option or similar right to acquire, any debt obligation shall be the period remaining to maturity of that debt obligation at the time of the acquisition of such interest, option, or right;

(ii) of any debt obligation which is renewable without affirmative action by the obligee, or of any interest in or option or similar right to acquire such a debt obligation, shall end on the last day of the final renewal period;

(iii) of any debt obligation which has no fixed or determinable date when the payment of principal becomes due shall be considered to be 28½ years;

(iv) of any debt obligation which is payable on demand (including any bank deposit) shall be considered to be less than [3 years] *1 year*; and

(v) of a debt obligation which is subject to retirement before its maturity through operation of a mandatory sinking fund shall be determined under regulations prescribed by the Secretary or his delegate.

[(8) FOREIGN STOCK ISSUES TREATED AS DOMESTIC.—

[(A) IN GENERAL.—A foreign corporation (other than a company registered under the Investment Company Act of 1940) shall not be considered a foreign issuer with respect to any class of its stock if, as of the latest record date before July 19, 1963, more than 65 percent of such class of stock was held of record by United States persons.

[(B) STOCK TRADED ON NATIONAL SECURITIES EXCHANGES.—A foreign corporation (other than a company registered under the Investment Company Act of 1940) shall not be considered a foreign issuer with respect to any class of its stock which is traded on one or more national

securities exchanges registered with the Securities and Exchange Commission, if the trading on such national securities exchanges constituted the principal market for such class of stock during the calendar year 1962 and if, as of the latest record date before July 19, 1963, more than 50 percent of such class of stock was held of record by United States persons.]

*(b) Foreign Stock Issues Treated as Domestic.—*

*(1) In general.—For purposes of this chapter, a foreign corporation (other than a company registered under the Investment Company Act of 1940) shall not be considered a foreign issuer with respect to any class of its stock if—*

*(A) as of the corporation's latest record date before July 19, 1963, more than 65 percent of such class of stock was held of record by United States persons, or*

*(B) the class of stock had its principal market during the calendar year 1962 on one or more national securities exchanges registered with the Securities and Exchange Commission, and, as of the corporation's latest record date before July 19, 1963, more than 50 percent of such class of stock was held of record by United States persons.*

*(2) Class of stock defined.—For purposes of this subsection, the term "class of stock" means all shares of stock of a corporation issued and outstanding as of the corporation's latest record date before July 19, 1963, which are identical with respect to the rights and interest such shares represent in the control, profits, and assets of the corporation. Such term also includes additional shares possessing rights and interests identical with the rights and interests of shares described in the preceding sentence if such additional shares shall have been—*

*(A) issued on or before November 10, 1964;*

*(B) issued after November 10, 1964, pursuant to a written commitment made by such corporation on or before such date;*

*(C) issued after November 10, 1964, to a shareholder with respect to or in exchange solely for shares described in this paragraph; or*

*(D) issued after November 10, 1964, and if—*

*(i) such corporation was actively engaged in a trade or business on July 19, 1963;*

*(ii) shares of such class were held of record by more than 250 shareholders on the corporation's latest record date before July 19, 1963;*

*(iii) the percentage of shares of such class held of record by United States persons as of the corporation's latest record date before the issuance of such additional shares is not less than the percentage required to be held by United States persons as of the latest record date before July 19, 1963, in order for the class of stock to qualify under paragraph (1);*

*(iv) all such additional shares, if acquired by United States persons, would be excluded from the tax imposed by section 4911 by reason of section 4914(a)(6), 4916, or 4917; and*

*(v) at least 15 days before the date such additional shares are issued (or, in the case of an issue occurring on*

*or before the 60th day after the date of the enactment of this sentence, within such period as may be prescribed by the Secretary or his delegate by regulations), the issuing corporation files (in accordance with regulations prescribed by the Secretary or his delegate) a notice of intent to issue such shares.*

*For purposes of subparagraph (D), the issuance of an option or similar right to acquire stock, or of any debt obligation convertible into stock, shall be treated as the issuance of the stock which may be obtained on the exercise of such option or similar right or the conversion of such debt obligation.*

[(b)] *(c)* SPECIAL RULE FOR FOREIGN UNDERWRITERS.—A partnership or corporation which is not a United States person and which participates, as an underwriter in an underwriting group that includes one or more United States persons, in a public offering of stock or debt obligations of a foreign issuer or obligor shall, if such partnership or corporation so elects and subject to such terms and conditions as the Secretary or his delegate may prescribe by regulations, be treated as a United States person for purposes of this chapter with respect to its participation in such public offering.

[(c)] *(d)* CROSS REFERENCE.—

**For definition of "acquisition", see section 4912.**

### Subchapter B—Acquisitions by Commercial Banks

Sec. 4931. Commercial bank loans.

**SEC. 4931. COMMERCIAL BANK LOANS.**

(a) STANDBY AUTHORITY.—The provisions of this section shall apply only if the President of the United States—

(1) determines that the acquisition of debt obligations of foreign obligors by commercial banks in making loans in the ordinary course of the commercial banking business has materially impaired the effectiveness of the tax imposed by section 4911, because such acquisitions have, directly or indirectly, replaced acquisitions by United States persons, other than commercial banks, of debt obligations of foreign obligors which are subject to the tax imposed by such section, and

(2) specifies by Executive order that the provisions of this section shall apply to acquisitions by commercial banks of debt obligations of foreign obligors, to the extent specified in such order.

Such Executive order shall be effective, to the extent specified therein, with respect to acquisitions made during the period beginning on the day after the date on which the order is issued and ending on the date set forth in section 4911(d). Such Executive order may be modified from time to time (by Executive order), except that no such modification shall (A) have the effect of excluding from the application of subsection (b) [or (c)] a significant class of acquisitions to which such subsection applied under such Executive order or any modification thereof, or (B) subject any acquisition made on or before the date of issuance of such modification to the application of subsection (b) [or (c)].

(b) DEBT OBLIGATIONS WITH MATURITY OF [3 YEARS] *1 YEAR* OR MORE, ETC.—During the period in which an Executive order issued

under subsection (a) is effective, and to the extent specified in such order (and any modifications thereof), sections 4914(b)(2)(A), 4914(j)(1)(A)(ii), and 4915(c)(2)(A) shall not apply.

[(c) DEBT OBLIGATIONS WITH MATURITY FROM 1 TO 3 YEARS.—During the period in which an Executive order issued under subsection (a) is effective, and to the extent specified in such order (and any modifications thereof), there is hereby imposed, on each acquisition by a Unted States person (as defined in section 4920(a)(4)) which is a commercial bank of a debt obligation of a foreign obligor (if such obligation has a period remaining to maturity of 1 year or more and less than 3 years), a tax equal to a percentage of the actual value of the debt obligation measured by the period remaining to its maturity and determined in accordance with the following table:

| If the period remaining to maturity is: | The tax, as a percentage of actual value, is: |
| --- | --- |
| At least 1 year, but less than 1¼ years | 1.05 percent |
| At least 1¼ years, but less than 1½ years | 1.30 percent |
| At least 1½ years, but less than 1¾years | 1.50 percent |
| At least 1¾ years, but less than 2¼ years | 1.85 percent |
| At least 2¼ years, but less than 2¾ years | 2.30 percent |
| At least 2¾ years, but less than 3 years | 2.75 percent |

For purposes of this title, the tax imposed under this subsection shall be treated as imposed under section 4911[, except that, for such purposes, the provisions of section 4918 shall not apply].] [1]

[(d)] *(c)* EXCLUSIONS.—

(1) EXPORT LOANS.—The provisions of subsection (b)[, and the tax imposed under subsection (c),] shall not apply with respect to the acquisition by a commercial bank of a debt obligation arising out of the sale *or lease* of personal property or services (or both) if—

(A) not less than 85 percent of the amount of the loan, *amount paid, or other consideration given to acquire such debt obligation* is attributable to the sale *or lease* of property manufactured, produced, grown, extracted, created, or developed in the United States, or to the performance of services by United States persons, or to both, and

(B) the extension of credit and the acquisition of the debt obligation related thereto are reasonably necessary to accomplish the sale *or lease* of property or services out of which the debt obligation arises, and the terms of the debt obligation are not unreasonable in light of credit practices in the business in which the United States person selling *or leasing* such property or services is engaged.

(2) FOREIGN CURRENCY LOANS BY FOREIGN BRANCHES.—The provisions of subsection (b)[, and the tax imposed under subsection (c),] shall not apply to the acquisition by a commercial bank of a debt obligation of a foreign obligor payable in the currency of a foreign country if, under regulations prescribed by the Secretary or his delegate—

(A) such bank establishes and maintains, for each of its branches located outside the United States, a fund of assets

[1] Section 4(l)(2) of the bill amends the last sentence of section 4931(c), effective with respect to acquisitions made after February 10, 1965. Section 3(e)(1)(A) of the bill strikes out section 4931(c), effective at such time as may be provided in a modification of Executive Order 11198 made after the enactment of the bill.

with respect to deposits payable in foreign currency to customers [(other than banks)] *(other than United States persons engaged in the commercial banking business and members of an affiliated group (determined under section 48(c)(3)(C)) of which such a United States person is a member)* of such branch, and

(B) such debt obligation is designated, to the extent permitted by this paragraph, as part of a fund of assets described in subparagraph (A) (but only after debt obligations of foreign obligors payable in foreign currency having a period remaining to maturity of less than one year held by such bank have been designated as part of such a fund).

A debt obligation may be designated as part of a fund of assets described in subparagraph (A) only to the extent that, immediately after such designation, the adjusted basis of all the assets held in such fund does not exceed 110 percent of the deposits payable in foreign currency to customers [(other than banks)] *(other than United States persons engaged in the commercial banking business and members of an affiliated group (determined under section 48(c)(3)(C)) of which such a United States person is a member)* of the branch with respect to which such fund is maintained.

(3) PREEXISTING COMMITMENTS.—The provisions of subsection (b)[, and the tax imposed under subsection (c),] shall not apply to the acquisition by a commercial bank of a debt obligation of a foreign obligor—

(A) made pursuant to an obligation to acquire which on August 4, 1964—

(i) was unconditional, or

(ii) was subject only to conditions contained in a formal contract under which partial performance had occurred; or

(B) as to which on or before August 4, 1964, the acquiring commercial bank (or, in a case where 2 or more commercial banks are making acquisitions as part of a single transaction, a majority in interest of such banks) had taken every action to signify approval of the acquisition under the procedures ordinarily employed by such bank (or banks) in similar transactions and had sent or deposited for delivery to the foreign person from whom the acquisition was made written evidence of such approval in the form of a document setting forth, or referring to a document sent by the foreign person from whom the acquisition was made which set forth, the principal terms of such acquisition.

[(e)] *(d)* REGULATIONS.—The Secretary or his delegate shall prescribe such regulations (not inconsistent with the provisions of this section or of an Executive order issued under subsection (a)) as may be necessary to carry out the provisions of this section.

## SEPARATE VIEWS OF MESSRS. CURTIS, UTT, BETTS, AND BROYHILL ON H.R. 4750.

Whether the interest equalization tax should be broadened and extended depends upon an analysis of short-term gains compared to the long-term damage the tax does to the U.S. and world economies. The administration has ignored the damaging effects of its capital restraints program. Its defense of the program consists of calling attention to the value of buying time to bring our payments position into balance.

The question is whether the administration has used the time it has bought—and at such high cost—to find a permanent and fundamental solution to the balance-of-payments problem. We do not believe it has. Furthermore, we have little confidence that extension of the IET will spur the administration on to making the basic efforts that are needed to eliminate the deficit, including a reappraisal of U.S. foreign military expenditures overseas, the avoidance of inflation at home, and the development of a more realistic domestic structure of interest rates as well as moderation of the rate of increase in money and credit in the U.S. economy.

Indeed, continued reliance on palliatives and measures which buy time permits the administration to avoid making the hard choices that are needed to restore fundamental equilibrium to the U.S. balance of payments. On these general grounds, we must oppose not only extension of the IET, but also the so-called voluntary program of controls.

As has been reported in the press, the balance of payments will show a small surplus in the second quarter. This arises, however, not so much from the restraints on capital outflows as from the higher than usual level of exports in that quarter because of the dock strike in the first quarter. The first and second quarters together should show a deficit of about $500 million. For the year as a whole, it is likely that the deficit will run between $1 billion and $1.5 billion, a considerable improvement over recent years, but still sizable. A large part of the ground gained by the administration's program is expected to be lost by higher U.S. imports.

Much of the drop in capital outflows in the second quarter is due to factors other than the administration's program, although that has contributed as well. For one thing, during the first quarter the seasonally adjusted outflows for direct investment overseas and for long-term bank loans were unusually high ($1 billion and $488 million, respectively). Partly this was due to anticipation of controls to come and was clearly too large to sustain. Even without the capital controls, a drop in capital outflows during the second quarter was to be expected.

Even with the capital controls program, however, the outflow on direct investment should be somewhat larger this year than last, when it was $2.4 billion. The increase, however, should be slight. As for new issues of foreign securities—a prime target of the interest

equalization tax—the outflow was rising sharply at the end of 1964 and seems now to be running at an annual rate of over $1 billion a year, or about at the levels of the previous 3 years.

More specifically, we oppose extension of the IET on the following grounds:

1. Controls have a way of breeding more controls and of moving the world even further away from the U.S. goal of a more open and expanding international economy. Since the IET was first requested in June 1963, it has been broadened to cover bank loans of over 1 year; it has been supplemented by a so-called voluntary capital controls program; and now the administration seeks to apply the tax to lending activities of nonbank financial institutions.

Aside from the broadening of controls at home, the IET and other U.S. capital controls invite retaliation by foreign governments. It would be too much to expect other nations with balance-of-payments difficulties to refrain from imposing capital controls when the world's leading financial power and the traditional champion of freedom of international trade and payments has itself adopted such expedient measures.

In its annual report issued June 14, 1965, the Bank for International Settlements noted that control over flows of capital funds "is a retreat from convertibility which holds dangers of its own." The Bank, which is composed of the world's leading central bankers, went on to comment as follows:

> It would be unfortunate if the policymakers in both the deficit and the surplus countries should wholly succumb to this easy way out, instead of experimenting more daringly with mixture of fiscal and monetary policy that the logic of convertibility calls for. There is a true equilibrium for a market economy, and national policies cannot be considered successful unless they are providing the incentives to market forces to move toward it.

2. The administration's program to restrict capital outflows is likely to worsen our longrun balance-of-payments position. It could do so in the following ways:

(*a*) Investment abroad is inextricably tied to U.S. exports. Any reduction in U.S. capital flows abroad will lead to a reduction in U.S. exports, while an increase in such flows leads to an increase in the exports of the capital-exporting country.

The loss of an export order, no matter what the cause, may not be a one-shot affair. A foreign importer who would have bought from the United States may develop another source of supply. The business ties developed in this fashion may continue long after restraints on U.S. capital outflows are lifted. This will work to the permanent detriment of our export position.

U.S. exports will also be affected by the slowdown in economic activity in Western Europe and other areas which the decline in needed investment funds will tend to bring about. As economic activity abroad slows, U.S. exports are certain to drop. As Dr. Charles P. Kindleberger, professor of economics at the Massachusetts Institute of Technology, told the Senate Banking and Currency Committee recently, "* * * when we try to draw up this excess of dollars, what we are going to do is put pressure on European interest rates at

longterm, cut European investment, and possibly push Europe further into a depression * * *." Professor Kindleberger went on to express his concern that if we are accelerating a recession in Europe, it "will have repercussions on ourselves."

(*b*) Restrictions on U.S. investment overseas will reduce investment income in the future and thus contribute to continued balance-of-payment weakness. One of the strongest items in our balance of payments is the return flow of interest, dividends, and repatriated profits arising from previous investments. Income on private investment overseas in 1964 totaled $4.7 billion, or an increase of almost $700 million over the 1963 level. Netting out the income earned by foreigners on their investments in the United States, the United States still had a plus of over $3.8 billion on its overseas investments. This was only $200 million less than the net U.S. outflow for direct and long-term portfolio investment abroad in 1964.

(*c*) The IET and other capital restraints will lead to mounting pressures within the United States to send capital abroad. The administration's emphasis on restricting transfers of funds overseas has raised fears among businessmen and investors that even more stringent controls would follow. The expectation of further controls has increased the outflow of funds beyond levels that would have occurred in the absence of the administration's programs. The abandonment of controls would reverse these expectations and lead to a marked reduction in the outflow and, perhaps, even to an inflow. As Fritz Machlup, professor of economics and international finance at Princeton University, recently told the Senate Banking and Currency Committee:

> To reverse these fears we ought to tell every businessman that he should use his funds wherever business interests indicate. If we could possibly assure businessmen that there would be neither direct controls or restrictions nor any moral suasion, neither any obligation to make reports on foreign transactions nor any publicity about nonconformance with official directives, we would soon see a flow of funds returning from abroad.

Another fundamental weakness in the administration's approach is that it tends to widen the already large gap in interest rates between the United States and Europe, thus contributing to the pressures leading to capital outflows. The high level of liquidity in the American economy rising from the rapid expansion of money and credit in recent years, inevitably puts downward pressure on U.S. interest rates which, combined with higher rates in Europe and a brisk demand for funds, creates strong pressures leading to capital outflows. By restricting such outflows, the administration puts further downward pressure on U.S. rates and upward pressure on European rates, thus intensifying one of our basic problems.

In addition, the inevitable result is further inflationary strains at home at a time when the pressure on price stability is already growing severe. This can only weaken our cost-price structure and made more difficult the job of improving our trade surplus. Therefore, both from the standpoint of the domestic economy and our international position, a reduction of liquidity within the U.S. economy and a reduction in the rate of expansion in money and credit would be desirable.

3. The administration's capital controls have weakened the position of the United States as an international financial center and has led to the development of competing capital markets abroad. Indeed, the strengthening of European capital markets is a stated goal of administration policy. The fact is that not only has an important segment of American business, which was successfully supplying overseas demand for capital, been seriously weakened, but U.S. prestige and power as the free world's major financial center has also been diminished.

As a result of the success of the administration's efforts to strengthen European capital markets, however, it is now possible to relax the capital restraints. With the development of capital markets in Eurpoe, it is unlikely that foreign borrowers will feel the need to tap the U.U. financial market to the same extent as they did prior to the introduction of the IET.

4. The IET and other capital controls undermine the U.S. objectives of encouraging foreign investment in the United States. As G. Keith Funston, president of the New York Stock Exchange, told the Ways and Means Committee, foreigners were net sellers of outstanding U.S. securities in 1964 for the first time in over 15 years. Net sales of domestic stocks by foreigners in 1964 totaled $350 million, compared to sizable net purchases in the previous 5 years. In part, this reflected a belief by foreigners that the tax was only a first step toward further restrictions on the international flow of funds. It also reflected the fact that, as Mr. Funston noted, foreign brokers and dealers who cannot sell their securities in the United States are far less receptive to the efforts of U.S. brokers and dealers to sell U.S. securities abroad.

THOMAS B. CURTIS.
JAMES B. UTT.
JACKSON E. BETTS.
JOEL T. BROYHILL.

○

89TH CONGRESS
1ST SESSION

# H. R. 4750

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 1965

Mr. MILLS introduced the following bill; which was referred to the Committee on Ways and Means

# A BILL

To provide a two-year extension of the interest equalization tax, and for other purposes.

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
5 "Interest Equalization Tax Extension Act of 1965".
6 (b) AMENDMENT OF 1954 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amendment
8 is expressed in terms of an amendment to a section or other
9 provision, the reference shall be considered to be made to a
10 section or other provision of the Internal Revenue Code of
11 1954.

1 **SEC. 2. EXTENSION OF INTEREST EQUALIZATION TAX.**

2 (a) IMPOSITION OF TAX.—The following provisions
3 are amended by striking out "3 years" each place it appears
4 and inserting in lieu thereof "1 year"—
5 (1) section 4911 (a);
6 (2) section 4914 (e) (3) (D);
7 (3) section 4914 (e) (3) (E) (ii); and
8 (4) section 4920 (a) (7) (B) (iv).
9 (b) AMOUNT OF TAX.—Section 4911 (b) (2) is
10 amended by striking from the table the line reading

"At least 3 years, but less than 3½ years .................. 2.75 percent"

11 and inserting in lieu thereof the following additional lines:

"At least 1 year, but less than 1¼ years .................. 1.05 percent
At least 1¼ years, but less than 1½ years .................. 1.30 percent
At least 1½ years, but less than 1¾ years .................. 1.50 percent
At least 1¾ years, but less than 2¼ years .................. 1.85 percent
At least 2¼ years, but less than 2¾ years .................. 2.30 percent
At least 2¾ years, but less than 3½ years .................. 2.75 percent".

12 (c) EXTENSION OF TAX.—Section 4911 (d) is
13 amended by striking out "December 31, 1965" and inserting
14 in lieu thereof "December 31, 1967".
15 (d) EFFECTIVE DATE.—
16 (1) GENERAL RULE.—The amendments made by
17 this section shall apply with respect to acquisitions of
18 debt obligations made, and designations described in sec-
19 tion 4914 (e) (3) (D) and section 4914 (e) (3) (E)
20 (ii), after February 10, 1965, except that the amend-

1 ments made by subsections (a) and (b) shall not apply
2 to acquisitions described in paragraphs (2), (3), and
3 (4).
4 (2) PREEXISTING COMMITMENTS.—Such amend-
5 ments shall not apply to an acquisition (except an ac-
6 quisition which is taxable under an Executive order
7 issued pursuant to section 4931)—
8 (A) Made pursuant to an obligation to acquire
9 which on February 10, 1965—
10 (i) was unconditional, or
11 (ii) was subject only to conditions con-
12 tained in a formal contract under which partial
13 performance had occurred; or
14 (B) As to which on or before February 10,
15 1965, the acquiring United States person (or, in a
16 case where two or more United States persons are
17 making acquisitions as part of a single transaction,
18 a majority in interest of such persons) had taken
19 every action to signify approval of the acquisition
20 under the procedures ordinarily employed by such
21 person (or persons) in similar transactions and had
22 sent or deposited for delivery to the foreign person
23 from whom the acquisition was made written evi-
24 dence of such approval in the form of a commitment

1 letter, memorandum of terms, draft purchase con-
2 tract, or other document setting forth, or referring
3 to a document sent by the foreign person from whom
4 the acquisition was made which set forth, the prin-
5 cipal terms of such acquisition, subject only to the
6 execution of formal documents evidencing the ac-
7 quisition and to customary closing conditions.
8 (3) PUBLIC OFFERING.—Such amendments shall
9 not apply to an acquisition of debt obligations made on
10 or before April 12, 1965, if—
11 (A) A registration statement (within the
12 meaning of the Securities Act of 1933) was in ef-
13 fect with respect to the debt obligation acquired at
14 the time of its acquisition;
15 (B) The registration statement was first filed
16 with the Securities and Exchange Commission on
17 February 10, 1965, or within 90 days before that
18 date; and
19 (C) No amendment was filed with the Securi-
20 ties and Exchange Commission after February 10,
21 1965, and before the acquisition which had the ef-
22 fect of increasing the aggregate face amount of the
23 debt obligations covered by the registration state-
24 ment.
25 (4) FORECLOSURES.—Such amendments shall not

1 apply to an acquisition of debt obligations as a result of
2 a foreclosure by a creditor pursuant to the terms of an
3 instrument held by such creditor on February 10, 1965.

4 **SEC. 3. RETURNS.**

5 (a) FIRST RETURN PERIOD.—Notwithstanding any
6 provisions of section 6011 (d) (1), the first period for which
7 returns shall be made under section 6011 (d) (1) with re-
8 spect to acquisitions made subject to tax by this Act shall be
9 the period commencing February 11, 1965, and ending at
10 the close of the calendar quarter in which the enactment of
11 this Act occurs.

12 (b) TIME FOR FILING FIRST RETURNS.—Notwith-
13 standing any provision of section 6076, the first return with
14 respect to acquisitions described in subsection (a) shall be
15 filed on or before the last day of the first month following the
16 close of the calendar quarter in which the enactment of this
17 Act occurs, in accordance with regulations prescribed by the
18 Secretary or his delegate, or at such later time as may be
19 prescribed in such regulations.

89TH CONGRESS
1ST SESSION

# H. R. 4750

## A BILL

To provide a two-year extension of the interest equalization tax, and for other purposes.

By Mr. MILLS

FEBRUARY 10, 1965

Referred to the Committee on Ways and Means

(d) The National Capital Planning Commission is hereby designated as the agency which shall provide administrative services for the Commission.

LYNDON B. JOHNSON

THE WHITE HOUSE,
*March 25, 1965.*

## No. 11211

April 6, 1965, 30 F.R. 4385

### EXCLUSION FOR ORIGINAL OR NEW JAPANESE ISSUES AS REQUIRED FOR INTERNATIONAL MONETARY STABILITY

By virtue of the authority vested in me by section 4917(a) of the Internal Revenue Code of 1954,[18] as added by section 2 of the Interest Equalization Tax Act, approved September 2, 1964 (Public Law 88–563, 78 Stat. 809),[19] by section 301 of title 3 of the United States Code,[20] and as President of the United States, it is hereby determined that the full application of the tax imposed by section 4911 of the Internal Revenue Code of 1954,[21] as added by section 2 of the Interest Equalization Tax Act, will have such consequences for Japan as to imperil or threaten to imperil the stability of the international monetary system and it is hereby ordered as follows:

SECTION 1. The tax imposed by section 4911 of the Internal Revenue Code of 1954 shall not apply to an acquisition by a United States person of a debt obligation repayable exclusively in United States currency which is issued or guaranteed as to the payment of principal and interest by the Government of Japan (other than an obligation which by its terms is convertible into stock of the obligor) provided that—

(a) Such debt obligation is acquired as all or part of an original or new issue as to which there is filed such notice of acquisition as the Secretary of the Treasury or his delegate may prescribe by regulations;

(b) The Government of Japan determines and certifies to the acquiring United States person that his acquisition of such debt obligation complies with the criteria set forth in this section; and

(c) Before or as a result of such acquisition, the aggregate amount of all acquisitions by United States persons excluded from interest equalization tax by reason of this order during the calendar year in which the acquisition is made (or, in the case of acquisitions made during the period beginning on the effective date of this order and ending December 31, 1965, during such period) does not exceed $100,000,000.

SEC. 2. The Secretary of the Treasury or his delegate is authorized to prescribe from time to time regulations, rulings, directions, and instructions to carry out the purpose of this order.

SEC. 3. This order shall be effective upon its filing for publication in the FEDERAL REGISTER with respect to acquisitions made during the period beginning on the effective date of this order and ending on the date specified in section 4911(d) of the Internal Revenue Code of 1954.

LYNDON B. JOHNSON

THE WHITE HOUSE,
*April 2, 1965.*

18. 26 U.S.C.A. (I.R.C.1954) § 4917(a).
19. 26 U.S.C.A. (I.R.C.1954) § 4911 et seq.
20. 3 U.S.C.A. § 301.
21. 26 U.S.C.A. (I.R.C.1954) § 4911.

## No. 11175

September 2, 1964, 29 F.R. 12605

### EXCLUSION OF ORIGINAL OR NEW CANADIAN ISSUES AS REQUIRED FOR INTERNATIONAL MONETARY STABILTY

By virtue of the authority vested in me by section 4917(a) of the Internal Revenue Code of 1954, as added by section 2 of the Interest Equalization Tax Act, approved September 2, 1964 (Public Law 88–563),[2] by section 301 of title 3 of the United States Code,[3] and as President of the United States, it is hereby determined that the application of the tax imposed by section 4911 of the Internal Revenue Code of 1954, as added by section 2 of the Interest Equalization Tax Act,[4] will have such consequences for Canada as to imperil or threaten to imperil the stability of the international monetary system and it is hereby ordered that the tax imposed by section 4911 of the Internal Revenue Code of 1954 shall not apply to the acquisition by a United States person of stock or a debt obligation of Canada or a political subdivision thereof, any agency or instrumentality of Canada, any corporation, partnership, or trust (other than a company registered under the Investment Company Act of 1940 (54 Stat. 847; 15 U.S.C. 80a–1 to 80a–52))[5] organized under the laws of Canada or a political subdivision thereof, or any individual resident in Canada, to the extent that such stock or debt obligation is acquired as all or part of an original or new issue as to which there is filed the notice of acquisition prescribed by the Secretary of the Treasury or his delegate. The exemption from tax provided in the preceding sentence shall apply to all acquisitions made during the period commencing on July 19, 1963, and continuing until otherwise provided in an amendment of this order.

The Secretary of the Treasury or his delegate is authorized to prescribe from time to time regulations, rulings, directions, and instructions to carry out the purposes of this order.

This order shall be effective upon its filing for publication in the FEDERAL REGISTER.

LYNDON B. JOHNSON

THE WHITE HOUSE,
*September 2, 1964.*

## No. 11176

September 3, 1964, 29 F.R. 12607

### INSPECTION OF CERTAIN INTEREST EQUALIZATION TAX INFORMATION RETURNS BY THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM AND THE FEDERAL RESERVE BANKS

By virtue of the authority vested in me by section 6103(a) of the Internal Revenue Code of 1954 (68A Stat. 753; 26 U.S.C. 6103(a)) as amended by section 3 of the Interest Equalization Tax Act, approved September 2, 1964 (Public Law 88–563),[6] it is hereby ordered that any information return made by a commercial bank with respect to loans and commitments to foreign obligors under section 6011(d) (2) of the Internal Revenue Code of 1954, as added by section 3(a) of the Interest Equalization Tax Act,[7] shall be open to inspection by the Board of Gov-

2. 49 U.S.C.A. (I.R.C.1954) § 4917(a).
3. 3 U.S.C.A. § 301.
4. 26 U.S.C.A. (I.R.C.1954) § 4911.
5. 15 U.S.C.A. §§ 80a—1 to 80a—52.
6. 26 U.S.C.A. (I.R.C.1954) § 6103(a).
7. 26 U.S.C.A. (I.R.C.1954) § 6011(d) (2).

August 19, 1965

Mr. Gilbert Cramer
Internal Revenue Service
12th and Constitution, N. W.
Washington, D. C.

Dear Mr. Cramer:

I enclose a Supplementary Memorandum, dated August 18, 1965, supplementing the Memorandum, dated July 14, 1965, which was submitted with the request of the same date for a ruling that the Interest Equalization Tax is inapplicable to certain transactions of the International Bank for Reconstruction and Development. Mr. Eccles tells me that you indicated that this Memorandum could be sent directly to you.

With best regards,

Sincerely,

Ellsworth E. Clark
Deputy General Counsel

EEClark/ams
Enclosure

C O P Y

# Record Removal Notice

The World Bank Group
Archives
& Records Management

| File Title | | Barcode No. |
|---|---|---|
| Interest Equalization Tax (US) - 1963-1965 | | 1850571 |
| **Document Date** | **Document Type** | |
| 18 August, 1965 | Memorandum | |

**Correspondents / Participants**

**Subject / Title**
Supplementary Memorandum Inapplicability of Interest Equalization Tax under Chapter 41 of the Internal Revenue Code to Transactions of the International Bank for Reconstructions and Development

**Exception(s)**
Attorney-Client Privilege

**Additional Comments**

The item(s) identified above has/have been removed in accordance with The World Bank Policy on Access to Information or other disclosure policies of the World Bank Group.

| Withdrawn by | Date |
|---|---|
| Sherrine M. Thompson | February 09, 2023 |

C O P Y

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

1818 H Street, N.W., Washington, D. C. 20433, U.S.A.

Area Code 202 • Telephone - EXecutive 3-6360 • Cable Address - INTBAFRAD

July 14, 1965

My dear Governor:

Enclosed is a memorandum which considers the applicability to the transactions of the International Bank for Reconstruction and Development of the tax imposed by the Interest Equalization Tax Act, Chapter 41 of the United States Internal Revenue Code of 1954. The memorandum concludes that this tax is inapplicable to the transactions of the Bank.

Although the Bank has received informal confirmation from representatives of the United States Government that this conclusion is correct, we should like to have this view formally confirmed by the Government of the United States. The Bank will be glad to provide any information which may be required in addition to that contained in the enclosed memorandum.

Sincerely yours,

/s/ A. Broches

A. Broches
General Counsel

The Honorable
Henry H. Fowler
Secretary of the Treasury
and Chairman, National
Advisory Council on International
Monetary and Financial Problems
Department of the Treasury
Washington, D. C. 20220

EEClark/ams

Enclosure

cc: Mr. Nurick

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| File Title | Barcode No. |
|---|---|
| Interest Equalization Tax (US) - 1963-1965 | 1850571 |

| Document Date | Document Type |
|---|---|
| 14 July, 1965 | Memorandum |

**Correspondents / Participants**

**Subject / Title**
Memorandum Inapplicability of Interest Equalization Tax under Chapter 41 of the Internal Revenue Code to Transactions of the International Bank for Reconstructions and Development

**Exception(s)**
Attorney-Client Privilege

**Additional Comments**

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| File Title | | Barcode No. |
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| Interest Equalization Tax (US) - 1963-1965 | | 1850571 |
| **Document Date** | **Document Type** | |
| 08 June, 1965 | Memorandum | |

**Correspondents / Participants**
To: Files
From: L. Nurick

**Subject / Title**
Interest Equalization Tax

**Exception(s)**
Attorney-Client Privilege

**Additional Comments**

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| Interest Equalization Tax (US) - 1963-1965 | 1850571 |

| Document Date | Document Type |
| --- | --- |
| 03 June, 1965 | Memorandum |

**Correspondents / Participants**
To: Files
From: L. Nurick

**Subject / Title**
U. S. Interest Equalization Tax

**Exception(s)**
Attorney-Client Privilege

**Additional Comments**

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| Sherrine M. Thompson | February 09, 2023 |

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# Presidential Documents

## Title 3—THE PRESIDENT

### Executive Order 11224

### DESIGNATION OF CERTAIN FOREIGN COUNTRIES AS ECONOMICALLY LESS DEVELOPED COUNTRIES FOR PURPOSES OF THE INTEREST EQUALIZATION TAX

WHEREAS the Senate and House of Representatives have been duly notified of my intention to terminate the designation of the Bahamas, Bermuda, Ireland, Kuwait, and Portugal as economically less developed countries for purposes of the tax imposed by section 4911 of the Internal Revenue Code;

NOW, THEREFORE, by virtue of the authority vested in me by section 4916(b) of the Internal Revenue Code of 1954, as added by section 2 of the Interest Equalization Tax Act, approved September 2, 1964 (Public Law 88–563), by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. *Economically less developed countries.* For purposes of the tax imposed by section 4911 of the Internal Revenue Code, the following areas are designated as economically less developed countries:

(a) All foreign countries (including Trust Territories) in existence on or after the effective date of this order, other than Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, France, Ireland, Italy, Japan, Kuwait, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, Union of South Africa, United Kingdom, and any foreign country within the Sino-Soviet bloc, as defined in section 2:

(b) Each territory, department, province, and possession (other than the Bahamas, Bermuda, and Hong Kong), of any foreign country in existence on or after the effective date of this order, other than a foreign country within the Sino-Soviet bloc, as defined in section 2, if the territory, department, province, or possession is overseas from the foreign country of which it is a territory, department, province, or possession; and

(c) The Commonwealth of Puerto Rico and all possessions of the United States.

SEC. 2. *Definition of the term "foreign country within the Sino-Soviet bloc."* For purposes of this order, the term "foreign country within the Sino-Soviet bloc" shall mean Albania, Bulgaria, any part of China which is dominated or controlled by International Communism, Cuba, Czechoslovakia, Estonia, Hungary, any part of Korea which is dominated or controlled by International Communism, Latvia, Lithuania, Outer Mongolia, Poland (including any area under its provisional administration), Rumania, Soviet Zone of Germany and the Soviet Sector of Berlin, Tibet, Union of Soviet Socialist Republics and the Kurile Islands, Southern Sakhalin, and areas in East Prussia which are under the provisional administration of the Union of Soviet Socialist Republics, and any part of Viet Nam which is dominated or controlled by International Communism.

SEC. 3. *Prior acquisitions and commitments.* Notwithstanding the provisions of sections 1 and 2 of this order, any area which had the status of an economically less developed country under section 4916(b)

of the Internal Revenue Code prior to the effective date of this order shall be deemed to be an economically less developed country for purposes of section 4916 with respect to an acquisition of stock or a debt obligation—

(a) If such acquisition was made prior to the effective date of this order;

(b) If such acquisition is made pursuant to an obligation to acquire which, prior to April 6, 1965, was unconditional or was subject only to conditions contained in a formal contract under which partial performance had occurred; or

(c) If, with respect to such acquisition, the acquiring United States person (or, in a case where two or more United States persons are making acquisitions as part of a single transaction, a majority in interest of such persons) had taken every action prior to April 6, 1965, to signify approval of the acquisition under the procedures ordinarily employed by such person (or persons) in similar transactions and had sent or deposited for delivery to the foreign person from whom the acquisition was made written evidence of such approval in the form of a commitment letter, memorandum of terms, draft purchase contract, or other document setting forth, or referring to a document sent by the foreign person from whom the acquisition was made which set forth, the principal terms of such acquisition, subject only to the execution of formal documents evidencing the acquisition and to customary closing conditions.

SEC. 4. *Rules and regulations.* The Secretary of the Treasury or his delegate is authorized to prescribe from time to time regulations, rulings, directions, and instructions to carry out the purposes of this order.

SEC. 5. *Effective date.* This order shall become effective upon its filing for publication in the FEDERAL REGISTER.

SEC. 6. *Inapplicability of Executive Order 11071.* Executive Order No. 11071, dated December 27, 1962, is hereby superseded to the extent that such order applies to section 4916 of the Internal Revenue Code.

LYNDON B. JOHNSON

THE WHITE HOUSE,
*May 13, 1965.*

[F.R. Doc. 65-5249; Filed, May 14, 1965; 11:42 a.m.]

Mr. Howard Johnson May 3, 1965

L. Nurick

Interest Equalization Tax - Portugal participation

Enclosed is a draft dated May 3, 1965 of a letter you can send to Mr. Giuliani regarding the Portugal participation.

Enclosure

LNurick:vv

# Record Removal Notice

The World Bank Group Archives & Records Management

| File Title | | Barcode No. |
|---|---|---|
| Interest Equalization Tax (US) - 1963-1965 | | 1850571 |
| **Document Date** | **Document Type** | |
| 03 May, 1965 | Memorandum | |

**Correspondents / Participants**
To: George J. Giuliani
From: Howard C. Johnson, Director

**Subject / Title**
Interest Equalization Tax

**Exception(s)**
Attorney-Client Privilege

**Additional Comments**

The item(s) identified above has/have been removed in accordance with The World Bank Policy on Access to Information or other disclosure policies of the World Bank Group.

| Withdrawn by | Date |
|---|---|
| Sherrine M. Thompson | February 09, 2023 |

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MANUFACTURERS NATIONAL BANK OF DETROIT

DETROIT, MICHIGAN

April 14, 1965

George J. Giuliani
Second Vice President

Mr. Howard C. Johnson
Director
International Bank for
Reconstruction and Development
20 Exchange Place
New York, New York, 10005

Dear Howard:

It has been brought to our attention that effective May 6, 1965 the Interest Equalization Tax rule will be applied on all loans made in Portugal.

As you may recall we recently approved a participation with the World Bank in two notes for Empresa Termoelectrica Portuguesa S.A.R.L., with our proportion aggregate $550,000. Accordingly we would like to know what effect, if any, this ruling will have on our participation in the event the loan is not taken down before the May 6th date or if just a portion of the commitment is taken down by that time. Obviously, if any part of our participation is effected by the ruling, it certainly would make the transaction less attractive.

At the moment it is our feeling that this ruling would not apply in this instance; however, we would like to have an expression of opinion from you regarding this matter.

Kindest personal regards

Sincerely,

(Signed) George

Second Vice President

GJG/jp

FORM NO. 57A INTERNATIONAL DEVELOPMENT ASSOCIATION | INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT | INTERNATIONAL FINANCE CORPORATION

# OFFICE MEMORANDUM

TO: Files DATE: April 30, 1965

FROM: Hugh Scott

SUBJECT: U.S. Interest Equalization Tax

Mr. Nurick and I had a meeting this morning with Mr. Fred Smith, Acting General Counsel of the U.S. Treasury Department, and Mr. Leonard Lehman of the Legislative Drafting Office of the Treasury Department, to discuss the application of the interest equalization tax to the sale of participations in Bank loans.

Mr. Nurick reviewed his and Mr. Broches' discussions of this question with Mr. Belin, former General Counsel of the Treasury Department. Mr. Belin, after considering the matter, had stated that the Bank and its participants would not have to pay the tax on such sales and that anything necessary to give effect to this would be done by the Treasury Department. Mr. Nurick also referred to Mr. Bullitt's letter of August 22, 1963 which stated that there was no uncertainty on the part of the Treasury that the sales of participations by the Bank should be exempt from the interest equalization tax. Mr. Nurick then mentioned that the question of the exemption of such sales from this tax had recently been raised by several purchasers or potential purchasers of participations, in particular by Mr. Haberkern, of Milbank, Tweed, Hadley & McCloy on behalf of the Chase Bank and by Mr. Guiliani on behalf of the Manufacturers National Bank of Detroit. Mr. Nurick said that the Bank would like something from the Treasury Department which it could show to participants indicating that these transactions were not subject to the tax. Mr. Smith thought that the appropriate thing for the Bank to get would be a ruling from the Internal Revenue Service, particularly since the Secretary of the Treasury had recently announced a policy that the Office of the Secretary was not to be involved in tax rulings. Mr. Nurick said that the Bank wanted to deal with the Treasury Department on this and not directly with the Internal Revenue Service. Mr. Smith said he would like to consider the matter further, especially the mechanics of the Bank's obtaining a ruling. However, he indicated no doubts that the Bank and its participants were exempt from the tax. Mr. Lehman thought that the Bank should have no trouble in obtaining a ruling which would be just a slight extension of the Bank's existing ruling on documentary stamp taxes. He thought that the matter could be expedited and that the Bank could obtain such a ruling within three weeks.

Mr. Smith will call Mr. Nurick when he has had time to consider this matter further.

HNScott/dg
cc: Mr. Broches
Mr. Cavanaugh
Mr. Nurick ✓
Operational Files

MILBANK, TWEED, HADLEY & McCLOY
1 CHASE MANHATTAN PLAZA
NEW YORK 5

TELEPHONE: HANOVER 2-2660
CABLE ADDRESS: MILTWEED

MIDTOWN OFFICE
1 ROCKEFELLER PLAZA
NEW YORK 20

WASHINGTON OFFICE
821 FIFTEENTH STREET, N.W.
WASHINGTON 5, D.C.

April 27, 1965

Lester Nurick, Esq.
Assistant General Counsel
International Bank for Reconstruction
and Development
1818 H Street N.W.
Washington, D.C. 20025

Dear Mr. Nurick:

I am writing in reference to our recent telephone conversations regarding the Interest Equalization Tax Act and the problems which might arise if American banks commit to participate in World Bank loans to a less-developed country and such country is reclassified by the President prior to one or more drawdowns under the World Bank Term Loan Agreement. I have discussed the matter with the appropriate officers of The Chase Manhattan Bank and mentioned to them the ruling of the Internal Revenue Service to the effect that the documentary stamp tax on foreign insurance policies would not apply to policies issued to or for, or in the name of, any person who deals with the World Bank as a participant in the transaction. (Rev. Rul. 62-56). While this ruling is very helpful, it is not, of course, directly in point. In anticipation that American commercial banks may be asked to participate in loans which the World

Bank may make to countries which are now less-developed but which, conceivably, could be reclassified by the President, we hope that the World Bank will find it convenient to apply for a general ruling that the participations in World Bank loans acquired by commercial banks are not subject to the Interest Equalization Tax because of the provisions of the Bretton Woods Agreement. So far as The Chase Manhattan Bank is concerned, I know of no situation at the present time where this problem is of particular concern, but situations may arise at any time when the issue would have to be faced and a general ruling of the Internal Revenue Service would obviate any question.

If I may be of any assistance, I hope you will let me know.

Sincerely yours,

Roy C. Haberkern Jr.

RCHjr:jt

To: Files

April 19 1965

From: Hugh Scott

Subject: Interest Equalization Tax -- Termination of Less Developed Designation for Portugal

I spoke on the telephone on April 13th with Mr. Leonard Lehman (code 184-5992) who works with Mr. Rothkopf in the Treasury Department. Mr. Rothkopf is absent from the office for a week. Mr. Lehman read me a part of the draft Executive Order which on or about May 6, 1965 will terminate the status of Portugal as "less developed". The effect of the paragraph he read to me was that acquisitions made after the date on which the Executive Order is issued will be subject to the tax unless arrangements had been made for these acquisitions prior to April 6, 1965. He said it was clear that the time of the acquisition under our participation arrangements for purposes of the tax would be when the Bank's borrower takes down the part of the loan covered by the participation and not when the Participation Agreement is signed.

HNScott/dg
cc: Mr. E. Clark

C O P Y

FORM NO. 57 INTERNATIONAL DEVELOPMENT ASSOCIATION | INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT | INTERNATIONAL FINANCE CORPORATION

# OFFICE MEMORANDUM

TO: Files

DATE: April 16, 1965

FROM: Robert W. Cavanaugh

SUBJECT: Sale of Portions of Loan to Portugal

On February 23, 1965 the New York office sent letters to a number of banks in the United States advising them of the maturities of the loan we expected to make to Portugal and asking whether such banks were interested in acquiring a participation at a yield of 5-1/2%. 8 of these banks advised the New York office by letter or 'phone that they did wish to participate and stated the maturities and amounts they wished. These subscriptions exceeded the amounts available in such maturities. It was, therefore, necessary to allot. On April 5 such allotment ($725,000 total) was made and on April 5 and 6 the banks were advised of the amounts allotted to them, and that it was expected that the loan would be approved by the Board on April 13 (later changed to April 20), at which time the Participation Agreements between such banks and the World Bank would be signed.

On April 7 I learned that on April 6 President Johnson had told Congress that effective on or shortly after May 6 the Bahamas, Bermuda, Ireland, Kuwait and Portugal would be added to the list of countries to which the U.S. interest equalization tax would apply. This 30-day notice is required by the Interest Equalization Tax Act. I then called Mr. Hirschtritt and told him of the above steps that had been taken by the Bank in connection with participations in the loan. I inquired as to whether the U.S. Government would have any feelings as to whether we should proceed with the sale of the Portuguese loan in view of the new situation. He said he would call me back, which he did the same date and advised me that, after talking to several people in the Treasury Department, he and they would have no objection to the Bank proceeding with the sale. After further discussions with Messrs. Knapp, Wilson and Broches, I called Mr. Hirschtritt again and asked him specifically whether under the same circumstances such a sale by someone other than the World Bank would be taxable. He called me back on April 9 and said that, after talking to the General Counsel's office in the Treasury, the sale would not be taxable as it would be completed prior to May 6, the date on which the Executive Order would be issued. I asked him what he meant by the word "completed" and explained that, although the Participation Agreements would no doubt be signed prior to May 6, it would be some time after that before we would actually disburse funds to Portugal under the loan and call on the banks for their funds. He said he would have to investigate and call me again. During this call he again repeated what he had previously said, which was that the Treasury would not object if we went ahead with the sale.

On April 13 Mr. Hirschtritt advised that they had not made up their minds in Treasury whether such a sale if made by someone else would be subject to the tax and again repeated that the Treasury would not object if we proceeded with the sale.

On April 14 Messrs. Wilson, Broches and I met with Mr. Woods to consider this matter further. Mr. Broches said that, after considering the matter and discussing it with the General Counsel's office in the Treasury, he had concluded that, since on April 6 there existed no firm commitment in writing, the sale would be taxable except for the fact that the Bank's exemption would apply. We also discussed the fact that 3 of the banks involved were for the first time participating in a World Bank loan; that all of the banks had decided to participate after the voluntary balance of payments' program had been announced and undoubtedly knew that they must fit such purchase into the 105% ceiling requested by the Government. Mr. Woods tried to reach Mr. Bullitt to discuss the matter with him but was unable to do so. In all the circumstances, he decided that we should proceed with the participations in the loan to Portugal.

<u>Cleared with Messrs. Wilson and Broches</u>

cc: Mr. Woods
Mr. Knapp
Mr. Wilson
Mr. Broches
Mr. Johnson

RWCavanaugh:emk

Files

April 8, 1965

E. E. Clark

Interest Equalization Tax

I called Mr. Rothkopf at the Treasury to find out about the shift of 5 countries, including Portugal, from the less developed to the developed country list for Equalization Tax purposes.

He told me the following:

On April 6, the Treasury issued a release stating that the President intended, on or shortly after May 6, 1965, to issue an order transferring the Bahamas, Bermuda, Ireland, Kuwait and Portugal to the "developed" country list.

This would take the form of an Executive Order and would apply to all transactions on and after its date, but not to transactions completed before that date or in respect of which firm commitments had been entered into before that date.

The same rules as in the original Act would apply for determining what firm commitments are.

EEClark/ams

cc: Mr. Broches

cc: Mr. Cavanaugh
Mr. Nurick
Mr. Johnson
Mr. Rutland
Mr. Deely/Sec.Div.File

January 28, 1965

Manufacturers Hanover Trust Company
350 Park Avenue
New York, New York 10022

Attention: Mr. James Rutherford

Gentlemen:

This refers to our letter of May 25, 1964 regarding your purchase of $500,000 principal amount of our Loan No. 184 BE to The Belgian Congo, evidenced by Participation Certificate No. G4978, and in which we agreed that if the Interest Equalization Tax Act required you to pay a tax on this purchase we would, on your request made as soon as possible after enactment of such legislation, refund the amount paid by you to us in connection with such purchase. Since such legislation was enacted last September and we have received no request for a refund from you, we assume that you are satisfied that you will not be required to pay the tax in connection with this purchase, and we consider the agreement in our letter of May 25, 1964 terminated.

Sincerely yours,

Raymond E. Deely
Chief, Securities Division
Treasurer's Department

C O P Y

C
O
P
Y

September 9, 1964

TO: Files

FROM: Lester Nurick

SUBJECT: Interest Equalization Tax

I mentioned to Don Belin today at lunch that questions had arisen about the applicability of the interest equalization tax to sales by us of participations and I recalled to him our previous conversations on the subject. He said that if we want a ruling we should talk to David Tillinghast, or in his absence to Arthur Rothkopf. They are handling these matters. Belin said that he thought there should be no problem about getting a ruling.

LNurick:mu

cc: Mr. E.E. Clark

# Record Removal Notice

The World Bank Group Archives & Records Management

| File Title | Barcode No. |
|---|---|
| Interest Equalization Tax (US) - 1963-1965 | 1850571 |

| Document Date | Document Type |
|---|---|
| 04 September, 1963 | Memorandum |

**Correspondents / Participants**
To: Files
From: Lester Nurick

**Subject / Title**
Irving Trust Company - Interest Equalization Tax

**Exception(s)**
Attorney-Client Privilege

**Additional Comments**

The item(s) identified above has/have been removed in accordance with The World Bank Policy on Access to Information or other disclosure policies of the World Bank Group.

| Withdrawn by | Date |
|---|---|
| Sherrine M. Thompson | February 08, 2023 |

Archives 01 (March 2017)

# TREASURY DEPARTMENT

WASHINGTON, D.C.

January 31, 1964

FOR RELEASE A.M. NEWSPAPERS
MONDAY, FEBRUARY 3, 1964

NEW PROCEDURES TO SIMPLIFY PURCHASES OF
FOREIGN SECURITIES SUBJECT TO PROPOSED TAX

The Treasury Department announced today that a simplified procedure would be used to identify purchases of foreign securities in the over-the-counter market. The procedure will cover foreign securities that are subject to the proposed Interest Equalization tax which is now pending before Congress. It relates to purchases made on the over-the-counter market through the facilities of the National Association of Securities Dealers. Under the bill, which has been approved by the House Ways and Means Committee, purchase of a foreign security by an American from another American is excluded from the tax.

The new procedures contemplate the use of blanket certificates of American ownership by the seller, and are similar to those applied to purchases of foreign securities on national securities exchanges since August 19, 1963.

Under the new procedures authorized in the Ways and Means Committee bill, a purchaser of a foreign security in the over-the-counter market may regard a confirmation furnished by a member of the National Association of Securities Dealers as conclusive proof of prior American ownership if the confirmation does not state that the buyer is "subject to Interest Equalization Tax."

The National Association of Securities Dealers is today sending to its members and member organizations notification of the new rules applying to the trading of foreign securities in the over-the-counter market. Under these new rules, all sales by a member of the association, as a broker, of securities subject to the Interest Equalization Tax must be for accounts which would not subject the purchaser to payment of the tax, unless the member specifically states at the time of execution that a liability for tax would be involved. A member who sells, as broker, a foreign security owned by an American must have in his possession either an individual certificate of American ownership relating to the sale, or a blanket certificate of American ownership relating to

the account for which the sale was effected. If a member is selling as broker, securities which would subject the purchaser to payment of Interest Equalization Tax, disclosure of this fact must be made to the purchaser at the time of execution and the confirmations to the purchaser and seller must state: "Buyer subject to Interest Equalization Tax." The bill, as approved by the House Ways and Means Committee, provides for a penalty for members who effect sales in willful violation of these provisions.

A U. S. purchaser who relies on a confirmation received from a National Association of Securities Dealers member that he purchased from another American is not required to file an Interest Eoualization Tax return under the bill in connection with his purchase.

The use of blanket certificates of American ownership avoids the necessity for delivering an individual certificate of American ownership in connection with each sale. The blanket certificates cover all sales made through a single account, and may be executed by those who have been United States persons continuously since July 18, 1963. Blanket certificates remain in effect until revoked or until the member or member organization is notified that the seller's status has changed. The bill as approved by the House Ways and Means Committee provides for penalties for improper sales under the blanket certificates, as well as for executing false certificates.

The National Association of Securities Dealers is a national securities association registered with the Securities and Exchange Commission and has regulatory authority over its more than 4,000 members who constitute the great majority of over-the-counter dealers. Copies of the notification being sent to its members may also be obtained in Room 4004, main Treasury building, Washington, D. C.

oOo

ROBERT W. HAACK, Chairman
ROBERT R. MILLER, Vice-Chairman
'N W. DAYTON, JR., Vice-Chairman
CRAIG SEVERANCE, Treasurer
WALLACE H. FULTON, Executive Director

# National Association of Securities Dealers, Inc.

1707 H STREET N.W. WASHINGTON, D. C. 20006

January 31, 1964

To: Members of National Association of Securities Dealers, Inc.

Re: Amendment to Section 28 of Uniform Practice Code

Enclosed herewith is a copy of an amendment to Section 28 of the Uniform Practice Code which is effective immediately. The amendment was approved by the Board of Governors on January 2, 1964 and, upon submission to the Securities and Exchange Commission, it was not disapproved. The amendment was made necessary by the Interest Equalization Tax Act of 1963 which was proposed by President Kennedy last summer and which is presently pending in Congress as H. R. 8000.

The Act, when and if enacted, will impose a tax upon acquisitions of stock of foreign issuers and debt obligations of foreign obligors of 15% of the actual value of the debt obligation measured by the period remaining to its maturity. There is no tax on the acquisition of debt obligations with a maturity of three years or less. The tax will be imposed upon the person acquiring the stock but it does not apply if the foreign securities are acquired from a person designated a "United States person" by the Act as long as he was a United States person throughout the period of his ownership of the stock or continuously since July 18, 1963.

The purpose of the proposed Act is to curtail the outflow of United States dollars to the detriment of this country's balance of payments position. As presently written, the proposed tax is temporary in nature and will terminate on December 31, 1965. Notwithstanding the fact that proposed legislation has not yet been enacted it has immediate effect since it has a retroactive feature and may pass Congress in that form. Thus, from the standpoint of record keeping, it is and has been necessary for members to comply with its provisions.

The amendment to Section 28 of the Uniform Practice Code complies with certain provisions of the proposed Act which permit easier handling on the part of members doing a business in foreign securities. The procedure is permitted, however, only if a rule such as Section 28(c) is in effect.

*Board of Governors*

GORDON BENT, Chicago
JOHN W. CALLAGHAN, New York
JOHN W. DAYTON, JR., New York
ALLAN C. EUSTIS, JR., New York
G. SHELBY FRIEDRICHS, New Orleans
JAMES H. GODDARD, Boston
JULIAN L. GUMBINER, Kansas City
ROBERT W. HAACK, Milwaukee
ROBERT C. HILL, Los Angeles
GUS G. HALLIBURTON, Nashville
JULIAN A. KISER, Indianapolis
JOSEPH LUDIN, New York
ROBERT R. MILLER, Los Angeles
GEORGE F. PATTEN, JR., Portland
WILLIAM C. PORTER, San Antonio
W. JAMES PRICE, Baltimore
MALCOLM F. ROBERTS, Denver
CRAIG SEVERANCE, New York
JUSTIN J. STEVENSON, JR., Cincinnati
VAN S. TREFETHEN, San Francisco
NORMAN B. WARD, JR., Pittsburgh

As noted above, the tax does not apply if the securities were obtained from an American owner. Originally, proof of such fact was to be evidenced by possession by the purchaser of a certificate of American ownership received from the seller. Because of many problems which were encountered, the Treasury Department consented to change its position and permit confirmations received from a member to be conclusive proof on the part of the purchaser that the purchase was from a United States person if the contrary was not indicated thereon. The Act was amended by the House Ways and Means Committee, accordingly. In order for the conclusive presumption to operate, however, the member must have in his possession either a Certificate of American Ownership relating to the sale or a Blanket Certificate of American Ownership relating to the account for which the sale was effected and the Association must have in effect a rule requiring a member who effects sales in foreign securities to have in his possession one or the other of such certificates or furnish the purchaser a confirmation stating the securities are subject to the tax. Notice of such liability must also be given by the member at the time of execution of the contract.

New Section 28(c) incorporates these requirements and provides in respect to sales subject to the tax that the confirmation must bear the following legend: "Buyer subject to Interest Equalization Tax."

The rule change has been approved by the Treasury Department as conforming to the Act's requirements with the result that confirmations from members of transactions involving foreign securities now represent conclusive proof in the hands of purchasers that the securities came from an American source unless otherwise indicated.

Insofar as the member is concerned when buying for his own account, he may treat a confirmation from another member or a Blanket Certificate of American Ownership with respect to the seller's account as conclusive proof of prior American ownership. The presumption does not operate, however, in any case where a purchaser or member making the acquisition has actual knowledge that the confirmation or certificate is misleading in any material respect.

Since the language of new Section 28(c) conforms to the Act, some of the terminology, i.e., debt obligation, stock, foreign issuer, foreign obligor, United States person, is subject to definition. Attached hereto are definitions of those terms. These definitions are taken almost verbatim from the Act

itself and should be used in determining the applicability of the Act to transactions. They will be inserted in the Manual as an appendix to the Uniform Practice Code.

Certificates of American Ownership or Blanket Certificates of American Ownership may be obtained from your local District Director of Internal Revenue or the Uniform Practice Committee.

Very truly yours,

Wallace H. Fulton
Executive Director

Encls.

AMENDMENT TO SECTION 28 OF THE UNIFORM PRACTICE CODE

Section 28 of the Uniform Practice Code entitled "Delivery Under Government Regulations" shall be amended by adding a new subsection as follows:

(c)(1) Effective immediately all sales by a member as broker of stock of a foreign issuer and of debt obligations of a foreign obligor which, but for the exemption because of prior American ownership, would be subject to the tax imposed by the proposed Interest Equalization Tax Act of 1963, presently pending in the United States Congress, or subject to the provision of any law hereafter enacted which imposes a tax on purchasers for the acquisition of stock of foreign issuers and/or for the acquisition of debt obligations of foreign obligors, shall be for accounts which would not subject the purchasers to payment of the Interest Equalization Tax, unless otherwise specified by the member at the time of the execution of the contract.

(2) A member who effects a sale as broker of stock of a foreign issuer or of debt obligations of a foreign obligor which are owned by a United States person, shall have in his possession a Certificate of American Ownership relating to the sale or a Blanket Certificate of American Ownership relating to the account for which the sale was effected, executed in the manner prescribed by the Secretary of the Treasury of the United States or his delegate.

(3) A written confirmation from a member of a sale of stock of a foreign issuer or of debt obligations of a foreign obligor shall be conclusive proof that that member has in his possession a Certificate of American Ownership relating to the sale or a Blanket Certificate of American Ownership relating to the account for which the sale was effected unless the confirmation states that the purchaser is subject to the Interest Equalization Tax; provided, however, there shall be no such conclusive presumption if the purchaser has actual knowledge that the Certificate of American Ownership relating to the sale, the Blanket Certificate of American Ownership relating to the account for which the sale was effected or the confirmation is false in any material respect.

(4) In the case of any sale of stock of a foreign issuer or of debt obligations of a foreign obligor which would subject the purchaser to payment of the Interest Equalization Tax, disclosure of such liability shall be made by the selling member to the purchaser at the time of the execution of the contract and the confirmations to the purchaser and seller evidencing the contract shall state: "Buyer subject to Interest Equalization Tax." Records clearly indicating the nature of such transactions shall be maintained by the buying and selling members.

(5) Notwithstanding the provisions of Section (1) of this Uniform Practice Code, the provisions of this subsection (c) are mandatory and cannot be waived by agreement of the parties.

## APPENDIX TO UNIFORM PRACTICE CODE

### Definitions of Terms Used in Section 28(c)

(A) Debt Obligation --

(1) In General -- Except as provided in subparagraph (2), the term "debt obligation" means --

(a) any indebtedness, whether or not represented by a bond, debenture, note, certificate, or other writing, whether or not secured by a mortgage, and whether or not bearing interest; and

(b) any interest in, or any option or similar right to acquire, a debt obligation referred to in this subparagraph (1), whether or not such interest, option, or right is in writing.

(2) Exceptions -- The term "debt obligation" shall not include any obligation which --

(a) is convertible by its terms into stock of the obligor, if it is so convertible only within a period of 5 years or less from the date on which interest begins to accrue thereon; or

(b) arises out of the divorce, separate maintenance, or support of an individual who is a United States person.

(B) Stock -- The term "stock" means --

(1) any stock, share, or other capital interest in a corporation;

(2) any interest of a partner in a partnership;

(3) any interest in an investment trust;

(4) any indebtedness which is convertible by its terms into stock of the obligor, if it is so convertible only within

a period of 5 years or less from the date on which interest begins to accrue thereon; and

(5) any interest in, or option or similar right to acquire, any stock described in this paragraph (B).

(C) Foreign Issuer or Obligor -- The terms "foreign issuer", "foreign obligor", and "foreign issuer or obligor" mean any issuer of stock or obligor of a debt obligation, as the case may be, which is --

(1)(a) an international organization of which the United States is not a member,

(b) the government of a foreign country or any political subdivision thereof, or an agency or instrumentality of such a government,

(c) a corporation, partnership, or estate or trust which is not a United States person as defined in paragraph (D); or

(d) a nonresident alien individual;

(2) a domestic corporation which, as of July 18, 1963, was a management company registered under the Investment Company Act of 1940 if --

(a) at least 80 percent of the value of the stock and debt obligations owned by such corporation on July 18, 1963, and at least 80 percent of the value of the stock and debt obligations owned by such corporation at the end of every calendar quarter thereafter (through the quarter preceding the quarter in which the acquisition involved is made), consists of stock or debt obligations of foreign issuers or obligors and other debt obligations having an original maturity of 90 days or less;

(b) such corporation elects to be treated as a foreign issuer or obligor for purposes of the Interest Equalization Tax Act; and

(c) such corporation does not materially increase its assets during the period from July 18, 1963, to the date of

such election through borrowing or through issuance or sale of its stock (other than stock issued or sold on or before September 16, 1963, as part of a public offering with respect to which a registration statement was first filed with the Securities and Exchange Commission on July 18, 1963, or within 90 days before that date).

The election under clause (b) must be made on or before the 60th day after the date of the enactment of the Interest Equalization Tax Act under regulations prescribed by the Secretary of the Treasury of the United States or his delegate. Such election shall be effective as of the date specified by the corporation, but not later than the date on which such election is made, and shall remain in effect until revoked. If, at the close of any succeeding calendar quarter, the company ceases to meet the requirement of clause (a), the election shall thereupon (with respect to quarters after such calendar quarter) be deemed revoked. When an election is revoked no further election may be made. If the assets of a foreign corporation are acquired by a domestic corporation in a reorganization described in subparagraph (D) or (F) of section 368(a)(1) of the Internal Revenue Code of 1954, the two corporations shall be considered a single domestic corporation for purposes of this subparagraph.

A foreign corporation (other than a company registered under the Investment Company Act of 1940) shall not be considered a foreign issuer with respect to any class of its stock which is traded on one or more national securities exchanges registered with the Securities and Exchange Commission, if the trading on such national securities exchanges constituted the principal market for such class of stock during the calendar year 1962 and if, as of the latest record date before July 19, 1963, more than 50 percent of such class of stock was held of record by United States persons.

(D) United States Person -- The term "United States person" means --

(1) a citizen or resident of the United States,

(2) a domestic partnership,

(3) a domestic corporation, other than a corporation described in paragraph (C)(2),

(4) an agency or wholly-owned instrumentality of the United States,

(5) a State or political subdivision, or any agency or instrumentality thereof, and

(6) any estate or trust --

(a) the income of which from sources without the United States is includible in gross income under the Internal Revenue Code.

(b) which is situated in the Commonwealth of Puerto Rico or a possession of the United States.

(E) Domestic Corporation; Domestic Partnership -- The terms "domestic corporation" and "domestic partnership" mean, respectively, a corporation or partnership created or organized in the United States or under the laws of the United States or of any State.

Cleared with and cc to Mr. Sella
cc Mr. Martin
Mr. Poore
Mr. Rutland
Mr. Deely/Sec. Div.
File

REDeely/ls

September 9, 1963

The Ford Foundation
477 Madison Avenue
New York 22, New York

Gentlemen:

There are enclosed an original and two copies of the Participation Agreement between you and this Bank in connection with your purchase of a portion of Loan No. 351 MAT made by the Bank to State of Malta. I have signed this Agreement on behalf of this Bank. Please sign one copy and return it to us.

The following documents are also enclosed:

(1) Copy of Loan Agreement dated September 6, 1963, between International Bank for Reconstruction and Development and State of Malta;

(2) Copy of Guarantee Agreement dated September 6, 1963, between United Kingdom of Great Britain and Northern Ireland and International Bank for Reconstruction and Development;

(3) Loan Regulations No. 4 dated February 15, 1961;

(4) Press Release concerning this Loan;

(5) Report No. P-335 dated August 5, 1963, "Report and Recommendations of the President to the Executive Directors on a Proposed Loan to Malta;"

(6) Report No. TO-320a dated July 29, 1963, "Thermal Power and Sea Water Distillation Project Malta;"

(7) Report No. EA-134b dated August 5, 1963, "The Economy of Malta."

Documents numbered (1) to (4), inclusive, are available to the public. The other reports have been prepared for use within the Bank. They are not for publication and no part of them is to be disclosed to persons outside your institution without our consent. In making these reports available to you, we make no representation that they are accurate or complete and assume no responsibility for their contents.



c o p y

You are, of course, aware of Bill No. H.R. 8000 which has been introduced in the House of Representatives of the United States Congress in regard to an interest equalization tax on the purchase of certain foreign securities. The Bank, unless you otherwise request, will not call any funds from you under this Participation if as a result you would, in your opinion, become liable for payment of such tax. We wish, however, to call your attention to paragraph 5 of the attached Participation Agreement which entitles the Bank to cancel your participation in respect of funds not yet called. You will understand that the Bank may wish to exercise its rights thereunder if this matter is not settled within a reasonable time.

Sincerely yours,

Raymond E. Deely
Chief, Securities Division
Treasurer's Department

TREASURY DEPARTMENT
WASHINGTON

Assistant Secretary

August 22, 1963

Dear Burke,

I am enclosing our approval of a $50 million increase in the present authorization of $975 million for certain sales by the Bank of portions of its loans (which, as I understand it, included both portfolio sales and participations), pursuant to the request in Mr. Cavanaugh's letter of August 16.

As indicated in your statement of August 13, regarding sales of Bank loans in the United States, it is our mutual understanding that, until further discussion with us, the Bank will not make sales in the United States of portions of loans unless they are obligations of less developed countries (whether or not guaranteed by a developed country), as defined in the proposed bill. We would, of course, have no objection to sales outside of the United States of portions of loans denominated in U. S. dollars, regardless of whether the loan was made originally to a less developed or a more developed country. In this connection we are sure that the Bank will continue to pursue vigorously its efforts to enlarge the market abroad for the sale of its obligations or of portions of its loans.

I would also like to reiterate that your August 13 statement projects greater uncertainty than is warranted on the question of whether purchases of Bank loans by U. S. investors will be exempt from the proposed Interest Equalization Tax. There is no uncertainty on the part of the Treasury that these transactions should be exempt from the tax. Only an action by the U. S. Congress to override the Bretton Woods Agreement Act and our obligations under the Bank's Articles of Agreement could change this aspect of the proposed tax. We see no need for advising U. S. investors of any uncertainty as to our own position or what we are recommending on the general exemption from the Interest Equalization Tax for purchases of participations in IBRD loans.

If the Bank wishes, however, to advise U.S. investors who purchase loans from it that it stands ready to cancel the transaction and refund the amounts paid, it should be clear that this advice is strictly on the Bank's own responsibility.

With best wishes.

Sincerely yours,

/s/ John C. Bullitt

Mr. J. Burke Knapp
Vice President
International Bank for
Reconstruction and Development
Washington, D. C.

Attachment

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| Interest Equalization Tax (US) - 1963-1965 | 1850571 |

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| 16 August, 1963 | Memorandum |

**Correspondents / Participants**
To: Files
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**Subject / Title**

Bill Providing for a United States Interest Equalization Tax

**Exception(s)**
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SecM63-186 Statement by Mr. Knapp at Executive Director's Meeting, August 13, 1963 regarding Sales of Loans in U.S. (in connection with consideration of loan to Malta

**Exception(s)**

**Additional Comments**

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[COMMITTEE PRINT]

# PRESIDENT'S SPECIAL MESSAGE ON BALANCE OF PAYMENTS

## ALONG WITH H.R. 8000 AND DESCRIPTION AND TECHNICAL EXPLANATION OF H.R. 8000, THE "INTEREST EQUALIZATION TAX ACT OF 1963"

PREPARED AND SUBMITTED BY THE

DEPARTMENT OF THE TREASURY

TO THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

AUGUST 8, 1963

NOTE.—This document is printed for information purposes only so as to make it generally available to the public. It has not been considered or approved by the Committee on Ways and Means or any Member thereof.

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# PRESIDENT'S SPECIAL MESSAGE ON BALANCE OF PAYMENTS

THE WHITE HOUSE,
*July 18, 1963.*

*To the Congress of the United States:*

Soon after my inauguration, I reported to the Congress on the problems presented to this Nation by 3 successive years, beginning in the late 1950's, of mounting balance-of-payments deficits accompanied by large gold outflows; and I announced a program designed to restore both confidence in the dollar and eventual equilibrium in our international accounts. The challenge posed by those pressures was heightened at that time by the need to halt and reverse the spread of unemployment and revive our faltering economy. Rejecting a choice between two equally unpalatable alternatives—improved employment at home at the cost of a weaker dollar abroad or a stronger dollar at the cost of a weaker economy and nation—we sought a new course that would simultaneously increase our growth at home, reduce unemployment, and strengthen the dollar by eliminating the deficit in our international payments. It is appropriate now—nearly 2½ years later—to look back on the problems faced, to review the progress made and to chart the course ahead.

There is much from which to take heart. Our economy has resumed its growth and unemployment has been reduced. The dollar remains strong, bulwarked by nearly 40 percent of the free world's monetary gold stock as well as by a newly constructed network of bilateral and multilateral financial arrangements. Our gold outflow has been halved. There are signs of longer run improvement in our world competitive position, as our prices and costs hold steady while others are rising. The deficit in our balance of payments has been reduced—from $3.9 billion in 1960 to $2.4 billion in 1961 and $2.2 billion in 1962.

Our basic strength, moreover, is vast, real, and enduring. Our payments deficits, measured in terms of our loss of gold and the increase in our short-term liquid liabilities to foreigners, have consistently been equaled or exceeded by the growth of our long-term high-yielding foreign assets—assets which have been and will continue to be an increasing source of strength to our balance of payments. Today, Americans hold more than $60 billion of private investments abroad, and dollar loans repayable to the U.S. Government total over $11 billion. At the end of 1962, all of these assets exceeded our liabilities to foreigners by an estimated $27 billion. And they have shown an increasing strength over the years: our total income from these sources in 1959 was $3 billion; in 1962 it had risen to $4.3 billion; and we expect further substantial increases in the coming years.

These are all signs of progress. But unemployment is still too high; our growth rate is still too low; and it is now clear that, despite the favorable forces at work over the long run, more remains to be done today to eliminate the continuing payments deficit.

A significant portion of our progress so far has been due to special agreements with friendly foreign countries—for debt prepayments, advance payments for military equipment, and U.S. borrowings abroad. While similar arrangements may once again prove capable of covering a substantial amount of the gross deficit in 1963, such special transactions cannot be relied upon for the indefinite future. Moreover, while our commercial trade balance and Government expenditures overseas have shown modest improvement, capital outflows, both short-term and long-term, have increased.

Although there is urgent need for further effort I want to make it clear that, in solving its international payments problem, this Nation will continue to adhere to its historic advocacy of freer trade and capital movements, and that it will continue to honor its obligation to carry a fair share of the defense and development of the free world. At the same time, we shall continue policies designed to reduce unemployment and stimulate growth here at home—for the well-being of all free peoples is inextricably entwined with the progress achieved by our own people. I want to make it equally clear that this Nation will maintain the dollar as good as gold, freely interchangeable with gold at $35 an ounce, the foundation stone of the free world's trade and payments system.

But continued confidence at home and cooperation abroad require further administrative and legislative inroads into the hard core of our continuing payments deficit—augmenting our long-range efforts to improve our economic performance over a period of years in order to achieve both external balance and internal expansion—stepping up our shorter run efforts to reduce our balance-of-payments deficits while the long-range forces are at work—and adding to our stockpile of arrangements designed to finance our deficits during our return to equilibrium in a way that assures the continued smooth functioning of the world's monetary and trade systems.

Before turning to the specific measures required in the latter two categories, I must emphasize once again the necessity of improving this Nation's overall long-range economic performance—including increased investment and modernization for greater productivity and profits, continued cost and price stability, and full employment and faster growth. This is the key to improving our international competitiveness, increasing our trade surpluses and reducing our capital outflows.

That is why early enactment of the comprehensive tax reduction and revision program previously submitted is the single most important step that can be taken to achieve balance abroad as well as growth here at home. The increased investment incentives and purchasing power these personal and corporate tax reductions would create—combined with last year's actions giving special credits for new investment and more favorable depreciation treatment—will promote more employment, production, sales and investment, particularly when accompanied by the continued ample availability of credit and reasonable long-term rates of interest. A prosperous, high-investment economy brings with it the rapid gains in productivity and efficiency which are so essential to the improvement of our competitive position abroad.

To gain new markets abroad and retain the gains of new growth and efficiency here at home, we must continue the price-cost stability of

recent years, limiting wage and profit increases to their fair share of our improving productivity. That is why we have, for 2 years, been urging business and labor to recognize and use reasonable wage-price guideposts for resolving the issues of collective bargaining. Our success in holding down our price level relative to that of our major competitors is a powerful force working to restore our payments balance over the longer run. This fact should not be obscured by current short-run developments.

While these long-range forces are taking effect, a series of more immediate and specialized efforts are needed to reduce the deficit in our international transactions and defend our gold reserves:

### 1. EXPORT EXPANSION

Our commercial sales of goods and services to foreign countries in 1962 exceeded our purchases by $4.3 billion, and they are continuing at about the same rate this year. This is our greatest strength, but it is not enough. Our exports of goods have risen only moderately over the past 3 years, and have not kept pace with the rapid rise of imports which has accompanied our domestic expansion. As a result, rather than furnishing increased support for our other transactions, 1962 saw a decline in our commercial trade surplus.

The primary long-term means for correcting this situation is implementation of the Trade Expansion Act of 1962. The special representative for trade negotiations is preparing to use to the fullest extent the authority given to me by the act, in an across-the-board drive for lower tariffs and against other barriers to trade. This should open new markets and widen existing markets for American exports.

As mentioned above, our whole long-range domestic program—including increased investment, improved productivity and wage-price stability—is designed to better the competitive position of our products both at home and abroad. Continued price stability at home, contrasted with the upward trend in prices abroad, will create an increasingly favorable climate for American exports; and this administration is concentrating on six immediate measures to help American businessmen take advantage of our export potential.

First, the Export-Import Bank has created a wholly new program of export financing which now provides U.S. business with credit facilities equal to any in the world. The major element in this new program is the guarantee of short- and medium-term export credits by the Foreign Credit Insurance Association, composed of more than 70 private insurance companies in conjunction with the Export-Import Bank. I urge the Congress to act promptly to restore the Bank to full operating efficiency by renewing its charter and authorizing adequate financing.

Second, the Departments of State and Commerce have strengthened and expanded efforts overseas to probe for new markets and promote the sale and distribution of American products.

Third, the Department of Commerce has developed a broad program of education and assistance to present and potential American exporters. I have requested a relatively small amount of additional funds to strengthen the Department's efforts to stimulate our exports. These funds, amounting to $6 million, were not approved by the House of Representatives. It is essential, if we are to increase our

trade surplus, that they be included in the final appropriation bill. This modest sum would pay for itself many times over in increased exports, lower payments deficits, and protection for our gold reserves.

Fourth, the Department of Agriculture announced last March a new auction program for direct sales of cotton abroad. It is expected that this new technique will insure competitive pricing for our cotton in export markets and will increase exports by as much as $100 million over last year's levels.

Fifth, present ocean freight rates discourage our exports as compared to imports. The freight charges on Atlantic crossings are far higher for eastbound freight than for comparable items bound for our shores. A similar situation prevails on other trade routes. While these substantial differentials may have been acceptable in the immediate postwar period of the dollar shortage when Europe was struggling to get on its feet, their magnitude is clearly unjustified today. Accordingly, I have directed the Secretary of Commerce to take corrective action through the Maritime Administration; and I am urging the Federal Maritime Commission in its role as an independent regulatory agency to question those specific export rates which appear unduly high. Should legislation prove necessary, it will be sought.

Sixth, in order to give further momentum to the expansion of our export performance, I will convene a White House Conference on Export Expansion on September 17 and 18, to alert American firms, whether or not they are now exporting, to the opportunities and rewards of initiating or expanding export efforts. We shall use this opportunity to emphasize to American businessmen that vigorous action to increase their exports would serve their own private interests as well as the national interest.

2. TOURISM

Another element that requires attention in our commercial transactions is the increase in our unfavorable net tourist balance. With increasing prosperity encouraging American travel abroad, total tourist spending in foreign countries rose another 10 percent last year, to nearly $2½ billion. This was partially offset by increased foreign tourist expenditures in the United States, but the net result was an outflow of $1.4 billion, or two-thirds of last year's overall balance-of-payments deficit. This year the cost is estimated to be still greater. That is why we have had to limit the duty-free exemption for returning tourists to $100 per person. Last year this measure achieved a saving of more than $100 million, and I am gratified that Congress has extended the limitation for another 2 years. We have also sought, through establishment of the U.S. Travel Service, to increase our income from visitors coming to our country. To further that effort, I strongly recommended that Congress approve the full amount of the appropriation requested for the U.S. Travel Service.

In addition, in cooperation with the appropriate Government agencies, I am asking the domestic travel and tourism industry to launch a more unified drive to encourage Americans to learn more about their own country and the glory of their heritage. A "See American Now" program, to be in full operation by the spring of 1964, will make the most of our magnificent resources and make travel at home a more appealing alternative to travel abroad.

3. FEDERAL EXPENDITURES ABROAD

Federal expenditures abroad go largely for defense and aid. These represent the obligations which flow from our position of world leadership and unrivaled economic strength. With the recovery of other economically advanced nations, particularly our allies in Western Europe, we have made vigorous and increasingly successful efforts to work out with them a better sharing of our common responsibilities. These efforts—combined with rigorous scrutiny of offshore expenditures—have enabled us, in spite of mounting worldwide requirements and costs, to reduce the overall total of our own oversea expenditures while we increase the security of the free world and maintain a high level of assistance to developing countries.

A continual process of modernizing our Armed Forces and increasing efficiency, resulting in heightened defense effectiveness, is reducing the requirements for oversea dollar expenditures. At the same time, by tying our aid more effectively to domestic procurement and cutting civilian expenditures sharply, we should be able to achieve further savings. In fact, by January 1965, these processes should result in a reduction of the rate of our Federal oversea dollar expenditures by aprroximately $1 billion from that of 1962.

(*A*) *Military expenditures*

The Defense Department has, since the beginning of this administration, been making vigorous efforts to restrain oversea expenditures, without reducing military effectiveness.

Thus, despite the Berlin buildup of 1961 and rising costs overseas, gross expenditures abroad by the Defense Department have been held below 1960 levels. As a result of the desire of our allies to acquire from us modern military equipment, which they need to strengthen free world defenses, at lower cost than they could produce the equipment themselves, substantial offsets to these expenditures have also been achieved, so that our net outlays abroad for defense have declined from $2.7 billion in 1960 to $1.9 billion in 1962.

In line with these continuing efforts, the Secretary of Defense has informed me that the annual rate of expenditures abroad by the Department of Defense will be reduced—by measures to be put into effect before the end of calendar year 1964—by more than $300 million from the 1962 level. At the same time the Department of Defense will continue to seek arrangements with major allied countries to increase their military procurement from the United States so as to reduce the net outflow still further. The Secretary has further assured me that this reduction will be accomplished without any reduction in the effectiveness of our military posture and with no impairment in our ability to meet our commitments to our allies in all parts of the world.

In addition to direct expenditures by the Defense Department, our defense expenditures abroad have for many years been increased by the cost of programs for the acquisition of strategic materials from foreign sources. The cost of these programs is now steadily declining since they have largely fulfilled their purpose and are no longer needed. Within 2 years they will be reduced by over $200 million as compared to 1962, insuring a total reduction in defense dollar expenditures well in excess of $500 million.

(*B*) *Agency for International Development*

During 1960 only about one-third of AID program expenditures were in the form of U.S. goods and services. Last year that proportion had risen to about 50 percent. But during the fiscal year which ended last month, fully 80 percent of AID's commitments were "tied" to the export of U.S. goods and services. The balance was virtually all committed for purchases in the less developed countries rather than in the developed nations where the payments surpluses exist which give rise to our deficit. During fiscal year 1964, for which funds are now being considered by the Congress, AID commitments tied to U.S. exports will rise beyond 80 percent of the total. I have directed the Administrator of AID to continue and intensify this policy so that AID expenditures entering our balance of payments in fiscal year 1965 may be further reduced by about $500 million as compared to fiscal year 1961, from about $1 billion to not over $500 million, the lowest practicable minimum.

(*C*) *Other departments and agencies*

The oversea disbursements of all other departments of Government have also been brought under special review and control by the Director of the Bureau of the Budget. Total Federal expenditures abroad (excluding Defense, AID, Treasury payments on foreign-held debt and Federal pension payments) coming within the scope of this review now amount to approximately $600 million per year. The Director of the Budget has assured me that vigorous screening of expenditures abroad by these other Federal departments and agencies will achieve further substantial balance-of-payments savings. These savings, together with those which may be expected from revisions of programs under the Agricultural Trade Development and Assistance Act, should amount to some $100 million a year. This includes my request to the Congress to enact legislation permitting freer use of our present holdings of the currencies of a number of other countries.

4. SHORT-TERM CAPITAL FLOWS

By skillful use of the tools of debt management and monetary policy, the Treasury Department and the Federal Reserve System have substantially reduced the outflow of short-term capital through a series of carefully managed increases in short-term money rates, while maintaining ample credit availability and keeping both long-term rates and bank loan rates low and, in many cases, declining. Experience in the recovery underway over the past 2½ years provides a solid basis for expecting that a determined effort can succeed in keeping long-term investment and mortgage money plentiful and cheap while boosting short-term interest rates. From February 1961 through July 12, 1963, the rate on newly issued 3-month Treasury bills rose 76 basis points, while the rise in long-term Treasury bond yields was held to only 22 basis points and the yields on high-grade corporate bonds and mortgages actually declined.

However, the recorded outflows of short-term funds—together with unrecorded net outflows, a large portion of which undoubtedly represent short-term capital movements—still amounted to approximately $1.6 billion in 1962 and have continued on a substantial scale so far this year. A sizable reduction in this drain would do much to strengthen our overall balance of payments. It is for this reason

that the Federal Reserve has decided to increase the rediscount rate from 3 to 3½ percent. At the same time, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation have raised the interest-rate ceilings on time deposits payable in 90 days to 1 year, in order to enable our banks to compete more effectively with those abroad and thus attract funds that might otherwise leave the country.

While none of us welcomes higher interest rates at a time when our economy is operating below capacity, an increase in short-term rates—at a time when liquid savings are growing rapidly, and when there are no accompanying restrictions on credit availability nor parallel increases in the interest rates on bank loans, home mortgages, or other long-term obligations—should have little, if any, adverse effect on our economy. The unprecedented flow of liquid savings should largely insulate the longer term markets from the effect of higher short-term rates. I have been assured by both Treasury and Federal Reserve officials that they intend to do everything possible through debt management policy and open-market operations to avoid any reduction in domestic credit availability and any upward pressure on long-term interest rates while the economy operates below capacity without inflation. Other agencies of the Federal Government will work to maintain continued ready availability of private mortgage loans at stable interest rates. Nevertheless, the situation lends increased urgency to the fiscal stimulus that would be provided by the prompt enactment of the substantial tax reductions I have recommended.

### 5. LONG-TERM CAPITAL OUTFLOWS

Long-term capital outflows consisting of direct investment in productive plant abroad appear to have leveled off in recent years, whereas portfolio investments in the form of long-term loans or securities purchases have been rising rapidly. While our long-range program should increase the attractiveness of domestic investment and further reduce the outflow of direct investment, the rising outflow of long-term capital for portfolio investment abroad shows no sign of abating. It is up from $850 million in 1960 to $1.2 billion in 1962, and so far this year is running at an annual rate of well over $1.5 billion.

In view of the continued existence of direct controls and inadequate capital market mechanisms in many foreign countries, and the wide differential between the long-term rates of interest in the larger industrial countries and the United States, there appear to be only three possible solutions to this problem, two of which are unacceptable under present circumstances:

A substantial increase in our whole long-term interest rate structure would throw our economy into reverse, increase unemployment and substantially reduce our import requirements, thereby damaging the economy of every free nation;

The initiation of direct capital controls, which are in use in most countries, is inappropriate to our circumstances. It is contrary to our basic precept of free markets. We cannot take this route.

A third alternative—the one which I recommend—would stem the flood of foreign security sales in our markets and still be fully

consistent with both economic growth and free capital movements. I urge the enactment by the Congress of an "interest equalization tax," which would, in effect, increase by approximately 1 percent the interest cost to foreigners of obtaining capital in this country, and thus help equalize interest rate patterns for longer term financing in the United States and abroad. The rate of tax should be graduated from 2.75 to 15 percent of the value of debt obligations, according to the remaining maturity of the obligation, and should be 15 percent in the case of equity securities. This tax should remain in effect through 1965 when improvements in both our balance of payments and in the operation of foreign capital markets are expected to permit its abandonment.

Under this alternative, the allocation of savings for investment in securities will continue to be the result of decisions based on market prices. There will be no limitations on the marketing of foreign issues and no governmental screening of borrowers. Reliance will be placed on price alone to effect an overall reduction in the outflow of American funds for stocks, bonds, and long-term loans—both new or outstanding, whether publicly marketed or privately placed.

The tax would not apply to direct investment. It would not apply to securities or loans that mature in less than 3 years. Nor would it apply to the loans of commercial banks. These exemptions will assure that export credit will remain fully available. Furthermore, purchases of the securities of less developed countries or of companies operating primarily in such countries will not be taxed.

Nor will the tax apply to transactions in foreign securities already owned by Americans, or to the purchase of securities by foreigners. Underwriters and dealers would be exempted from the tax on stock or securities resold to foreigners as part of the distribution of a new issue. But all Americans who purchase new or outstanding foreign securities from foreign issuers or owners would be subject to this tax. In order to avoid unfair burdens on transactions which are nearly complete, the tax should not apply to offerings of securities for which active registration statements are now on file with the Securities and Exchange Commission. Purchase commitments which have already been made should also not be affected.

The Secretary of the Treasury is submitting the details of this proposal to the Congress; and I have been assured that the House Ways and Means Committee will be prepared to give high priority to this proposal after action has been taken with respect to the overall program of tax reduction and reform now before it. Since the effectiveness of this tax requires its immediate application, I am asking Congress to make the legislation effective from the date of this message. The Internal Revenue Service will promptly make available all instructions necessary for interim fulfillment of the provisions of this recommendation, pending the enactment of legislation by the Congress.

### 6. INVESTMENT BY FOREIGN SAVERS IN THE SECURITIES OF U.S. PRIVATE COMPANIES

Investment by foreign savers in the securities of U.S. private companies has fallen rapidly to less than $150 million in 1962. The better climate for investment that will flow from enactment of the

program for tax reduction and reform now before the Congress will do much to improve this situation but a direct action program is also needed to promote oversea sales of securities of U.S. companies. Such a program should also be designed to increase foreign participation in the financing of new or expanded operations on the part of U.S. companies operating abroad.

To meet these two facets of a single problem, a new and positive program should be directed to the following areas of effort:

(*a*) The identification and critical appraisal of the legal, administrative, and institutional restrictions remaining in the capital markets of other industrial nations of the free world which prevent the purchase of American securities and hamper U.S. companies in financing their operations abroad from non-U.S. sources;

(*b*) A review of U.S. Government and private activities which adversely affect foreign purchase of the securities of U.S. private companies; and

(*c*) A broad and intensive effort by the U.S. financial community to market securities of U.S. private companies to foreign investors, and to increase the availability of foreign financing for U.S. business operating abroad.

Such a program will necessarily involve a pooling of the know-how and efforts of the Government and the financial community. I have asked the Treasury Department, in consultation with the State Department, to develop an organization plan and program.

The increased freedom of capital movement and increased participation by foreign citizens and financial institutions in the ownership and financing of American business, toward which these efforts are directed, will serve to strengthen the economic and political ties of the free world as well as its monetary system. Securities of U.S. private firms could be and should be one of our best selling exports. An increasing foreign investment in these securities will encourage a more balanced two-way capital traffic between the United States and other capital markets and minimize the impact of net long-term capital outflows from the United States on our balance of payments.

### 7. SPECIAL GOVERNMENT TRANSACTIONS

Special Government transactions covered $1.4 billion of our deficit in 1962. These included prepayment of debt by foreign countries, advance payments on military purchases here, and the issuance by the Treasury of medium-term securities to foreign official holders of dollars. Further debt prepayment is expected in 1963—France has just announced a prepayment of $160 million—but it is clear that these are temporary gains which cannot be repeated for very long. Nor is it likely that advance payments on military purchases will again be large, as the pace of deliveries against purchases is now rising.

Therefore, as our continuing balance-of-payments deficit leads to accruals of dollars by foreign central banks, exceeding the size of the dollar balances which they normally carry, it has been particularly helpful that a number of foreign governments and central banks have begun purchasing a new type of nonmarketable medium-term Treasury security, denominated either in dollars or in their own currencies, as a convenient alternative to the purchase of gold. Some

$610 million of such securities have been newly issued thus far in 1963.

Further debt prepayments and further sales of these securities during the remainder of this year will reflect the unprecedented degree of cooperation now prevailing in international finance and the growing recognition that correction of payments imbalances is a responsibility of the surplus as well as the deficit countries. In this spirit we shall also continue to press for a fuller and fairer sharing of the burdens of defense and aid and for the reduction or elimination of the trade barriers which impede our exports.

### 8. GOLD SALES AND INCREASED DOLLAR HOLDINGS

Gold sales and increased dollar holdings serve to finance what remains of our deficit after special governmental transactions. In 1962, this deficit amounted to approximately $2.2 billion. It was financed by the sale of $890 million in gold and $17 million of our holdings of foreign exchange as well as by an increase in foreign holdings of dollars and U.S. Government securities amounting to $653 million, and an increase of $626 million in the holdings of dollars by the International Monetary Fund.

The total outflow of gold for the 2 years 1961 and 1962 combined only slightly exceeded the outflow in the single year 1960; and the outflow in 1963 is running at a rate well below last year. Since the rise in short-term interest rates resulting from the recent action of the Federal Reserve will make it considerably more attractive for foreigners to hold their assets in dollars, including short-term U.S. Government securities, prospects are improved that increased foreign holdings of these assets instead of gold will finance a still larger share of our deficit.

### 9. THE INTERNATIONAL MONETARY FUND

The International Monetary Fund, however, presents a different situation. Last year the Fund's dollar holdings increased as other countries paid off their debts in dollars and concentrated new borrowings in other convertible currencies to the extent practicable. But the Fund's rules provide that, except in the case of a drawing—that is, a borrowing—it cannot hold more of any currency than was paid in at the time of original subscription (in effect, 75 percent); and the Fund's holdings of dollars have now nearly reached that level.

To meet this situation the United States has requested and the Executive Board of the IMF has approved a $500 million standby arrangement which authorizes us to draw on the Fund from time to time during the coming year. It is our intention to utilize this authority for the purpose of facilitating repayments which are expected to total about $500 million during the course of the next 12 months. When a country desires to repay the Fund, we will draw convertible foreign currencies from the Fund, paying for them with dollars. The country making the repayment will use its own dollars to buy these foreign currencies from us in order to repay the Fund. All transfers will take place at par. Thus the Fund will continue to finance a portion of our deficit by increasing its holdings of dollars and its various debtors will continue to have a simple and costless

method by which they can redeem their obligations to the Fund. The alternative under present circumstances, now that they cannot pay off directly in dollars, would have been either to buy gold from the United States with which to repay the Fund, or to purchase other convertible currencies in the market with their dollars at extra cost and inconvenience.

Drawings by the United States under this new arrangement will be repayable in 3 years, with a 2-year extension available if needed. No interest will be payable, but the drawings will be subject to a one-time service charge of one-half of 1 percent.

### 10. EVOLUTION OF THE INTERNATIONAL MONETARY SYSTEM

During the past 2 years great progress has been made in strengthening the basic fabric of the international monetary system upon which the whole free world depends. Far closer cooperation among the central banks of the leading industrial countries has been achieved. Reciprocal credit arrangements have been established to meet instantly any disruptive disturbance to international payments—arrangements which successfully contained the monetary repercussions of the Berlin crisis in 1961, the heavy pressure on the Canadian dollar in the spring of 1962, the Cuban crisis last autumn, the reaction that followed the exclusion of the United Kingdom from the Common Market, and a number of less striking events that might, in other years, have set off dangerous rounds of currency speculation. An informal but highly effective operating relationship has grown up among a number of the same countries with respect to the London gold market, ruling out for the future any repetition of the alarming rise in the price of gold which created such uncertainty in October 1960. Finally, 10 of the leading industrial countries have established a $6 billion facility for providing supplemental resources to the International Monetary Fund, which will be available in the event of any threat to the stability of the international monetary system.

The net result has been to provide strong defenses against successful raids on a major currency. Our efforts to strengthen these defenses will continue. While this process is taking place, the United States will continue to study and discuss with other countries measures which might be taken for a further strengthening of the international monetary system over the longer run. The U.S. interest in the continuing evolution of the system inaugurated at the time of Bretton Woods is not a result of out current payments deficit—rather it reflects our concern that adequate provision be made for the growth of international liquidity to finance expanding world trade over the years ahead. Indeed, one of the reasons that new sources of liquidity may well be needed is that, as we close our payments gap, we will cut down our provision of dollars to the rest of the world.

As yet, this Government is not prepared to recommend any specific prescription for long-term improvement of the international monetary system. But we are studying the matter closely; we shall be discussing possible improvements with out friends abroad; and our minds will be open to their initiatives. We share their view that the problem of improving the payments mechanism is one that demands careful joint deliberation. At the same time, we do not pretend that talk of long-range reform of the system is any substitute for the actions that we ourselves must take now.

THE PROMISE OF THE FUTURE

Full implementation of the program of action I have outlined today should lead to substantial improvement in our international payments. The rate of Government expenditures abroad will drop by $900 million over the next 18 months, and the combined effect of the increase in short-term interest rates and the interest equalization tax should equal, and more probably exceed, this figure. Gains of this magnitude—approximately $2 billion—will give us the time our basic long-term program needs to improve our international competitive position, and increase the attraction for investment in the United States.

These two objectives must be the basis of any permanent closing of the payments gap, and this program will achieve them without threatening our growth at home. It will also do so without compromising our adherence to the principles of freer trade and free movements of capital. It will, in fact, help prevent pressures for more restrictive measures. In short, while we must intensify our efforts, we can do so with full confidence in the future.

JOHN F. KENNEDY.

## DESCRIPTION OF PROPOSED INTEREST EQUALIZATION TAX [1]

In his balance-of-payments message of July 18, 1963, the President announced a series of coordinated actions to reinforce the administration's program to correct the U.S. balance-of-payments deficit, including a request for an interest equalization tax. The enactment of H.R. 8000 would effectuate this request.

The interest equalization tax upon which congressional action has been requested is applicable to certain portfolio transactions that entail longer term capital movements from the United States. The pressure of the heavy flow of domestic private savings into the U.S. capital market, combined with our highly developed and efficient market facilities, have been reflected in a level of long-term borrowing costs in this country far below those prevailing in most industrialized countries abroad, where the development of efficient long-term capital markets has lagged. These lower long-term rates, while appropriate to domestic needs, invite a volume of securities sales in the United States by foreigners that places heavy strains on our balance of payments. From a 1959–61 average of about $600 million, new foreign long-term securities sold to U.S. interests increased sharply in 1962 to $1.1 billion, and to an annual rate of over $1.7 billion in the first half of 1963. Purchases of outstanding foreign bonds and equities by U.S. interests have also been large and have substantially increased in 1963.

The administration for some time has pointed out that a portion of these foreign needs for capital now met from U.S. sources might more appropriately be satisfied in the borrower's own market or in those of countries with balance-of-payments surpluses. The imposition of the proposed tax will encourage this process by tending to equalize costs of longer term financing in the United States and in markets abroad, reducing the incentive to raise capital in the United States simply to take advantage of a possible interest cost saving.

The tax will thus have an important effect on the balance of payments, without impeding access to the American market by foreigners unable to procure longer term funds on reasonable terms elsewhere. Allocation of funds for investment in foreign securities and the determination of securities to be offered in the U.S. market would continue to be the result of market prices and decisions. Accordingly, the interest equalization tax serves domestic and international needs in a way that supports the essential freedom of our trading and financial markets, and fulfills our special responsibilities at the center of the financial system of the free world. This method of influencing aggregate American purchases of foreign securities assures that selection among issues will be freely made on the basis of market considerations.

[1] Source: Treasury Department.

GENERAL DESCRIPTION OF THE BILL

H.R. 8000 proposes the enactment of the Interest Equalization Tax Act of 1963. Under the bill, a special temporary excise tax, to remain in effect through 1965, is imposed on the acquisition of stock, debt securities or other obligations of foreign issuers or depositary receipts or other evidence of interest in, or rights to acquire, such interests. The tax is payable by all U.S. citizens, residents and corporations, including organizations exempt from Federal income taxes. It applies to portfolio purchases of stock or debt securities issued by foreign corporations, governments, or other persons, whether such securities are new or already outstanding issues and whether the acquisition is effected in the United States or abroad. It does not apply, however, to purchases by Americans from other Americans.

The tax is not applicable to direct investments by U.S. persons in overseas subsidiaries or affiliates, nor does it apply to acquisition of any indebtedness payable upon demand or maturing in less than 3 years. Producers of U.S. goods and services will not be subject to tax on credits extended in connection with their exports. Moreover, loans made by commercial banks in the ordinary course of their banking business are exempted, as is Export-Import Bank financing. The tax is not applicable to purchases of securities issued by international organizations of which the United States is a member, governments of countries considered to be less developed, and corporations whose principal activities are centered in less developed countries. The tax will also be inapplicable to new issues of securities from a foreign country if the President determines that application of the tax will imperil or threaten to imperil the stability of the international monetary system. A securities underwriter, or a dealer in foreign bonds, is exempted from the tax on certain acquisitions of securities resold to foreigners.

The tax is generally applied to acquisitions occurring after the date of the President's message. Acquisitions effected on a national securities exchange on or before August 16, 1963, are not taxed, however. Nor does the tax apply to purchase commitments made on the open market on or before the date of the President's message, to other purchases which the buyer on that date was unconditionally obligated to make, or to acquisitions under contracts which were partly performed on that date. Exemption from the tax is also provided for purchases made within 60 days after the date of the President's message if the security purchased was covered by a registration statement filed with the Securities and Exchange Commission within 90 days prior to the date of the President's message. Acquisitions are not taxable if they represent the exercise of options held on the date of the President's message or foreclosure by a creditor on security for a debt outstanding on that date.

*Rate of tax*

The tax, based on the value of the security acquired, is imposed at the rate of 15 percent in the case of stock. In the case of debt securities, the rate of tax is geared to the period remaining to maturity, ranging from 2.75 to 15 percent, in accordance with a rate table set forth in the bill. Where an issue of securities is subject to early retirement through operation of a mandatory sinking fund, the period

remaining to maturity will be determined under regulations, which are expected to base maturity generally on the average life of the securities. Under the bill, the tax is not deductible for Federal income tax purposes (unless because of reimbursement or other reasons it is separately includible in taxable income) but is included as an item of cost in the tax basis for the stock or obligation acquired.

*Liability for the tax*

The U.S. person making a taxable acquisition is liable for the tax, which will be collected through the filing of returns. The first of such returns will be due at the end of the first full calendar month following the end of the calendar quarter in which the bill is enacted and will cover all prior acquisitions subject to the legislation. Returns will thereafter be due at the end of the calendar month following each calendar quarter in which a U.S. person makes any acquisition. This is not a stamp tax; no obligation to compute or collect the tax is imposed on the issuer or seller, or any underwriter, dealer, broker, or transfer or deposit agent (except with respect to his own purchases).

*Exclusion of securities acquired from Americans*

Under the bill, an acquisition from another U.S. person is not subject to tax. To permit identification of securities covered by this exclusion, a U.S. transferor executes a certificate attesting that he was a U.S. citizen, resident, or corporation during the period of his ownership of the security. A nominee is permitted to attest that the security had been held for the account of a U.S. person if such nominee kept adequate records to identify the actual owner of the securities and such owner's U.S. citizenship, residence, or incorporation. The signature on any certificate is required to be guaranteed by a bank, member of the National Association of Securities Dealers or member firm of a national securities exchange. In determining his liability for the tax, a purchaser is entitled to rely on any such certificate. While the certificate may be delivered along with the security in most cases, it can be delivered within a reasonable time thereafter.

There are attached temporary forms of certificates, together with instructions and sample filled-in forms, which the Treasury Department has announced that it will accept in fulfillment of these requirements pending enactment of the legislation by the Congress and issuance of regulations and forms thereunder. These interim forms are available at offices of the Internal Revenue Service, and facsimile reproductions will be accepted.

Civil and criminal penalties are provided for the execution of false or fraudulent certificates of American ownership.

*Explanation of excluded acquisitions*

*Export financing.*—As indicated above, no acquisition is subject to tax under the bill if the obligation acquired is payable upon demand or within 3 years of its acquisition. Most trade financing transactions will fall within this exception. In addition, U.S. producers of goods and services are accorded an exclusion for obligations acquired in connection with their exports. The exclusion of loans made by commercial banks in the ordinary course of their banking business, as well as Export-Import Bank financing, will also permit tax-free trade financing on a longer term basis.

*Direct investment.*—Direct investments in oversea subsidiaries and affiliates are excluded from the tax. The bill defines a direct investor as one who owns immediately following an acquisition, directly or through a foreign corporation, at least 10 percent of the total combined voting power of all classes of stock of a foreign corporation entitled to vote. If a U.S. person qualifies as a direct investor, his acquisitions of both stock and debt securities of the foreign corporation are exempt. This exclusion will be denied, however, if the foreign corporation is formed or availed of by a U.S. person for the principal purpose of acquiring securities which would be subject to tax if acquired directly, unless the foreign corporation acquires the securities in the normal course of a commercial banking, securities underwriting, or brokerage business conducted in one or more foreign countries. Companies doing business in foreign countries are exempt from tax on the acquisition of foreign securities, to the extent that the securities acquired are, or would have been, required to be held in connection with such business by application of foreign laws which were in force on the date of the President's message.

*Exclusion required for international monetary stability.*—If the President determines that application of the interest equalization tax will have such consequences for a foreign country as to imperil or threaten to imperil the stability of the international monetary system, the bill authorizes him by Executive order to exclude from the tax acquisitions of new issues of securities originating in such country. New issues may include all issues of previously unissued securities, including public offerings, private placements and individual notes secured by mortgates. The President may exempt all of such new issues, or any classification or limited aggregate amount thereof.

*Marketing of foreign securities to foreigners.*—The exclusion provided for foreign issues resold by an underwriter to foreigners and for foreign dollar bonds purchased by dealers and resold within 30 days to foreigners consistent with the objective of encouraging and facilitating sales of these issues to foreigners.

*International organizations.*—Purchases of securities issued by any international organization of which the United States is a member will not bear the tax. This exempts purchases by Americans of the obligations of such organizations as the International Bank for Reconstruction and Development and the Inter-American Development Bank.

*Less developed countries.*—The exclusion for acquisition of securities issued by governments of less developed countries includes purchases of securities issued by any corporation with the guarantee of such a government, as well as securities of political subdivisions.

The exclusion for purchases of securities issued by corporations operating in less developed countries applies to any corporation which for its last annual accounting period prior to the acquisition by the U.S. person had conformed to the definition of a "less developed country corporation" in section 955(c) of the Internal Revenue Code, by reason of conducting an active business in one or more countries designated as less developed for purposes of this tax. The exemption is also made available for the securities of any foreign corporation which establishes to the satisfaction of the Secretary of the Treasury or his delegate that it had met these standards prior to issuance of its securities and might reasonably be expected to continue to meet them for

such period as the Secretary or his delegate may deem appropriate to carry out the intent of this exclusion.

The countries to be considered less developed for this purpose will be designated in an Executive order issued by the President. For the interim period prior to the issuance of this Executive order, all countries designated by Executive Order No. 11071, dated December 27, 1962, as less developed countries for purposes of the Revenue Act of 1962, are to be considered less developed countries. This includes all countries, and oversea territories and possessions of countries (other than countries within the Sino-Soviet bloc), except the following:

Australia
Austria
Belgium
Canada
Denmark
France
Germany (Federal Republic)
Hong Kong
Italy
Japan
Liechtenstein
Luxembourg
Monaco
Netherlands
New Zealand
Norway
Republic of South Africa
San Marino
Spain
Sweden
Switzerland
United Kingdom

The designation of a country may be terminated by further Executive order, but such termination will not affect acquisitions of securities occurring prior to issuance of the Executive order.

# TECHNICAL EXPLANATION OF PROPOSED INTEREST EQUALIZATION TAX ACT OF 1963[1]

## SECTION 1. SHORT TITLE, ETC.

(*a*) *Short title.*—Subsection (a) of section 1 of the bill provides that the bill may be cited as the "Interest Equalization Tax Act of 1963."

(*b*) *Amendment of 1954 Code.*—Subsection (b) of section 1 of the bill provides that, except as otherwise expressly provided, whenever in the bill an amendment is expressed in terms of an amendment to a section or other provision, the reference is to be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

## SECTION 2. INTEREST EQUALIZATION TAX

(*a*) *Imposition of tax.*—Subsection (a) of section 2 of the bill amends subtitle D (relating to miscellaneous excise taxes) of the code by adding at the end thereof a new chapter 41 (relating to interest equalization tax). The new chapter consists of 10 sections (secs. 4911–4920) which are explained below.

### SECTION 4911. IMPOSITION OF TAX

(*a*) *Debt obligations.*—Subsection (a) of section 4911 imposes a tax on each acquisition by a U.S. person of a debt obligation of a foreign obligor if such obligation has a period remaining to maturity of 3 years or more. The tax is based on the actual value of the debt obligation and is measured by the period remaining to maturity, determined in accordance with the following table:

| If the period remaining to maturity is— | The tax, as a percentage of actual value, is— |
|---|---|
| At least 3 years, but less than 3½ years | 2.75 |
| At least 3½ years, but less than 4½ years | 3.55 |
| At least 4½ years, but less than 5½ years | 4.35 |
| At least 5½ years, but less than 6½ years | 5.10 |
| At least 6½ years, but less than 7½ years | 5.80 |
| At least 7½ years, but less than 8½ years | 6.50 |
| At least 8½ years, but less than 9½ years | 7.10 |
| At least 9½ years, but less than 10½ years | 7.70 |
| At least 10½ years, but less than 11½ years | 8.30 |
| At least 11½ years, but less than 13½ years | 9.10 |
| At least 13½ years, but less than 16½ years | 10.30 |
| At least 16½ years, but less than 18½ years | 11.35 |
| At least 18½ years, but less than 21½ years | 12.25 |
| At least 21½ years, but less than 23½ years | 13.05 |
| At least 23½ years, but less than 26½ years | 13.75 |
| At least 26½ years, but less than 28½ years | 14.35 |
| 28½ years or more | 15.00 |

Actual value will be determined under rules similar to those contained in paragraph (b)(2)(ii) of section 47.4301 of the Documentary Stamp Tax Regulations, relating to the documentary stamp tax on

[1] Source: Treasury Department.

original issues of stock. Thus, the price agreed upon by parties dealing at arm's length normally constitutes actual value. The term "acquisition" is defined in section 4912; the terms "United States person," "debt obligation," "foreign obligor" and "period remaining to maturity" are defined in section 4920.

(*b*) *Stock.*—Subsection (b) imposes a tax on each acquisition by a U.S. person of stock of a foreign issuer. The tax is 15 percent of the actual value of the stock acquired. The terms "stock" and "foreign issuer" are defined in section 4920.

(c) *Persons liable for tax.*—Subsection (c) states in paragraph (1) the general rule that the tax imposed by subsection (a) or (b) is to be paid by the person acquiring the stock or debt obligation. Paragraph (2) contains a cross reference to section 6681 which provides for the imposition of a penalty on the maker of a false interest equalization tax certificate. Such penalty may be in lieu of or in addition to the tax.

(*d*) *Termination of tax.*—Subsection (d) provides that the tax imposed by subsection (a) or (b) is not to apply to any acquisition made after December 31, 1965.

SECTION 4912. ACQUISITION

(*a*) *In general.*—Subsection (a) of section 4912 defines the term "acquisition" as any purchase, transfer, distribution, exchange, or other transaction by virtue of which ownership is obtained either directly or through a nominee, custodian, or agent. The place where the acquisition occurs is irrelevant.

Any extension or renewal of an existing debt obligation requiring affirmative action of the obligee at the time of the extension or renewal is considered the acquisition of a new debt obligation. Section 4913 provides a limitation on the tax imposed on an acquisition of this kind.

In the case of an agreement to make an acquisition, the acquisition is deemed to have occurred at the time when the parties to the agreement first become unconditionally obligated to complete the transaction. For example, in the case of an acquisition of stock on a stock exchange, the acquisition is considered to have occurred on the trading date rather than on the settlement date. If the obligation of a lender to acquire promissory notes of a foreign corporation is subject to conditions, such as the receipt by the lender on the closing date of an opinion of counsel that the notes are duly issued and binding obligations of the obligor, the acquisition is not considered to have occurred until such conditions have been fulfilled.

(*b*) *Special rules.*—Paragraph (1) states the special rule that any transfer (other than in a sale or exchange for full and adequate consideration) of money or other property to a foreign trust, partnership, or estate (except to the extent that such transfer results in an acquisition otherwise subject to the interest equalization tax) is deemed an acquisition by the transferor of stock of a foreign issuer in an amount equal to the actual value of the money or property transferred, but only to the extent that such trust, partnership, or estate is availed of to acquire stock or debt obligations of foreign issuers or obligors other than debt obligations maturing in less than 3 years. This rule is applicable without regard to whether the transferor is a beneficiary of the trust or estate, or a partner in the partnership to which the

transfer is made. The exclusion for direct investments provided by section 4915 is not applicable to the transfer because such exclusion is applicable only to acquisitions of stock or debt obligations of a foreign corporation. Any transfer covered by the rule will be taxable without regard to any exemption or exclusion that would be applicable if the U.S. person making the transfer directly acquired the stock or debt obligations that the foreign trust, partnership, or estate acquires.

The special rule does not apply to transfers made in a sale or exchange for full and adequate consideration, not to any transfer to the extent that it results in an acquisition that is otherwise subject to the interest equalization tax. Thus, this rule is not applicable to the sale of property to a foreign trust, partnership, or estate, but if the consideration received by the U.S. person consists of stock of a foreign issuer or debt obligations of a foreign issuer with a period remaining to maturity of 3 years or more, the acquisition of such stock or debt obligations will nevertheless be taxable. The exception to the special rule relating to a sale or exchange for a full and adequate consideration does not cover cash loans; such loans will not be considered sales or exchanges.

The application of the special rule provided by paragraph (1) may be illustrated by the following examples:

*Example (1)*.—On July 26, 1963, A, a U.S. person, transfers $1,000 to X, a foreign trust, and X trust acquires 10 percent of the voting stock of Y, a foreign corporation, for $800. A is considered to have acquired stock of a foreign issuer in the amount of $800 and incurs a tax of $120 (15 percent of $800).

*Example (2)*.—The facts are the same as in example (1). A makes no further transfers to X trust but X trust thereafter acquires from B, a U.S. person, debt obligations of Z, a less developed country corporation, with a period remaining to maturity of 10 years. The purchase price of these debt obligations is $300. A is considered to have acquired stock of a foreign issuer in an additional amount of $200, representing the balance of the $1,000 transferred to X trust remaining after application of $800 to the earlier acquisition. A therefore incurs an additional tax of $30 (15 percent of $200).

*Example (3)*.—On August 1, 1963, C, a U.S. person, transfers $1,000 to P, a foreign partnership, to acquire a limited partnership interest in P. P thereafter acquires debt obligations of Q, a foreign government, for $600. Since a limited partnership interest is considered stock for purposes of the bill, the special rule does not apply and C incurs a tax of $150 (15 percent of $1,000).

*Example (4)*.—On September 1, 1964, D, a U.S. person, makes a cash loan of $1,000 to R, a foreign estate, the loan being repayable in 10 years. R thereafter acquires debentures of S, a foreign corporation, with a period remaining to maturity of 25 years. The purchase price of the debentures is $500. Since D has acquired a 10-year debt obligation of a foreign obligor from R, the special rule does not apply and D incurs a tax of $77 (7.70 percent of $1,000).

Paragraph (2) provides the special rule that the value of the stock acquired, when a shareholder transfers money or other property as a contribution to the capital of a foreign corporation, is considered to be the amount of money and the actual value of the property transferred. Thus, if a U.S. person, who owns less than 10 percent of the voting stock of a foreign corporation which is not a less developed

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country corporation, transfers $1,000 to the foreign corporation as a contribution to its capital, the U.S. person will be considered to have acquired stock of the foreign corporation in the amount of $1,000, and the acquisition will be subject to interest equalization tax of $150. Amounts paid to satisfy stock assessments are considered to be contributions to capital.

Paragraph (3) provides the special rule that an acquisition of stock or a debt obligation of a foreign issuer or obligor by a U.S. person in an exchange to which section 354, 355, or 356 applies will be considered an acquisition from the foreign issuer or obligor in exchange for its stock or debt obligations. Under this rule, stock or debt obligations distributed in a reorganization will be deemed to have been acquired from the foreign issuer or obligor even though actually received from a domestic corporation and the exemption for prior American ownership provided by section 4918 will be inapplicable. The rule also treats any stock or debt obligations surrendered in the exchange as stock or debt obligations of the foreign issuer or obligor. As a result of this treatment, a U.S. person surrendering debt obligations in the exchange will be entitled to apply the limitation on tax provided by section 4913(a)(1) and a U.S. person surrendering stock in the exchange will qualify for the exclusion provided by section 4914(a)(4). This special rule has no bearing upon the treatment accorded to a domestic corporation acquiring stock or debt obligations of a foreign issuer or obligor as a party to a reorganization; such an acquisition will be taxable unless excluded or exempted from tax by some other provision of the bill.

The application of the special rule provided by paragraph (3) may be illustrated by the following examples:

*Example (1)*.—A, a U.S. person, owns stock of X, a domestic corporation. On July 30, 1963, X corporation transfers a portion of its assets to Y, a foreign corporation, in exchange for stock of Y corporation. X corporation then distributes the stock of Y corporation to its shareholders in exchange for their X corporation stock. The transaction meets the requirements of section 355, the Commissioner having previously ruled under section 367 that avoidance of Federal income taxes was not one of its principal purposes. A is considered to have acquired Y corporation stock in a distribution by Y in exchange for its stock.

*Example (2)*.—B, a U.S. person, owns stock of M, a foreign corporation. On July 30, 1964, B surrenders his M corporation stock to N, another foreign corporation, in exchange for voting stock of N corporation. The transaction meets the requirements of section 368(a)(1)(B) and the necessary prior clearance under section 367 has been secured. B is considered to have acquired the N corporation stock in a distribution by N corporation in exchange for its stock.

*Example (3)*.—C, a U.S. person, owns debt obligations of G, a foreign corporation organized under the laws of foreign country X. On January 1, 1964, G transfers all of its assets to H, a foreign corporation organized under the laws of foreign country Y, and receives in exchange stock and debt obligations of H corporation. G corporation then distributes the H corporation stock and debt obligations to its stockholders and security holders respectively in exchange for its stock and debt obligations. The transaction meets the requirements of section 368(a)(1)(F) and the necessary prior clearance under

section 367 has been secured. C is considered to have acquired H corporation debt obligations in a distribution by H corporation in exchange for its debt obligations.

SECTION 4913 LIMITATION ON TAX ON CERTAIN ACQUISITIONS

(*a*) *General rule.*—Subsection (a) of section 4913 states the general rule that, with respect to certain acquisitions of stock or debt obligations of a foreign issuer or obligor, the interest equalization tax will be limited as provided in subsection (b). The acquisitions to which this limitation applies are those resulting from:

(A) the surrender for cancellation of a debt obligation to the foreign obligor;

(B) the extension or renewal of an existing debt obligation requiring affirmative action of the obligee; or

(C) the exercise of an option or similar right to acquire such stock or debt obligation.

(*b*) *Limitation.*—Subsection (b) provides that the tax imposed upon any acquisition referred to in subsection (a) will not exceed the amount of tax imposed by section 4911 less the amount of tax that would have been imposed if the debt obligation (or the option or similar right) which was surrendered, extended, renewed, or exercised had been acquired in a transaction subject to such tax immediately prior to the surrender, extension, renewal, or exercise. For this purpose, a defaulted debt obligation of a foreign government (or agency or subdivision thereof) which has been in default for at least 10 years and which is surrendered in exchange for another debt obligation of that government (or agency or subdivision thereof) shall be deemed to have an actual value and period remaining to maturity equal to that of the debt obligation acquired.

The application of this section may be illustrated by the following examples:

*Example (1).*—A is a U.S. person and M corporation is a foreign corporation which is not a less developed country corporation. A, who owns no stock in M corporation, surrenders a debt obligation of M corporation having a period remaining to maturity of 5½ years and an actual value of $900 in an exchange for a debt obligation of M corporation having a period remaining to maturity of 10½ years and an actual value of $950.

A incurs a tax of $32.95, representing the amount of tax imposed on the actual value of the debt obligation acquired of $78.85 (8.30 percent of $950) less the amount of tax that would have been imposed if the debt obligation which was surrendered had been acquired in a transaction subject to tax immediately prior to the surrender of such debt obligation, of $45.90 (5.10 percent of $900).

*Example (2).*—The facts are the same as in example (1), except that the debt obligation of M corporation will mature in 30 days and the instrument provides that the obligation shall become payable at maturity unless within the 30-day period prior to maturity the parties agree to extend the obligation on the same terms for an additional 5-year period. The parties so agree. The actual value of the debt obligation before and after the extension is $1,000.

A incurs a tax of $43.50, representing the amount of tax imposed on the actual value of the debt obligation acquired of $43.50 (4.35

percent of $1,000) less the amount of tax that would have been imposed if the debt obligation which was extended had been acquired in a transaction subject to the tax immediately prior to the extension of such debt obligation (no tax, since the debt obligation would have had a maturity of less than 3 years).

*Example (3)*.—On August 6, 1963, B, a U.S. person, acquires for $100 from a person other than a U.S. person an option to purchase for $100 per share 10 shares of stock of N corporation, a foreign corporation. Immediately prior to the acquisition of the option, B owns no stock in N corporation, and N corporation is not a less developed country corporation. B exercises the option on January 1, 1964, at which time the option has an actual value of $500 and the shares of N corporation stock have an actual value of $150 per share. B owns no stock in N corporation immediately prior to the exercise of the option and N corporation is not a less developed country corporation.

B incurs a tax upon the acquisition of the option of $15 (15 percent of $100). In addition, B incurs a tax on the exercise of the option of $150, representing the amount of tax imposed on the actual value of the stock acquired of $225 (15 percent of $1,500) less the amount of tax that would have been imposed if the option had been acquired in a transaction subject to tax immediately prior to the exercise of such option, of $75 (15 percent of $500).

*Example (4)*.—C, a U.S. person owning less than 10 percent of the voting stock of O corporation, a foreign corporation which is not a less developed country corporation, receives from O corporation, as a distribution with respect to his stock, rights to purchase 100 additional shares of O corporation stock at a price of $20 per share. C incurs no tax on the distribution of the rights. C exercises such rights at a time when the actual value of O corporation stock is $30 per share and the actual value of such rights equals $10 per share. C incurs a tax of $300, representing the amount of tax imposed on the actual value of the stock acquired of $450 (15 percent of $3,000) less the amount of tax that would have been imposed if the rights had been acquired in a transaction subject to tax immediately prior to the exercise of such rights, of $150 (15 percent of $1,000).

*Example (5)*.—A, a U.S. person, owns bonds of X, a domestic corporation, with an actual value of $20,000 and a period remaining to maturity of 10 years. In a transaction to which section 354 applies, A surrenders his X corporation bonds to X corporation and receives in exchange 20-year debentures of Y, a foreign corporation, with an actual value of $22,000. Under the special rule provided in section 4912(b)(3), A is considered to have acquired the Y corporation debentures from Y corporation and to have surrendered Y corporation bonds to Y corporation. A therefore incurs a tax of $1,155, representing the amount of tax imposed on the actual value of the debentures acquired of $2,695 (12.25 percent of $22,000) less the amount of tax that would have been imposed if the surrendered bonds had been acquired in a transaction subject to tax immediately prior to the exchange, of $1,540 (7.70 percent of $20,000).

### SECTION 4914. EXCLUSION FOR CERTAIN ACQUISITIONS

(*a*) *Transfers not considered acquisitions*.—Subsection (a) of section 4914 provides in paragraph (1) that the term "acquisition" shall not

include any transfer between a person and his nominee, custodian, or agent. Thus, the term does not include a transfer of stock or debt obligations to a broker for purposes of selling the securities.

Paragraph (2) excludes any transfer described in section 4343(a), relating to certain transfers by operation of law from decedents, minors, incompetents, financial institutions, bankrupts, successors, foreign governments and aliens, trustees, and survivors.

Paragraph (3) excludes any transfer to a U.S. person by gift, legacy, bequest, or inheritance.

Paragraph (4) excludes any distribution by a corporation to a shareholder with respect to or in exchange for its stock; thus, dividends, stock dividends, distributions of rights, or distributions to stockholders whether in connection with a reorganization, liquidation, or redemption, are transfers which are not considered acquisitions, whether or not subject to Federal income tax. This rule may be illustrated by the following example:

*Example.*—C, a U.S. person, is a stockholder in P, a domestic corporation. In a transaction to which section 354 applies, C surrenders his stock in P corporation to P corporation in exchange for voting stock of R, a foreign corporation. Under the special rule provided by section 4912(b)(3), C is deemed to have acquired voting stock of R corporation in a distribution by R corporation in exchange for its stock. The acquisition by C is therefore not considered to be a taxable acquisition.

Paragraph (5) excludes any exercise of a right to convert a debt obligation, pursuant to its terms, into stock. This type of transaction is excluded because an acquisition of a debt obligation containing a right to convert into stock is taxable, in the first instance, as an acquisition of stock. (See definition of "stock" in section 4920(2)(D).) Accordingly, no tax is imposed on the conversion of the debt obligation. If the holder of a debt obligation is required, in order to convert the debt obligation into stock, to pay any additional amount to the foreign obligor, the tax will be imposed to the extent of such additional payment, since this will be considered the exercise of an option to acquire additional stock.

(*b*) *Excluded acquisitions.*—Subsection (b) enumerates certain additional acquisitions which are excluded for purposes of the interest equalization tax. Paragraph (1) provides for the exclusion of acquisitions of stock or debt obligations by any agency or wholly-owned instrumentality of the United States. For example, acquisitions by the Export-Import Bank will be excluded.

Paragraph (2) provides for the exclusion of acquisitions of stock or debt obligations by a commercial bank if the bank acquires the securities in making loans in the ordinary course of its commercial banking business. The exclusion also applies to acquisitions through foreclosure on stock or debt obligations held as security for such loans. The exclusion does not extend to investment banks, trust companies, or others not regularly engaged in the commercial banking business or to acquisitions by a commercial bank for its investment portfolio, but a corporation organized under section 25(a) of the Federal Reserve Act, commonly known as the "Edge Act," is considered a commercial bank for this purpose. If a person is engaged both in the commercial banking business and in other businesses or activities, only those acquisitions related solely to the commercial banking business are excluded.

Whether a loan by a commercial bank is made in the ordinary course of its commercial banking business is to be determined with regard to all of the facts and circumstances of a particular case. While past practices are not determinative, the conduct of the business of the commercial bank in the past, as well as the ordinary conduct of business by other banks similarly situated, is indicative of what constitutes a loan made in the ordinary course of the commercial banking business. The exclusion for loans by commercial banks is not limited to loans with maturities of less than 3 years. In general, although the largest portion of such loans are for periods of less than 3 years, loans of this type are frequently made for periods up to 5 years. Commercial bank loans have in some cases been made for periods in excess of 5 years, but loans with such maturities account for only an insignificant proportion of commercial bank loans.

Paragraph (3) provides for the exclusion of acquisitions of debt obligations acquired by a U.S. person as all or part of the purchase price of property manufactured, produced, grown, or extracted in the United States by such person, or by one or more includible corporations in an "affiliated group," as defined in section 1504, of which such person is a member, if such debt obligation is either held by the U.S. person to maturity (or until his death) or transferred to an agency or wholly-owned instrumentality of the United States or to a commercial bank acquiring the debt obligation in the ordinary course of its commercial banking business. If the debt obligation is transferred to any other person, the U.S. person making the acquisition of the debt obligation will lose the exclusion provided by this paragraph.

*Example.*—M, a domestic corporation, manufactures aircraft in the United States. M corporation sells an airplane to X, a foreign corporation which is not a less developed country corporation, for a total price of $1 million, receiving as payment $100,000 in cash and $900,000 in 5-year promissory notes of X corporation. Immediately thereafter, M corporation transfers $720,000 of the notes to N, a domestic corporation, which acquires the notes in the ordinary course of its business as a commercial bank. M corporation retains $180,000 of the notes until they are paid. No tax is imposed on the acquisition by M corporation of any of the promissory notes of X corporation.

Paragraph (4) excludes acquisitions of stock or debt obligations by U.S. persons doing business in a foreign country to the extent that the acquisition is reasonably necessary to satisfy minimum requirements relating to holdings of stock or debt obligations of local issuers or obligors imposed by the laws of such foreign country. This will exclude from the tax acquisitions by insurance companies, banks or others which are required to maintain reserves, make deposits, or otherwise hold stock or debt obligations of foreign issuers or obligors in connection with business carried on by their foreign branches. The exclusion applies to acquisitions in amounts reasonably required to comply with legal requirements, whether such requirements are expressly set forth by statute or are imposed by administrative action under applicable laws.

The exclusion provided in paragraph (4) is limited in amount to holdings of foreign securities required to be held by laws or administrative regulations in force on the date of an acquisition or, if the required minimum holdings of local securities have been increased since July 18, 1963, on such date. In the latter case, the test is not the amount of

local securities actually held on July 18, 1963, but rather the amount that was, or would have been, required on the date of an acquisition (for example, to reflect higher levels of insurance in force or of bank deposits) under foreign law or regulations in effect on that date. Acquisitions made to satisfy increased requirements imposed by changes in the applicable foreign law after July 18, 1963, are not excluded.

SECTION 4915. EXCLUSION FOR DIRECT INVESTMENTS

(*a*) *General rule.*—Subsection (a) of section 4915 states the general rule that an acquisition by a U.S. person of stock or debt obligations of a foreign corporation is not subject to interest equalization tax if immediately after the acquisition the U.S. person owns 10 percent or more of the total combined voting power of all classes of stock of the foreign corporation. The 10 percent test applies without regard to the attribution rules prescribed by various provisions of the Internal Revenue Code, but stock owned, directly or indirectly, by or for a foreign corporation shall be considered as being owned proportionately by its shareholders. The exclusion for direct investment applies to acquisitions of stock or debt obligations of the foreign corporation from the corporation or from third parties and to contributions of capital to the foreign corporation by a shareholder holding at least 10 percent of the voting power of all classes of stock of the corporation immediately prior to making such capital contribution.

The application of this general rule may be illustrated by the following examples:

*Example 1.*—On January 13, 1964, A, a U.S. person acquires 100 shares of the only class of stock of foreign corporation N, which immediately thereafter has a total of 1,000 shares outstanding. N corporation acquires no stock or debt obligations having a maturity of 3 years or more. A's acquisition of the 100 shares of N corporation stock is excluded from tax as the acquisition of a direct investment.

*Example 2.*—The facts are the same as in example (1), except that later in 1964, A lends N corporation $100,000, taking a 5-year promissory note in return. A's acquisition of the indebtedness of N corporation is excluded from tax as the acquisition of a direct investment.

*Example 3.*—The facts are the same as in example (1), except that later in 1964 A purchases from R, a nonresident alien, an additional 50 shares of the stock of N corporation. A's acquisition of the 50 shares of stock of N corporation is exempt from tax as the acquisition of a direct investment.

*Example 4.*—The facts are the same as in example (1), except that N corporation acquires 100 percent of the voting stock of foreign corporation O, which acquires no stock or obligations of foreign persons. Subsequently, A lends O corporation $100,000, taking a 5-year promissory note in return. A's acquisition of the indebtedness of O corporation is excluded from tax as the acquisition of a direct investment since A is considered to own 10 percent of the stock of O corporation.

*Example 5.*—On July 15, 1964, pursuant to a plan of reorganization, D, a domestic corporation, transfers all of its assets to F, a foreign corporation, in exchange for 10 percent of the voting stock of F corporation. D corporation then distributes the F corporation stock to

its shareholders in exchange for its stock. F corporation is not engaged in trading in foreign securities. Since D corporation owned at least 10 percent of the total combined voting power of F corporation immediately after the transfer, its acquisition of F corporation stock is excluded from tax as the acquisition of a direct investment.

(*b*) *Exception for foreign corporations formed or availed of for tax avoidance.*—Subsection (b) provides in paragraph (1) that the direct investment exclusion is inapplicable if a foreign corporation is formed or availed of by the U.S. person for the principal purpose of acquiring, through the foreign corporation, an interest in stock or debt obligations, the acquisition of which would, if acquired directly by the U.S. person, be subject to the interest equalization tax.

Thus, if A, a U.S. person, acquires 10 percent of the stock of M, a foreign corporation engaged primarily in the business of investing, reinvesting, or trading in foreign securities the direct acquisition of which by A would be subject to interest equalization tax, the acquisition will not be excluded under this section. Moreover, even if corporation M is not engaged in such activity at the time of the acquisition by A, the acquisition would not be excluded under this section if corporation M is later availed of principally for the purpose of acquiring for A an interest in a portfolio of foreign securities. On the other hand, if M actively engages in the conduct of a business other than a securities business and acquires debt obligations as an incident of such business, it is not considered to be availed of for the proscribed purpose.

Paragraph (2) provides that the "formed or availed of" exception to the exclusion from tax for direct investments in foreign corporations will not be operative in cases where the foreign corporation is only acquiring foreign securities because of legal requirements imposed as a condition to doing business in foreign countries or, in the cases of a foreign corporation engaged in the business of underwriting foreign securities (within the meaning of section 4919(c)(1)) or of buying and selling them as a broker or in the business of commercial banking, where transactions in foreign securities are made in the ordinary course of such businesses.

Thus, the fact that a U.S. person acquires stock or debt obligations of a foreign corporation which in turn acquires stock and debt obligations of other foreign issuers and obligors—

(A) to satisfy minimum requirements relating to holdings of stock or debt obligations of local issuers or obligors imposed by the laws of foreign countries where such foreign corporation is doing business,

(B) in the ordinary course of its business of underwriting and distributing securities issued by other persons, or acting as a broker, or

(C) in making loans in the ordinary course of its business as a commercial bank,

will not, standing alone, be considered an acquisition of an interest in stock or debt obligations of foreign issuers or obligors by the U.S. person for purpose of this exclusion.

(*c*) *Exception for acquisitions made with intent to sell to U.S. persons.*—Subsection (c) provides that the direct investment exclusion is inapplicable if stock or debt obligations of a foreign issuer or obligor are acquired by a U.S. person with intent to sell, or to offer to sell,

any part of the securities to U.S. persons. Thus, if a U.S. underwriter acquires 15 percent of the stock of a foreign corporation with a view to the distribution of any part of such stock to U.S. persons through resale, the entire acquisition will be taxable. (However, if all or part of the stock acquired is ultimately sold by the underwriter to persons other than U.S. persons, a credit or refund of the interest equalization tax imposed may be allowed with respect to these sales under section 4919.) On the other hand, if a domestic corporation pursuant to a plan to expand its markets abroad acquires 50 percent of the stock of a foreign corporation but later, for sound business reasons, disposes of its interest to a U.S. person, such acquisition will not be considered to have been made with intent to sell, or to offer to sell, such stock to U.S. persons and, under this section, will be excluded from the tax.

SECTION 4916. EXCLUSION FOR INVESTMENTS IN LESS DEVELOPED COUNTRIES

(*a*) *General rule.*—Subsection (a) of section 4916 provides an exception from the interest equalization tax for an investment by a U.S. person in stock or a debt obligation of a foreign issuer or obligor which constitutes an investment in a less developed country. These investments are:

(A) a debt obligation issued or guaranteed by the government of a less developed country or by political subdivision of such a country or by an agency of such a government; or

(B) stock or a debt obligation of a less developed country corporation.

The investments referred to above are the same as those referred to in section 955 of the code although, as is pointed out below, some countries treated as less developed under section 955 may not be so treated under this section and vice versa. A debt obligation otherwise qualifying for this exclusion will not be disqualified because it is guaranteed by the government of a country which is not considered less developed.

(*b*) *Less developed country defined.*—Subsection (b) defines the term "less developed country." Except for certain countries and areas specified in the subsection which may not be designated as less developed countries, the designation of countries to be considered economically less developed for this purpose is left to Executive order. For the interim period prior to the issuance of an Executive order under the new legislation, all countries designated as less developed by Executive Order No. 11071, dated December 27, 1962 (designating certain areas as economically less developed countries for purposes of subparts A and F of pt. III of subch. N and sec. 1248 of pt. IV of subch. P of ch. 1), will be considered to be less developed for purposes of the interest equalization tax. This includes all countries, and oversea territories and possessions of countries (other than areas within the Sino-Soviet bloc), except those enumerated in this subsection. The countries designated as less developed for purposes of this subsection need not be the same as those designated as less developed in any Executive order under section 955(c)(3). The designation of a country as a less developed country can be terminated by a further Executive order after 30 days' notice to the Congress. The

30-day rule does not apply to countries which are deemed to be less developed for the interim period prior to the issuance of an Executive order under the new legislation. Any termination will not affect the treatment of acquisitions occurring prior to the issuance of the terminating Executive order.

(c) *Less developed country corporation defined.*—Paragraph (1) of subsection (c) states the general rule that the term "less developed country corporation" will have the same meaning as such term has for purposes of section 955(c) (1) and (2) and the regulations thereunder except that the status of a foreign corporation as a less developed country corporation will be determined on the basis of the most recent complete annual accounting period of the corporation (except as provided in par. (2) of sec. 4916(c)), in light of the foreign country's status under subsection (b) of this section.

Subsection (c)(1) of section 955 provides that a corporation will qualify as a less developed country corporation if it conducts one or more active trades or businesses in countries designated as less developed countries, derives 80 percent or more of its gross income from less developed countries, and has 80 percent or more in value of its assets consisting of:

(A) property used in such trades or businesses and located in less developed countries;

(B) money and deposits with persons carrying on the banking business;

(C) stock, and obligations which at the time of their acquisition have at least a 5-year maturity, of any other less developed country corporation;

(D) obligations of a less developed country;

(E) an investment required because of restrictions imposed by a less developed country; and

(F) property described in section 956(b)(2), relating to exceptions from the term "United States property."

For purposes of section 955(c)(1), whether income is derived from sources within less developed countries is to be determined under regulations prescribed by the Secretary of the Treasury or his delegate. The source rules prescribed under such regulations, to be used in determining whether income is derived from sources within one foreign country or another, need not be analogous to the rules used in determining whether or not income is derived from sources within the United States.

Subsection (c)(2) of section 955 provides that the term "less developed country corporation" also includes a foreign corporation 80 percent or more of the assets of which consists of assets used, or held for use, for or in connection with production of income described below and property described in section 956(b)(2), relating to exceptions from the term "United States property," and 80 percent or more of the gross income of which consists of:

(A) gross income derived from, or in connection with, the using (or hiring or leasing for use) in foreign commerce of aircraft or vessels registered under the laws of a less developed country, or from, or in connection with, the performance of services directly related to use of such aircraft or vessels, or from the sale or exchange of such aircraft or vessels, or

(B) dividends and interest received from foreign corporations which are less developed country corporations within the meaning of this paragraph and 10 percent or more of the total combined voting power of all classes of stock of which are owned by the foreign corporation, and gain from the sale or exchange of stock or obligations of foreign corporations which are such less developed country corporations.

The 80-percent gross income requirement can be satisfied by a combination of the amounts described in subparagraphs (A) and (B).

Paragraph (2) of section 4916(c) provides a special rule for original or new issues of securities. An original or new issue means any issuance by the foreign issuer or obligor of previously unissued stock or debt obligations. A foreign corporation will be treated as a less developed country corporation with respect to an acquisition by a U.S. person of stock or a debt obligation as all or part of an original or new issue, if, prior to the acquisition, it is established to the satisfaction of the Secretary of the Treasury or his delegate that the foreign corporation—

(A) has satisfied the requirements of subparagraphs (A) and (B) of section 955(c)(1) and subparagraphs (A) and (B) of section 955(c)(2) for such period of time as the Secretary of the Treasury or his delegate may by regulations prescribe, and

(B) may thereafter be reasonably expected to continue to satisfy such requirements for such further period of time as the Secretary or his delegate may by regulations prescribe.

For purposes of this paragraph, there will be taken into account only that portion of the corporation's gross income which is properly attributable to the periods of time prescribed under subparagraphs (A) and (B) and only those days which are within such periods.

SECTION 4917. EXCLUSION OF NEW ISSUES WHERE REQUIRED FOR INTERNATIONAL MONETARY STABILITY

Section 4917 provides that the interest equalization tax will not be applicable to certain acquisitions which may be specified in an Executive order issued by the President. If the President determines that the application of this tax will have such consequences for a foreign country as to imperil or threaten to imperil the stability of the international monetary system, he may by Executive order exclude from the tax acquisitions of stock or debt obligations of the foreign country, its agencies and political subdivisions, corporations, partnerships and trusts organized under its laws, or individuals resident therein, including acquisitions of debt obligations secured by mortgages. The order will in any event be applicable only to acquisitions made as part of an original or new issue of stock or debt obligations (other than stock issued by a company registered under the Investment Company Act of 1940) which is registered under the Securities Act of 1933 or as to which prior notice of issuance is filed in accordance with regulations prescribed by the Secretary of the Treasury or his delegate. (An original or new issue means any issuance by the foreign issuer or obligor of previously unissued stock or debt obligations.) The order may be applicable to all such issues or only to an aggregate amount or classification thereof, as stated in the order. If the order is applicable only to a limited aggregate amount

of new issues, it will apply to those issues as to which registration statements under the Securities Act of 1933 first become effective, or the acquisition of which pursuant to notification first occurs, within the period specified in the order. An Executive order issued under this section may be terminated in whole or in part at any time by issuing an Executive order for that purpose, and the termination will be effective from the date the order is issued or from such date as is specified in the order.

### SECTION 4918. EXEMPTION FOR PRIOR AMERICAN OWNERSHIP

(*a*) *In general.*—Subsection (a) of section 4918 states the general rule that the interest equalization tax is inapplicable to an acquisition of stock or a debt obligation of a foreign issuer or obligor if it is established by clear and convincing evidence that the person from whom such stock or debt obligation was acquired was a U.S. person throughout the period of his ownership or continuously since July 18, 1963. One form of clear and convincing evidence will be a properly executed certificate of American ownership provided for in subsection (b).

The effect of the exemption for prior American ownership is to assure that only one tax will be paid on stock or debt obligations acquired after July 18, 1963, so long as continuous U.S. ownership is maintained. A person who has not maintained his status as a U.S. person during the entire period of his ownership of a security (or continuously since July 18, 1963) will not be permitted to execute the certificate.

(*b*) *Certificate of American ownership.*—Subsection (b) provides that, for purposes of this exemption, a certificate of American ownership received in connection with an acquisition will be conclusive proof of prior American ownership unless the person making such acquisition has actual knowledge that the certificate is false in any material respect. The requirements for filing such a certificate, the information to be set forth therein, and the manner in which it is to be executed will be prescribed by the Secretary or his delegate in regulations. It is contemplated that such regulations will provide, among other things, that this certificate may be executed either by the former owner or by the nominee of the former owner and the signature must be guaranteed by a U.S. bank, a member of the National Association of Securities Dealers, or a member firm of a national securities exchange registered with the Securities and Exchange Commission. Where the certificate is executed by a nominee, it will not be necessary to reveal the name of the actual owner to the purchaser; but the nominee will be required to maintain adequate records to identify the U.S. person for whose account the securities were held and to establish such owner's U.S. citizenship, residence, or incorporation during his period of ownership.

### SECTION 4919. SALES BY UNDERWRITERS OR DEALERS TO FOREIGN PERSONS

(*a*) *Credit or refund.*—Subsection (a) of section 4919 provides that a credit against, or refund of, interest equalization tax may be allowed upon the acquisition of stock or debt obligations of a foreign issuer

or obligor if the stock or debt obligations (1) are acquired by an underwriter from the foreign issuer or obligor and are resold to persons other than U.S. persons in connection with a private placement or a public offering registered with the Securities and Exchange Commission, or (2) consist of foreign dollar bonds acquired by a dealer in the ordinary course of his business from persons other than U.S. persons and resold to persons other than U.S. persons within 30 days after their acquisition. The tax paid with respect to such acquisitions will constitute an overpayment of tax only if it is clearly established that the stock or debt obligations or the foreign dollar bonds were resold to persons other than U.S. persons. Where stock or debt obligations are resold in connection with a public offering registered with the Securities and Exchange Commission, the underwriter may claim a credit or refund not only for its own sales to persons other than U.S. persons but also for any such sales made by other U.S. persons participating in the distribution of the stock or debt obligations acquired by the underwriter.

The credit or refund (without interest) is to be allowed to an underwriter or dealer under regulations prescribed by the Secretary of the Treasury or his delegate. Where an acquisition by an underwriter is concerned, if the underwriter sells all or part of the stock or debt obligations acquired to persons other than U.S. persons during the same return period in which the acquisition of such stock or debt obligations from the foreign issuer or obligor is made, the acquisition will be subject to the tax imposed by section 4911 and an offsetting tax credit for such sales will be allowed under this section. If the sales by the underwriter to persons other than U.S. persons occur in a return period subsequent to the return period in which the acquisition by the underwriter is made, the tax imposed by section 4911 on the acquisition will be paid with the interest equalization tax return filed for the prior period and a refund of tax will be allowed under this section upon the filing of a claim for refund or a return for the subsequent period. However, it is contemplated that a tax credit will also be allowed to the underwriter, if claimed, for sales to persons other than U.S. persons which take place after the reporting period during which the acquisition occurred but before the return for that period is due. The credit or refund arising from the resale of foreign dollar bonds by dealers will be claimed and allowed in a similar manner.

(*b*) *Evidence to support credit or refund.*—Subsection (b) provides that an underwriter or dealer claiming a credit or refund under this section with respect to the interest equalization tax is to file with the return required under section 6011(d) of the code such information pertaining to his claim for credit or refund as the Secretary of the Treasury or his delegate prescribed by regulations. It is contemplated that the type of information required from an underwriter with respect to a private placement or public offering will be generally as follows:

(A) The name and address of the foreign issuer or obligor from whom the stock or debt obligations were acquired and the date of acquisition;

(B) The consideration paid or to be paid by the underwriter to the foreign issuer or obligor for the stock or debt obligations acquired;

(C) The total number of shares of stock or the total face amount of debt obligations acquired; and

(D) In the case of private placement only, of such total, the total sold; the total sold directly by the underwriter to persons other than U.S. persons, the dates of sale and the names and addresses of the persons to whom sold; and a copy of any agreement or agreements with the foreign issuer or obligor governing the acquisition or sale of the stock or debt obligations by the underwriter; or

(E) In the case of public offerings only, of such total, the total sold; the total sold to persons other than U.S. persons; the total sold by U.S. persons participating in the distribution; a statement that the stock or debt obligations were sold as part of a public offering registered with the Securities and Exchange Commission; and a copy of any prospectus or prospectuses used in effectuating any of the sales.

A dealer claiming the credit or refund will generally be required to furnish a description of the foreign dollar bonds involved and the name and address of the person to whom the bonds were sold and the date of sale.

The claim for credit or refund by an underwriter will not be allowed with respect to stock or debt obligations sold by a U.S. person (other than the underwriter) participating, in connection with a public offering registered with the Securities and Exchange Commission, in the distribution of the stock or debt obligations acquired by the underwriter unless the underwriter establishes by clear and convincing evidence that the securities were sold to persons other than U.S. persons. A certificate of sales to foreign persons executed by a U.S. person (other than the underwriter) and relied upon by the underwriter will be regarded as conclusive proof that such sales were made unless the underwriter has actual knowledge that the certificate is false in any material respect. The requirements for filing such a certificate, the information to be set forth therein, and the manner in which it is to be executed will be prescribed by the Secretary of the Treasury or his delegate by regulations.

In any case where two or more underwriters form a purchasing and selling group for the purpose of acquiring stock or debt obligations from a single foreign issuer or obligor, the filing of a certificate of sales to foreign persons by any one of such underwriters may, to the extent provided by regulations prescribed by the Secretary of the Treasury or his delegate, constitute the filing of such certificate for all of such underwriters. Normally, in such cases all certificates of sales to foreign persons would be permitted to be filed with the interest equalization tax return filed by the managing underwriter of the purchasing and selling group.

(*c*) *Definitions.*—Paragraph (1) of subsection (a) provides that the term "underwriter" means any person who has purchased stock or debt obligations from the issuer or obligor thereof with a view to the distribution through resale of such stock and debt obligations. Paragraph (2) of this subsection defines a "dealer" as any person who is a member of the National Association of Securities Dealers and who is regularly engaged, as a merchant, in purchasing stock and debt obligations and selling them to customers with a view to the gains and profits that may be derived therefrom. Paragraph (3) of this subsection states that the term "foreign dollar bonds" means any debt obligations of a foreign obligor under the terms of which principal and interest are payable only in U.S. currency.

SECTION 4920. DEFINITIONS

(*1*) *Debt obligation.*—Paragraph (1) provides that, in general, the term "debt obligation" means any indebtedness whether or not represented by a bond, debenture, note, certificate or other writing, and whether or not bearing interest. The term also means any interest in, or any option or similar right to acquire a debt obligation referred to in the preceding sentence whether or not such interest, option, or right is in writing. The term "debt obligation" does not include any obligation which—

(A) is convertible by its terms into stock of the obligor;

(B) is received as compensation for the performance of services by a U.S. person; or

(C) arises out of the divorce, separate maintenance, or support of a U.S. person.

(*2*) *Stock.*—Paragraph (2) provides that the term "stock" means any stock, share, or other capital interest in a corporation, association, insurance company, or joint-stock company; any interest of a limited partner in a limited partnership; any interest in an investment trust; any indebtedness which is convertible by its terms into stock of the obligor; and, any interest in, or option or similar right to acquire, any of the interests referred to in this sentence. The term includes such interests as those evidenced by American depository receipts.

(*3*) *Foreign issuer or obligor.*—Paragraph (3) provides in subparagraph (A) that the terms "foreign issuer," "foreign obligor," and "foreign issuer or obligor" mean any issuer of stock or obligor of a debt obligation which is an international organization of which the United States is not a member; a foreign government or agency or subdivision thereof; a corporation, association, insurance company, joint-stock company, partnership, or estate or trust which is not a U.S. person as defined in paragraph (4); or a nonresident alien individual.

Subparagraph (B) provides that the term "foreign issuer or obligor" also includes a domestic corporation (other than a management company described in subparagraph (C)) formed or availed for the principal purpose of obtaining capital for any person referred to in this paragraph. The effect of this provision is to render the stock or debt obligations of such a corporation those of a foreign issuer or obligor and, therefore, subject to the interest equalization tax. The exclusion for direct investment provided in section 4915 is not available since such corporation is formed or availed of for purposes of avoiding the interest equalization tax. On the other hand, this rule is not applicable to a domestic corporation which obtains capital to be used by it in the active conduct of its own business even though such corporation may be wholly owned by a foreign issuer or obligor.

Subparagraph (C) provides that the term "foreign issuer or obligor" also includes a domestic corporation which, as of July 18, 1963, was a management company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1—80b-2) if at least 80 percent of the value of the stock or debt obligations owned by the corporation on July 18, 1963, and at least 80 percent of the stock or debt obligations owned by the corporation at the end of every calendar quarter thereafter consists of stock or debt obligations of foreign issuers or obligors; if the corporation elects to be treated as a foreign issuer or obligor for purposes of chapter 41; if during the period from July 18, 1963, to the

date the election is made the corporation does not materially increase its assets by borrowing or by issuing or selling its stock (other than stock issued or sold on or before September 18, 1963, as part of a public offering with respect to which a registration statement was first filed with the Securities and Exchange Commission on July 18, 1963, or within 90 days prior thereto). The election must be made on or before the 30th day after the enactment of this chapter under regulations prescribed by the Secretary of the Treasury or his delegate. The election will be effective as of the date specified by the corporation, but not later than the date on which the election is made, and it will remain in effect until revoked. If, at the close of any succeeding calendar quarter, the company ceases to meet the 80-percent requirement, the election is deemed revoked. If an election is revoked, no further election is permitted. In general, the effect of this provision is to permit a management company which elects to be treated as a foreign issuer or obligor under this provision to manage its portfolio of foreign securities without incurring the interest equalization tax which would normally be incurred on acquisitions of such foreign securities. In addition, the provision has the effect of imposing the interest equalization tax on the acquisition by a U.S. person of any new shares or any shares of the company which are not owned by U.S. persons prior to transfer.

If the assets of a foreign corporation are acquired by a domestic corporation in a reorganization described in subparagraph (F) of section 368(a)(1), both corporations will be considered a single domestic corporation for purposes of subparagraph (C).

*(4) U.S. person.*—Paragraph (4) provides that the term "United States person" means—

(A) a citizen or resident of the United States,

(B) a partnership created or organized in the United States or under the laws of the United States or of any State,

(C) a corporation created or organized in the United States or under the laws of the United States or of any State, other than a domestic corporation described in subparagraph (B) or (C) of paragraph (3),

(D) an agency or wholly owned instrumentality of the United States,

(E) a State and its agencies, instrumentalities, and political subdivisions, and

(F) any estate or trust—

(i) the income of which from sources without the United States is includible in gross income under subtitle A or would be so includible if not exempt from tax under section 501(a), 521(a), or 584(b), or

(ii) which is situated in the Commonwealth of Puerto Rico or a possession of the United States.

The term "United States person" includes organizations exempt from federal income tax. As used in this paragraph the term "United States" in a geographical sense includes the States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States and the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(*5*) *Period remaining to maturity.*—Subparagraph (A) of paragraph (5) states the general rule that the period remaining to maturity of a debt obligation is the period beginning on the date of its acquisition and ending on the fixed or determinable date when, according to its terms, the final payment of principal becomes due. For this purpose, each installment of a debt obligation payable in installments will be deemed to have a separate period remaining to maturity. A debt obligation which is due or overdue at the time of its acquisition is considered to have a period remaining to maturity of less than 3 years. A debt obligation with no fixed or determinable maturity date is considered to have a period remaining to maturity of more than 28 years. The rules may be illustrated by the following examples:

*Example* (*1*).—On June 1, 1964, A, a U.S. person, purchases from B, a nonresident alien, 20-year bonds of X, a foreign government, having an actual value of $20,000. The bonds mature on December 31, 1974, and therefore have a remaining period to maturity of 10 years and 7 months. Assuming that the transaction is not exempt, A incurs a tax of 8.30 percent of the actual value of the bonds or $1,660.

*Example* (*2*).—On July 1, 1964, C, a U.S. person, acquires for $10,000 from D, a nonresident alien, a serial promissory note due in five equal annual installments of $2,000 commencing on August 1, 1966. The debt obligation has a period remaining to maturity of 2 years and 1 month with respect to $2,000, 3 years and 1 month with respect to $2,000, 4 years and 1 month with respect to $2,000, 5 years and 1 month with respect to $2,000, and 6 years and 1 month with respect to $2,000. C incurs a tax of $315 (2.75 percent of $2,000 or $55, plus 3.55 percent of $2,000 or $71, plus 4.35 percent of $2,000 or $87, plus 5.10 percent of $2,000 or $102).

Subparagraph (B) of paragraph (5) provides in clause (i) that the period remaining to maturity of any interest in or option to acquire any debt obligation shall be the period remaining to maturity of the debt obligation. This rule may be illustrated by the following example:

*Example* (*1*).—On June 1, 1964, A, a U.S. person, acquires for $1,000 from B, a nonresident alien, a depositary receipt which constitutes evidence of an interest in certain 15-year bonds of a foreign corporation which are held by a foreign bank. Assuming that the transaction is not exempt, A incurs a tax of 10.30 percent of the actual value of the interest in the debt obligation of the foreign obligor or $103.

*Example* (*2*).—On June 1, 1964, A, a U.S. person, acquires for $1,000 from M, a foreign corporation, an option to acquire $50,000 of the 15-year bonds of M corporation when such bonds are issued. The period remaining to maturity of the option is considered to be 15 years and, assuming the transaction is not exempt, A incurs a tax of $103 (10.30 percent of $1,000) upon acquisition of the option.

Clause (ii) of subparagraph (B) provides that the period remaining to maturity of any debt obligation which is renewable without affirmative action by the obligee, or of any interest in or option or similar right to acquire such a debt obligation, ends on the last day of the final renewal period. This rule may be illustrated by the following example:

*Example.*—On June 1, 1964, A, a U.S. person, acquires from B, a nonresident alien, 20-year bonds of M, a foreign corporation, having

an actual value of $20,000 and a maturity date of December 31, 1974, except that, under the terms of the bonds, the obligation is automatically renewable for an additional period of 10 years if the holder does not demand payment within 30 days following the lapse of the initial term. The period to maturity is deemed to include the renewal period of 10 years. Accordingly, assuming that the transaction is not exempt, A incurs a tax of 12.25 percent of the actual value of the bonds or $2,450.

Clause (iii) of subparagraph (B) provides that the period remaining to maturity of a debt obligation which is subject to retirement prior to its maturity through operation of a mandatory sinking fund will be determined under regulations prescribed by the Secretary or his delegate. It is contemplated that these regulations will generally determine the period remaining to maturity on the basis of the average life of the debt obligations.

(*b*) *Technical amendment.*—Subsection (b) of section 2 of the bill contains a technical amendment which amends the table of chapters for subtitle D by adding at the end thereof: "Chapter 41. Interest equalization tax."

(*c*) *Effective date.*—Subsection (c) of section 2 of the bill contains the effective date provisions. Paragraph (1) thereof provides the general rule that, except as provided by paragraphs (2), (3), (4), (5), and (6), amendments made by section 2 of the bill shall apply only with respect to acquisitions of stock and debt obligations made after July 18, 1963. The time when an acquisition is deemed to occur will be determined in accordance with the provisions of section 4912. Thus, for example, a transaction that is not completed until after July 18, 1963, but is made pursuant to an agreement under which the parties were on July 18, 1963, unconditionally obligated to complete the transaction, will not result in a taxable acquisition because the acquisition is deemed to have occurred on or before July 18, 1963.

Paragraph (2), relating to preexisting commitments, provides that the tax is inapplicable to an acquisition made pursuant to an obligation to acquire stock or debt obligations which on July 18, 1963, was unconditional, or was subject only to conditions contained in a formal contract under which partial performance had occurred. A person who had entered into a short sale contract on or before July 18, 1963, generally will be considered subject to a preexisting commitment because, in effect, such person is unconditionally obligated to make an acquisition to cover the short sale. With respect to acquisitions made pursuant to an obligation to acquire which was on July 18, 1963, subject to conditions contained in a formal contract, the tax will not apply if partial performance of the contract, such as payment of a substantial commitment fee, a "takedown," or a "closing" under the contract, occurred on or before July 18, 1963.

Paragraph (3), relating to public offerings, provides that the tax is inapplicable to an acquisition made on or before September 15, 1963, if—

(A) a registration statement (within the meaning of the Securities Act of 1933) was in effect with respect to the stock or debt obligation acquired at the time of its acquisition;

(B) the registration statement was first filed with the Securities and Exchange Commission on July 18, 1963, or within 90 days prior thereto; and

(C) no amendment was filed with the Securities and Exchange Commission after July 18, 1963, and prior to the acquisition which had the effect of increasing the number of shares of stock or the aggregate face amount of the debt obligations covered by the registration statement.

Paragraph (4) provides that the tax is inapplicable to an acquisition made on or before August 16, 1963, if the stock or debt obligation involved was acquired on a national securities exchange registered with the Securities and Exchange Commission. This provision applies to acquisitions made on such an exchange without regard to whether the acquired security is listed on the exchange, but it does not apply to acquisitions of listed securities which are not made through the exchange.

Paragraph (5), relating to options and foreclosures, provides that the tax is inapplicable to an acquisition—

(A) of stock pursuant to the exercise of an option or similar right, if such option or similar right was held on July 18, 1963, by the person making the acquisition, or

(B) of stock or debt obligations as a result of a foreclosure by a creditor pursuant to the terms of an instrument held by such creditor on July 18, 1963.

Paragraph (6) provides that the acquisition by a domestic corporation of the assets of a foreign corporation pursuant to a reorganization described in section 368(a)(1)(F) shall not be subject to tax if the acquisition occurs prior to January 1, 1964, and the foreign corporation is a management company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1—80b-2) from July 18, 1963, until the time of the acquisition. The purpose of this provision is to permit foreign investment companies to reincorporate as domestic investment companies without tax on their portfolios of foreign securities.

Paragraph (7) provides that terms used in this subsection of the bill (except as specifically otherwise provided) shall have the same meaning as when used in chapter 41 of the Internal Revenue Code of 1954, relating to interest equalization tax.

## SECTION 3. RETURNS

Section 3 of the bill amends section 6011 of the code (relating to general requirement of return, statement, or list) by redesignating subsection (d) as subsection (e) and by adding a new subsection (d).

### SECTION 6011(d). INTEREST EQUALIZATION TAX RETURNS

Section 6011(d) provides for the filing, on a calendar-quarter basis, of returns of the interest equalization tax imposed by section 4911. A return must be filed by each person who incurs liability for the tax during the calendar quarter and by each person who has acquisitions during the calendar quarter which are nontaxable by reason of the exemption provided in section 4918 for stocks or debt obligations acquired from a U.S. person.

In the case of a person incurring liability for the tax, the return must disclose the taxable acquisitions and the tax incurred, and must

have attached a list of transactions during the quarter in respect of which no liability for payment of tax is incurred by reason of the provisions of section 4818. The list must be accompanied by clear and convincing evidence that the acquisitions are ones to which the provisions of section 4918 apply. A certificate of American ownership described in section 4918(b) will, of course, constitute clear and convincing evidence for this purpose.

In the case of a person not incurring liability for payment of interest equalization tax during the calendar quarter but who has acquisitions to which the provisions of section 4918 apply, the return must have a list of such acquisitions attached and must be accompanied by the requisite evidence showing that the acquisitions are ones to which the provisions of section 4918 apply.

## SECTION 3. RETURNS (CONTINUED)

Section 3 of the bill contains one exception to the rule provided in section 6011(d) for the making of returns on a calendar-quarter basis. Under this exception the first period, regardless of its length, for which a return is to be made is the period commencing July 19, 1963, and ending at the close of the calendar quarter in which the bill is enacted into law.

Section 3 of the bill also amends part V of subchapter A of chapter 61 of the Code (relating to time for filing returns and other documents) by adding new section 6076 which specifies the time for filing returns of the interest equalization tax.

### SECTION 6076. TIME FOR FILING INTEREST EQUALIZATION TAX RETURNS

Section 6076 provides that each return of interest equalization tax (including returns disclosing acquisitions to which section 4918 applies) shall be filed on or before the last day of the first month following the period for which the return is made. The first return (the return for the period during which the enactment of the bill into law takes place) will be due on or before the last day of the month following the calendar quarter during which the bill is enacted into law.

## SECTION 4. DISALLOWANCE OF DEDUCTION FOR AMOUNT PAID AS INTEREST EQUALIZATION TAX

Section 4 of the bill amends section 263(a) (relating to capital expenditures) by adding a paragraph (3). The new paragraph would deny, for income tax purposes, any deduction for interest equalization tax paid by a person on his acquisitions of foreign stocks and debt obligations, except to the extent that any amount attributable to the amount paid as tax is included in gross income for the taxable year.

At the present time section 164(b)(3) of the code denies, for income tax purposes, a deduction for the amount of certain Federal excise taxes (which would include the new interest equalization tax), with a provision, however, that section 164(b)(3) will not prevent these taxes from being deducted under section 162 (relating to trade or business expenses) or section 212 (relating to expenses for the production of income).

The effect of paragraph (3) of section 263(a), in generally denying a deduction for income tax purposes of interest equalization tax, is that of requiring the payor to capitalize the amount paid by him as interest equalization tax.

The exception provided from the general provision denying a deduction for income tax purposes of the interest equalization tax applies in a case where the interest equalization tax, itself, or a portion thereof, is included in gross income. An illustration of this is a situation where a bond having a maturity period of 30 years is sold by a foreign underwriter for $1,000, on which an American purchaser must pay a tax of $150. At the time of his acquisition, the purchaser demands $150 from the underwriter as reimbursement for the tax which he must pay. If the purchaser accepts $100 in satisfaction of his demand, the $100 is included in the purchaser's gross income, and he will be allowed a deduction of $100 from gross income for the tax paid by him.

## SECTION 5. PENALTIES

Section 5 of the bill adds three new sections to the code. Section 6680 provides a civil penalty for failure to file an interest equalization tax return in certain situations where no tax is due. Sections 6681 and 7241 provide civil and criminal penalties for executing a certificate of American ownership or a certificate of sales to foreign persons which contains a misstatement of material fact.

### SECTION 6680. FAILURE TO FILE INTEREST EQUALIZATION TAX RETURNS

Section 6011(d), added to the code by section 3 of this bill, requires every person to file an interest equalization tax return if he would have incurred liability for payment of the tax but for the provisions of section 4918 (relating to exemption for prior American ownership). Except for the criminal penalty provided in section 7203, these persons would otherwise incur no liability if they failed to file a return. Section 6680 imposes on such persons a civil penalty of 5 percent of the amount of tax they would have been required to pay but for the provisions of section 4918. However, the penalty cannot be less than $10 nor more than $1,000. The penalty does not apply if it is shown that the failure to file is due to reasonable cause.

### SECTION 6681. FALSE EQUALIZATION TAX CERTIFICATES

Section 4918(a), of new chapter 41, exempts from the tax those acquisitions which are made from another American person. Section 4918(b) provides that a certificate that the prior owner was an American person during the applicable period of his ownership shall be conclusive proof of American ownership for this purpose unless the person making the acquisition has actual knowledge that the certificate is false in any material respect. The effect of section 4918 is to relieve the person acquiring such a certificate, even though the certificate is false, from payment of the tax unless he has actual knowledge of the falseness of the certificate. New section 6681(a) would impose on a person willfully executing a certificate of American ownership which is false in any material respect a penalty equal to 125 percent of the tax imposed by section 4911 on the acquisition of the stock or debt

obligation involved which, but for the provisions of section 4918(b), would be payable by the person making the acquisition. The penalty is an assessable one and, when imposed, will enable the Government to collect the tax which was lost by reason of the execution of the false certificate, plus an extra amount to discourage persons from executing false certificates.

Subsection (b) of new section 6681 imposes on persons willfully executing a false certificate of sales to foreign persons described in section 4919(b) a similar penalty of 125 percent of the tax which is imposed by section 4911 on the acquisition of stocks or debt obligations involved and which, but for the application of the conclusive presumption provided in section 4919(b) and the reliance on the correctness of the certificate by the underwriter receiving the certificate, would be payable by the underwriter.

SECTION 7241. PENALTY FOR FRAUDULENT EQUALIZATION TAX CERTIFICATES

Section 7241 provides a criminal penalty for the willful execution of certificates of American ownership or certificates of sales to foreign persons which are false in any material respect. The criminal penalty is in addition to the assessable civil penalty provided in section 6681, discussed above. Section 7241 makes the offense of willfully executing a false certificate a misdemeanor and provides for a fine of not more than $1,000 or imprisonment for not more than 1 year, or both.

88TH CONGRESS
1ST SESSION

# H. R. 8000

## IN THE HOUSE OF REPRESENTATIVES

AUGUST 8, 1963

Mr. MILLS introduced the following bill; which was referred to the Committee on Ways and Means

## A BILL

To amend the Internal Revenue Code of 1954 to impose a tax on acquisitions of certain foreign securities in order to equalize costs of longer-term financing in the United States and in markets abroad, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE, ETC.**

(a) SHORT TITLE.—This Act may be cited as the "Interest Equalization Tax Act of 1963".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

**SEC. 2. INTEREST EQUALIZATION TAX.**

(a) IMPOSITION OF TAX.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

## "CHAPTER 41—INTEREST EQUALIZATION TAX

"Sec. 4911. Imposition of tax.
"Sec. 4912. Acquisitions.
"Sec. 4913. Limitation on tax on certain acquisitions.
"Sec. 4914. Exclusion for certain acquisitions.
"Sec. 4915. Exclusion for direct investments.
"Sec. 4916. Exclusion for investments in less developed countries.
"Sec. 4917. Exclusion for new issues where required for international monetary stability.
"Sec. 4918. Exemption for prior American ownership.
"Sec. 4919. Sales by underwriters and dealers to foreign persons.
"Sec. 4920. Definitions.

**"SEC. 4911. IMPOSITION OF TAX.**

"(a) DEBT OBLIGATIONS.—There is hereby imposed, on each acquisition by a United States person (as defined in section 4920)

of a debt obligation of a foreign obligor (if such obligation has a period remaining to maturity of three years or more), a tax equal to a percentage of the actual value of the debt obligation measured by the period remaining to its maturity and determined in accordance with the following table:

| "If the period remaining to maturity is: | The tax, as a percentage of actual value, is: |
|---|---|
| "At least 3 years, but less than 3½ years | 2.75 percent |
| At least 3½ years, but less than 4½ years | 3.55 percent |
| At least 4½ years, but less than 5½ years | 4.35 percent |
| At least 5½ years, but less than 6½ years | 5.10 percent |
| At least 6½ years, but less than 7½ years | 5.80 percent |
| At least 7½ years, but less than 8½ years | 6.50 percent |
| At least 8½ years, but less than 9½ years | 7.10 percent |
| At least 9½ years, but less than 10½ years | 7.70 percent |
| At least 10½ years, but less than 11½ years | 8.30 percent |
| At least 11½ years, but less than 13½ years | 9.10 percent |
| At least 13½ years, but less than 16½ years | 10.30 percent |
| At least 16½ years, but less than 18½ years | 11.35 percent |
| At least 18½ years, but less than 21½ years | 12.25 percent |
| At least 21½ years, but less than 23½ years | 13.05 percent |
| At least 23½ years, but less than 26½ years | 13.75 percent |
| At least 26½ years, but less than 28½ years | 14.35 percent |
| 28½ years or more | 15.00 percent |

"(b) STOCK.—There is hereby imposed, on each acquisition by a United States person (as defined in section 4920) of stock of a foreign issuer, a tax equal to 15 percent of the actual value of the stock.

"(c) PERSONS LIABLE FOR TAX.—

"(1) IN GENERAL.—The tax imposed by subsection (a) or (b) shall be paid by the person acquiring the stock or debt obligation involved.

"(2) CROSS REFERENCE.—

**"For imposition of penalty on maker of false certificate in lieu of or in addition to tax on acquisition in certain cases, see section 6681.**

"(d) TERMINATION OF TAX.—The tax imposed by subsection (a) or (b) shall not apply to any acquisition made after December 31, 1965.

**"SEC. 4912. ACQUISITIONS.**

"(a) IN GENERAL.—For purposes of this chapter, the term 'acquisition' means any purchase, transfer, distribution, exchange, or other transaction by virtue of which ownership is obtained either directly or through a nominee, custodian, or agent. Any extension or renewal of an existing debt obligation requiring affirmative action of the obligee at the time of the extension or renewal shall be considered the acquisition of a new debt obligation. In the case of an agreement to make an acquisition, the acquisition shall be deemed to have occurred at the time when the parties to the agreement first became unconditionally obligated to complete the transaction.

"(b) SPECIAL RULES.—

"(1) CERTAIN TRANSFERS TO FOREIGN TRUSTS, PARTNERSHIPS, OR ESTATES.—Any transfer (other than in a sale or exchange for full and adequate consideration) of money or other property to a foreign trust, partnership, or estate (except to the extent that such transfer results in an acquisition otherwise taxable under this chapter) shall be deemed an acquisition by the transferor of stock of a foreign issuer in an amount equal to the actual value of the money or property transferred, if and to the extent that such

trust, partnership, or estate is availed of to acquire stock or debt obligations of one or more foreign issuers or obligors other than debt obligations having a period remaining to maturity of less than three years.

"(2) CAPITAL CONTRIBUTIONS BY SHAREHOLDERS.—Any transfer of money or other property as a contribution to the capital of a foreign corporation by a shareholder shall be deemed an acquisition by such shareholder of stock of the foreign corporation in an amount equal to the actual value of the money or property transferred, for purposes of this chapter.

"(3) REORGANIZATION EXCHANGES.—Any acquisition of stock or a debt obligation of a foreign issuer or obligor in an exchange to which section 354, 355, or 356 applies shall be considered an acquisition from the foreign issuer or obligor in exchange for its stock or for its debt obligations.

**"SEC. 4913. LIMITATION ON TAX ON CERTAIN ACQUISITIONS.**

"(a) GENERAL RULE.—If stock or a debt obligation of a foreign issuer or obligor is acquired by a United States person as the result of—

"(1) the surrender for cancellation of a debt obligation to the foreign obligor;

"(2) the extension or renewal of an existing debt obligation requiring affirmative action of the obligee; or

"(3) the exercise of an option or similar right to acquire such stock or debt obligation,

then the tax imposed on such acquisition shall not exceed the amount determined under subsection (b).

"(b) LIMITATION.—The tax imposed upon an acquisition described in subsection (a) shall be limited to—

"(1) the amount of tax imposed by section 4911, less

"(2) the amount of the tax that would have been imposed under section 4911 if the debt obligation which was surrendered, extended, or renewed, or the option or similar right which was exercised, had been acquired in a transaction subject to such tax immediately prior to such surrender, extension, renewal, or exercise.

For purposes of this subsection, a defaulted debt obligation of the government of a foreign country or a political subdivision thereof (or an agency of such a government) which has been in default for at least 10 years and which is surrendered in exchange for another debt obligation of that government (or agency) shall be deemed to have an actual value and period remaining to maturity equal to that of the debt obligation acquired.

**"SEC. 4914. EXCLUSION FOR CERTAIN ACQUISITIONS.**

"(a) TRANSACTIONS NOT CONSIDERED ACQUISITIONS.—The term 'acquisition' shall not include—

"(1) any transfer between a person and his nominee, custodian, or agent;

"(2) any transfer described in section 4343(a) (relating to certain transfers by operation of law from decedents, minors, incompetents, financial institutions, bankrupts, successors, foreign governments and aliens, trustees, and survivors);

"(3) any transfer to a United States person by gift, legacy, bequest, or inheritance;

"(4) any distribution by a corporation to a shareholder with respect to or in exchange for its stock; or

"(5) any exercise of a right to convert a debt obligation, pursuant to its terms, into stock.

"(b) EXCLUDED ACQUISITIONS.—The tax is imposed by section 4911 shall not apply to the acquisition—

"(1) THE UNITED STATES.—Of stock or debt obligations by an agency or wholly-owned instrumentality of the United States.

"(2) COMMERCIAL BANK LOANS.—Of stock or debt obligations by a commercial bank in making loans in the ordinary course of its commercial banking business.

"(3) EXPORT CREDIT.—Of a debt obligation by a United States person as all or part of the purchase price of property manufactured, produced, grown, or extracted in the United States by such person (or by one or more includible corporations in an 'affiliated group' as defined in section 1504, of which such person is a member), but only if such debt obligation is either held to maturity (or until his death) by the United States person or transferred to an agency or wholly-owned instrumentality of the United States or to a commercial bank acquiring the debt obligation in the ordinary course of its commercial banking business.

"(4) ACQUISITION REQUIRED UNDER FOREIGN LAW.—Of stock or debt obligations by a United States person doing business in a foreign country to the extent that the acquisition is reasonably necessary to satisfy minimum requirements relating to holdings of stock or debt obligations of local issuers or obligors imposed by the laws of such foreign country. For purposes of the preceding sentence, in the event that the minimum requirements referred to exceed the requirements, if any, applicable in the foreign country on July 18, 1963, such minimum requirements shall be determined as though the requirements, if any, applicable on July 18, 1963, were in effect on the date of the acquisition.

**"SEC. 4915. EXCLUSION FOR DIRECT INVESTMENTS.**

"(a) GENERAL RULE.—The tax imposed by section 4911 shall not apply, except as provided in subsections (b) and (c) of this section, to the acquisition by a United States person of stock or a debt obligation of a foreign corporation if immediately after the acquisition such person owns 10 percent or more of the total combined voting power of all classes of stock of such foreign corporation. For purposes of the preceding sentence, stock owned, directly or indirectly, by or for a foreign corporation shall be considered as being owned proportionately by its shareholders.

"(b) EXCEPTION FOR FOREIGN CORPORATIONS FORMED OR AVAILED OF FOR TAX AVOIDANCE.—

"(1) IN GENERAL.—The exclusion from tax provided for in subsection (a) shall be inapplicable in any case where the foreign corporation is formed or availed of by the United States person for the principal purpose of acquiring, through such corporation, an interest in stock or debt obligations of one or more other foreign issuers or obligors, the direct acquisition of which by the United States person would be subject to the tax imposed by section 4911.

"(2) REQUIRED HOLDINGS, UNDERWRITERS, AND COMMERCIAL BANKS.—For purposes of this subsection, the acquisition by a United States person of stock or debt obligations of a foreign corporation which acquires stock or debt obligations of foreign issuers or obligors—

"(A) to satisfy minimum requirements relating to holdings of stock or debt obligations of local issuers or obligors imposed by the laws of foreign countries where such foreign corporation is doing business,

"(B) in the ordinary course of its business of underwriting and distributing securities issued by other persons, or acting as a broker, or

"(C) in making loans in the ordinary course of its business as a commercial bank,

shall not, by reason of such acquisitions by the foreign corporation, be considered an acquisition by the United States person of an interest in stock or debt obligations of foreign issuers or obligors.

"(c) EXCEPTION FOR ACQUISITIONS MADE WITH INTENT TO SELL TO UNITED STATES PERSONS.—The exclusion from tax provided for in subsection (a) shall be inapplicable in any case where the acquisition of stock or debt obligations of the foreign corporation is made with an intent to sell, or to offer to sell, any part of the stock or debt obligations acquired to United States persons.

**"SEC. 4916. EXCLUSION FOR INVESTMENTS IN LESS DEVELOPED COUNTRIES.**

"(a) GENERAL RULE.—The tax imposed by section 4911 shall not apply to the acquisition by a United States person of—

"(1) a debt obligation issued or guaranteed by the government of a less developed country or a political subdivision thereof, or by an agency of such a government; or

"(2) stock or a debt obligation of a less developed country corporation.

"(b) LESS DEVELOPED COUNTRY DEFINED.—For purposes of this section, the term 'less developed country' means any foreign country (other than an area within the Sino-Soviet bloc) with respect to which, as of the date of an acquisition referred to in subsection (a), there is in effect an Executive order by the President of the United States designating such country as an economically less developed country for purposes of the tax imposed by section 4911. For purposes of the preceding sentence, Executive Order Numbered 11071, dated December 27, 1962 (designating certain areas as economically less developed countries for purposes of subparts A and F of part III of subchapter N, and section 1248 of part IV of subchapter P, of chapter 1), shall be deemed to have been issued and in effect for purposes of the tax imposed by section 4911 on July 18, 1963, and continuously thereafter until there is in effect the Executive order referred to in the preceding sentence. An overseas territory, department, province, or possession of any foreign country may be designated as

a separate country. No designation shall be made under this subsection with respect to any of the following:

Australia
Austria
Belgium
Canada
Denmark
France
Germany (Federal Republic)
Hong Kong
Italy
Japan
Liechtenstein
Luxembourg
Monaco
Netherlands
New Zealand
Norway
Republic of South Africa
San Marino
Spain
Sweden
Switzerland
United Kingdom.

After the President (under the first sentence of this subsection) has designated any foreign country as an economically less developed country for purposes of the tax imposed by section 4911, he shall not terminate such designation (either by issuing an Executive order for that purpose or by issuing an Executive order which has the effect of terminating such designation) unless, at least thirty days prior to such termination, he has notified the Senate and the House of Representatives of his intention to terminate such designation.

"(c) LESS DEVELOPED COUNTRY CORPORATION DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'less developed country corporation' shall have the same meaning as it has for purposes of section 955(c) (1) and (2) and the regulations thereunder, except that the determination of whether a corporation is a less developed country corporation shall be made (A) with respect to the most recent complete annual accounting period of such corporation, except as provided in paragraph (2), and (B) in accordance with the foreign country's status under subsection (b) of this section.

"(2) SPECIAL RULE FOR ORIGINAL OR NEW ISSUES.—A foreign corporation shall be treated, for purposes of this section, as a less developed country corporation with respect to an acquisition of its stock or debt obligations by a United States person as all or part of an original or new issue if, prior to such acquisition, it is established to the satisfaction of the Secretary or his delegate that such foreign corporation—

"(A) has satisfied the requirements of subparagraphs (A) and (B) of section 955(c)(1) or subparagraphs (A) and (B) of section 955(c)(2) for such period of time as the Secretary or his delegate may by regulations prescribe, and

"(B) may thereafter be reasonably expected to continue to satisfy such requirements for such further period of time as the Secretary or his delegate may by regulations prescribe,

taking into account for purposes of this paragraph only that portion of the corporation's gross income which is properly attributable to the periods of time prescribed and only those days which are within such periods.

**"SEC. 4917. EXCLUSION FOR NEW ISSUES WHERE REQUIRED FOR INTERNATIONAL MONETARY STABILITY.**

"If the President of the United States shall at any time determine that the application of the tax imposed by section 4911 will have such consequences for a foreign country as to imperil or threaten to imperil the stability of the international monetary system, he may by Executive order specify that such tax shall not apply to the acquisition by a United States person of stock or a debt obligation of such foreign country, any agency or political subdivision thereof, any corporation, partnership, or trust (other than a company registered under the Investment Company Act of 1940) organized under its laws, or any individual resident therein, to the extent that such stock or debt obligation is acquired as all or part of an original or new issue which is registered under the Securities Act of 1933 or as to which there is filed such prior notification of issue as the Secretary or his delegate may prescribe by regulations. Such Executive order may be applicable to all such issues or to any aggregate amount or classification thereof which shall be stated therein and shall apply to acquisitions occurring during such period of time as shall be stated therein. If the order is applicable to a limited aggregate amount of such issues it shall apply to those issues as to which registration statements under the Securities Act of 1933 first become effective, or the acquisition of which pursuant to notification first occurs, during the period specified in the order.

**"SEC. 4918. EXEMPTION FOR PRIOR AMERICAN OWNERSHIP.**

"(a) GENERAL RULE.—The tax imposed by section 4911 shall not apply to an acquisition of stock or a debt obligation of a foreign issuer or obligor if it is established by clear and convincing evidence that the person from whom such stock or debt obligation was acquired was a United States person throughout the period of his ownership or continuously since July 18, 1963.

"(b) CERTIFICATE OF AMERICAN OWNERSHIP.—For purposes of subsection (a), a certificate of American ownership (executed and filed in such manner and setting forth such information as the Secretary or his delegate may by regulations prescribe) received in connection with an acquisition shall be conclusive proof for purposes of this exemption of prior American ownership unless the person making such acquisition has actual knowledge that the certificate is false in any material respect.

**"SEC. 4919. SALES BY UNDERWRITERS AND DEALERS TO FOREIGN PERSONS.**

"(a) CREDIT OR REFUND.—The tax paid under section 4911 on the acquisition of stock or debt obligations of a foreign issuer or obligor shall constitute an overpayment of tax to the extent that such stock or debt obligations—

"(1) PRIVATE PLACEMENTS.—Are acquired by an underwriter from the foreign issuer or obligor and are sold directly by the underwriter to persons other than United States persons in transactions not involving a public offering;

"(2) PUBLIC OFFERINGS.—Are acquired by an underwriter from the foreign issuer or obligor for distribution in connection with a public offering registered with the Securities and Exchange Commission and are sold as part of such public offering by the

underwriter (including sales by other United States persons participating in the distribution of the stock or debt obligations acquired by the underwriter) to persons other than United States persons; or

"(3) FOREIGN DOLLAR BONDS.—Consist of foreign dollar bonds acquired by a dealer in the ordinary course of his business and sold by the dealer to persons other than United States persons within 30 days after their acquisition.

Under regulations prescribed by the Secretary or his delegate, credit or refund (without interest) shall be allowed or made with respect to such overpayment.

"(b) EVIDENCE TO SUPPORT CREDIT OR REFUND.—An underwriter or dealer claiming credit or refund under this section shall file with the return required by section 6011(d) on which credit is claimed, or with the claim for refund, such information as the Secretary or his delegate may by regulations prescribe. Credit or refund shall not be allowed with respect to stock or debt obligations sold by a United States person participating in the distribution of the stock or debt obligations acquired by an underwriter unless the underwriter establishes by clear and convincing evidence that such stock or debt obligations were sold to persons other than United States persons. For purposes of the preceding sentence, a certificate of sales to foreign persons (executed in such manner by the United States person making such sales, filed in such manner, and setting forth such information, as the Secretary or his delegate may by regulations prescribe) shall be conclusive proof for purposes of the credit or refund that such sales were made to a person other than a United States person unless the underwriter relying upon the certificate has actual knowledge that the certificate is false in any material respect. In any case where two or more underwriters form a purchasing and selling group for the purpose of acquiring stock or debt obligations of a single foreign issuer or obligor, the filing of a certificate of sales to foreign persons by any one of such underwriters may, to the extent provided by regulations prescribed by the Secretary or his delegate, constitute the filing of such certificate for all of such underwriters.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'underwriter' means any person who has purchased stock or debt obligations from the issuer or obligor thereof with a view to the distribution through resale of such stock or debt obligations;

"(2) the term 'dealer' means any person who is a member of the National Association of Securities Dealers and who is regularly engaged, as a merchant, in purchasing stock and debt obligations and selling them to customers with a view to the gains and profits that may be derived therefrom; and

"(3) the term 'foreign dollar bonds' means any debt obligations of a foreign obligor under the terms of which principal and interest are payable only in United States currency.

**"SEC. 4920. DEFINITIONS.**

"For purposes of this chapter—

"(1) DEBT OBLIGATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'debt obligation' means—

"(i) any indebtedness, whether or not represented by a bond, debenture, note, certificate, or other writing, whether or not secured by a mortgage, and whether or not bearing interest; and

"(ii) any interest in, or any option or similar right to acquire, a debt obligation referred to in this subparagraph, whether or not such interest, option, or right is in writing.

"(B) EXCEPTIONS.—The term 'debt obligation' shall not include any obligation which—

"(i) is convertible by its terms into stock of the obligor;

"(ii) is received as compensation for the performance of services by a United States person; or

"(iii) arises out of the divorce, separate maintenance, or support of a United States person.

"(2) STOCK.—The term 'stock' means—

"(A) any stock, share, or other capital interest in a corporation, association, insurance company, or joint-stock company;

"(B) any interest of a limited partner in a limited partnership;

"(C) any interest in an investment trust;

"(D) any indebtedness which is convertible by its terms into stock of the obligor; and

"(E) any interest in, or option or similar right to acquire, any stock described in this paragraph.

"(3) FOREIGN ISSUER OR OBLIGOR.—The terms 'foreign issuer', 'foreign obligor', and 'foreign issuer or obligor' mean any issuer of stock or obligor of a debt obligation, as the case may be, which is—

"(A) (i) an international organization of which the United States is not a member,

"(ii) the government of a foreign country or any political subdivision thereof, or an agency of such a government, or

"(iii) a corporation, association, insurance company, joint-stock company, partnership, or estate or trust which is not a United States person as defined in paragraph (4), or a nonresident alien individual;

"(B) a domestic corporation (other than a domestic corporation described in subparagraph (C)) formed or availed of for the principal purpose of obtaining capital for any other person referred to in this paragraph; or

"(C) a domestic corporation which, as of July 18, 1963, was a management company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1—80b–2) if—

"(i) at least 80 percent of the value of the stock and debt obligations owned by such corporation on July 18, 1963, and at least 80 percent of the value of the stock and debt obligations owned by such corporation at the end of every calendar quarter thereafter, consists of stock or debt obligations of foreign issuers or obligors;

"(ii) such corporation elects to be treated as a foreign issuer or obligor for purposes of this chapter; and

"(iii) such corporation does not materially increase its assets during the period from July 18, 1963, to the

date of such election through borrowing or through issuance or sale of its stock (other than stock issued or sold on or before September 15, 1963, as part of a public offering with respect to which a registration statement was first filed with the Securities and Exchange Commission on July 18, 1963, or within 90 days prior thereto).

The election under clause (ii) shall be made on or before the thirtieth day after the date of the enactment of this chapter under regulations prescribed by the Secretary or his delegate. Such election shall be effective as of the date specified by the corporation, but not later than the date on which such election is made, and shall remain in effect until revoked. If, at the close of any succeeding calendar quarter, the company ceases to meet the requirement of clause (i), the election shall thereupon be deemed revoked. When an election is revoked no further election may be made. If the assets of a foreign corporation are acquired by a domestic corporation in a reorganization described in subparagraph (F) of section 368(a)(1), the two corporations shall be considered a single domestic corporation for purposes of this subparagraph.

"(4) UNITED STATES PERSON.—The term 'United States person' means—

"(A) a citizen or resident of the United States,

"(B) a partnership created or organized in the United States or under the laws of the United States or of any State,

"(C) a corporation created or organized in the United States or under the laws of the United States or of any State, other than a corporation described in subparagraph (B) or (C) of paragraph (3),

"(D) an agency or wholly-owned instrumentality of the United States,

"(E) a State or any agency, instrumentality, or political subdivision thereof, and

"(F) any estate or trust—

"(i) the income of which from sources without the United States is includible in gross income under subtitle A (or would be so includible if not exempt from tax under section 501(a), section 521(a), or section 584(b)), or

"(ii) which is situated in the Commonwealth of Puerto Rico or a possession of the United States.

As used in this paragraph, the term 'United States' in a geographical sense includes the States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States, and the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

"(5) PERIOD REMAINING TO MATURITY.—

"(A) IN GENERAL.—Subject to the modifications set forth in subparagraph (B), the period remaining to maturity of a debt obligation shall be that period beginning on the date of its acquisition and ending on the fixed or determinable date when, according to its terms, the final payment of principal becomes due.

"(B) MODIFICATIONS.—The period remaining to maturity—

"(i) of any interest in, or any option or similar right to acquire, any debt obligation shall be the period remaining to maturity of that debt obligation;

"(ii) of any debt obligation which is renewable without affirmative action by the obligee, or of any interest in or option or similar right to acquire such a debt obligation, shall end on the last day of the final renewal period; and

"(iii) of a debt obligation which is subject to retirement prior to its maturity through operation of a mandatory sinking fund shall be determined under regulations prescribed by the Secretary or his delegate."

(b) TECHNICAL AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end thereof the following item:

"CHAPTER 41. Interest equalization tax."

(c) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as provided by paragraphs (2), (3), (4), (5), and (6), the amendments made by this section shall apply with respect to acquisitions of stock and debt obligations made after July 18, 1963.

(2) PREEXISTING COMMITMENTS.—Such amendments shall not apply to an acquisition made pursuant to an obligation to acquire which on July 18, 1963—

(A) was unconditional, or

(B) was subject only to conditions contained in a formal contract under which partial performance had occurred.

(3) PUBLIC OFFERING.—Such amendments shall not apply to an acquisition made on or before September 15, 1963, if—

(A) a registration statement (within the meaning of the Securities Act of 1933) was in effect with respect to the stock or debt obligation acquired at the time of its acquisition;

(B) the registration statement was first filed with the Securities and Exchange Commission on July 18, 1963, or within 90 days prior thereto; and

(C) no amendment was filed with the Securities and Exchange Commission after July 18, 1963, and prior to the acquisition which had the effect of increasing the number of shares of stock or the aggregate face amount of the debt obligations covered by the registration statement.

(4) LISTED SECURITIES.—Such amendments shall not apply to an acquisition made on or before August 16, 1963, if the stock or debt obligation involved was acquired on a national securities exchange registered with the Securities and Exchange Commission.

(5) OPTIONS AND FORECLOSURES.—Such amendments shall not apply to an acquisition—

(A) of stock pursuant to the exercise of an option or similar right, if such option or similar right was held on July 18, 1963, by the person making the acquisition, or

(B) of stock or debt obligations as a result of a foreclosure by a creditor pursuant to the terms of an instrument held by such creditor on July 18, 1963.

(6) DOMESTICATION.—Such amendments shall not apply to the acquisition by a domestic corporation of the assets of a foreign corporation pursuant to a reorganization described in subparagraph (F) of section 368(a)(1) if the acquisition occurs prior to January 1, 1964, and the foreign corporation was a management company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1—80b-2) from July 18, 1963, until the time of the acquisition.

(7) MEANING OF TERMS.—Terms used in this subsection (except as specifically otherwise provided) shall have the same meaning as when used in chapter 41 of the Internal Revenue Code of 1954.

**SEC. 3. RETURNS.**

(a) MAKING OF RETURNS.—Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (d) as subsection (e), and by adding after subsection (c) the following new subsection:

"(d) INTEREST EQUALIZATION TAX RETURNS.—Every person shall make a return for each calendar quarter during which he incurs liability for the tax imposed by section 4911, or would so incur liability but for the provisions of section 4918. The return shall, in addition to such other information as the Secretary or his delegate may by regulations require, include a list of all acquisitions made by such person during the calendar quarter which are exempt under the provisions of section 4918, and shall be accompanied by clear and convincing evidence showing that the acquisitions are so exempt."

(b) TIME FOR FILING RETURNS.—Part V of subchapter A of chapter 61 (relating to time for filing returns and other documents) is amended by adding at the end thereof the following new section:

**"SEC. 6076. TIME FOR FILING INTEREST EQUALIZATION TAX RETURNS.**

"Each return made under section 6011(d) (relating to interest equalization tax) shall be filed on or before the last day of the first month following the period for which it is made."

(c) CLERICAL AMENDMENT.—The table of sections for part V of subchapter A of chapter 61 is amended by adding at the end thereof the following:

"Sec. 6076. Time for filing interest equalization tax returns."

(d) FIRST RETURN PERIOD.—Notwithstanding any provision of section 6011(d) of the Internal Revenue Code of 1954, the first period for which returns shall be made under such section 6011(d) shall be the period commencing July 19, 1963, and ending at the close of the calendar quarter in which the enactment of this Act occurs.

**SEC. 4. DISALLOWANCE OF DEDUCTION FOR AMOUNT PAID AS INTEREST EQUALIZATION TAX.**

Section 263(a) (relating to capital expenditures) is amended by adding at the end thereof the following new paragraph:

"(3) Any amount paid as tax under the provisions of section 4911 (relating to imposition of interest equalization tax) except to the extent that any amount attributable to the amount paid as tax is included as gross income for the taxable year."

**SEC. 5. PENALTIES.**

(a) ASSESSABLE PENALTIES.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new sections:

**"SEC. 6680. FAILURE TO FILE INTEREST EQUALIZATION TAX RETURNS.**

"In addition to the penalty imposed by section 7203 (relating to willful failure to file return, supply information, or pay tax), any person who is required under section 6011(d) (relating to interest equalization tax returns) to file a return for any period in respect of which, by reason of the provisions of section 4918 or 4919, he incurs no liability for payment of the tax imposed by section 4911, and who fails to file such return within the time prescribed by section 6076, shall pay a penalty of $10 or 5 percent of the amount of tax for which he would incur liability for payment under section 4911 but for the provisions of section 4918 or 4919, whichever is the greater, for each such failure unless it is shown that the failure is due to reasonable cause. The penalty imposed by this section shall not exceed $1,000 for each failure to file a return.

**"SEC. 6681. FALSE EQUALIZATION TAX CERTIFICATES.**

"(a) FALSE CERTIFICATE OF AMERICAN OWNERSHIP.—In addition to the criminal penalty imposed by section 7241, any person who willfully executes a certificate of American ownership described in section 4918(b) which contains a misstatement of material fact shall be liable to a penalty equal to 125 percent of the amount of the tax imposed by section 4911 on the acquisition of the stock or debt obligation involved which, but for the provisions of section 4918(b), would be payable by the person acquiring the stock or debt obligation.

"(b) FALSE CERTIFICATE OF SALES TO FOREIGN PERSONS.—In addition to the criminal penalty imposed by section 7241, any person who willfully executes a certificate of sales to foreign persons described in section 4919(b) which contains a misstatement of material fact shall be liable to a penalty equal to 125 percent of the amount of the tax imposed by section 4911 on the acquisition of the stock or debt obligation involved which, but for the provisions of section 4919(b), would be payable by the underwriter acquiring the stock or debt obligation.

"(c) PENALTY TO BE IN LIEU OF TAX IN CERTAIN CASES.—Unless the person acquiring the stock or debt obligation involved had actual knowledge that the certificate was false in any material respect, the penalty under subsection (a) or (b) shall be in lieu of any tax on the acquisition of such stock or debt obligation under section 4911."

(b) CRIMINAL PENALTY.—Part II of subchapter A of chapter 75 (relating to penalties applicable to certain taxes) is amended by adding at the end thereof the following new section:

**"SEC. 7241. PENALTY FOR FRAUDULENT EQUALIZATION TAX CERTIFICATES.**

"Any person who willfully executes a certificate of American ownership described in section 4918(b), or a certificate of sales to foreign persons described in section 4919(b), which is known by him to be fraudulent or to be false in any material respect shall be guilty of a misdemeanor and, upon conviction thereof, shall for each offense be fined not more than $1,000, or imprisoned not more than 1 year, or both."

(c) Clerical Amendments.—

(1) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following:

"Sec. 6680. Failure to file interest equalization tax returns.
"Sec. 6681. False equalization tax certificates."

(2) The table of sections for part II of subchapter A of chapter 75 is amended by adding at the end thereof the following:

"Sec. 7241. Penalty for fraudulent equalization tax certificates."

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Mr Nurick

# TREASURY DEPARTMENT

WASHINGTON

## INFORMATION ON PROPOSED INTEREST EQUALIZATION TAX

Background

The President today announced a series of coordinated actions to reinforce the Administration's program to correct the United States balance of payments deficit, including a request for an Interest Equalization Tax, to be effective July 19, 1963. This special temporary excise tax would remain in effect through 1965. The Federal Reserve System has also announced an increase of one-half percent in the discount rate and a rise in the ceiling interest rate permitted to be paid by banks on time deposits.

The move by the Federal Reserve System should, without constricting credit generally, increase short-term interest rates in the United States relative to those abroad and thus help to dampen the outflow of short-term funds from the United States. During 1962, that outflow amounted to $0.5 billion on recorded account; and unrecorded transactions showed a further loss of $1.0 billion, the bulk of which is believed to represent short-term capital. The short-term capital outflow has continued in substantial volume so far this year.

A parallel reinforcing measure, upon which Congressional action has been requested, involves a special Interest Equalization Tax applicable to certain portfolio transactions that entail longer-term capital movements from the United States. The pressure of the heavy flow of domestic private savings into the United States capital market, combined with our highly developed and efficient market facilities, have been reflected in a level of long-term borrowing costs in this country far below those prevailing in most industrialized countries abroad. These domestic savings are consequently also overflowing abroad in large volume. It is not expected that longer-term borrowing costs in this country will change appreciably following the change in the discount rate and related short-term market rates, given this ample supply of domestic savings.

At the same time, however, the long-term rates appropriate to domestic needs invite a volume of securities sales in the United States by foreigners that places heavy strains on our balance of payments. In 1962 $1.1 billion of new foreign long-term securities were sold to United States interests; and sales of new foreign securities in the United States market are running at a substantially higher rate this year. Purchases of outstanding foreign bonds and equities by United States interests have also been large and have substantially increased in 1963.

The Administration for some time has pointed out that a portion

of these foreign needs for capital now met from United States sources might more appropriately be satisfied in the borrower's own market or by countries with balance of payments surpluses. The imposition of the proposed tax will encourage this process by tending to equalize costs of longer-term financing in the United States and in markets abroad, reducing the incentive to raise capital in the United States simply to take advantage of a possible interest cost saving. The tax, to be applied to purchases by United States interests of foreign securities sold by foreigners, would introduce a differential of approximately 1 percent between capital costs of domestic and foreign borrowers seeking funds in the United States market.

The tax will thus complement the action of the Federal Reserve System designed to influence short-term rates, without impeding access to the American market by foreigners unable to find longer-term funds available on reasonable terms elsewhere nor preventing purchase of foreign securities by American interests. Allocation of funds for investment in foreign securities and the determination of securities to be offered in the United States market would continue to be the result of market prices and decisions. Accordingly, the Interest Equalization Tax serves domestic and international needs in a way that supports the essential freedom of our trading and financial markets, and fulfills our special responsibilities at the center of the financial system of the free world. By relying on the uniform and nondiscriminatory application of an excise tax, this method of influencing aggregate American purchases of foreign securities assures that selection among issues will be freely made on the basis of the same considerations that would prevail if the entire structure of long-term interest rates were raised by 1 percent.

## General Description of the Tax

The Interest Equalization Tax would be a special temporary excise tax, to remain in effect through 1965, imposed on the acquisition of stock, securities or other obligations of foreign issuers or depositary receipts or other evidence of interest in, or rights to acquire, such interests. The tax would be payable by all United States citizens, residents and corporations, including organizations exempt from federal income taxes. The tax would apply to portfolio purchases of stock or debt securities issued by foreign corporations, governments, or other persons, whether such securities represented new or already outstanding issues and whether the acquisition was effected in the United States or abroad. It would not apply, however, to purchases of interests presently held by Americans.

The tax would not be applicable to direct investments by United

States persons in overseas subsidiaries or affiliates, nor would it apply to acquisition of any indebtedness payable upon demand or maturing in less than three years. Moreover, loans made by commercial banks in the ordinary course of their banking business would be exempted. The tax would not be applied to purchases of securities issued by international organizations of which the United States is a member, governments of countries considered to be less developed, and corporations whose principal activities are centered in less developed countries. An underwriter or dealer would be exempted from the tax on acquisitions of stock or obligations resold to foreigners as part of the underwriting of a new issue.

The tax would be applied to acquisitions occurring after the date of the President's message. It would not apply to purchase commitments made on the open market on or before that date or to other purchases which the buyer on that date was unconditionally obligated to make. Exemption from the tax would also be provided for purchases made within 60 days after the date of the President's message if the security purchased were covered by a registration statement filed with the Securities and Exchange Commission within 90 days prior to the date of the President's message.

Rate of Tax

The tax, which would be based on the value of the security acquired, would be imposed at the rate of 15 percent in the case of stock. In the case of debt securities, the rate of tax would be geared to the remaining period to maturity, ranging from 2.75 percent to 15 percent, as follows:

| Maturity | Tax Rate |
|---|---|
| At least 3 years, but less than 3 1/2 years | 2.75% |
| " " 3 1/2 " " " " 4 1/2 " | 3.55 |
| " " 4 1/2 " " " " 5 1/2 " | 4.35 |
| " " 5 1/2 " " " " 6 1/2 " | 5.10 |
| " " 6 1/2 " " " " 7 1/2 " | 5.80 |
| " " 7 1/2 " " " " 8 1/2 " | 6.50 |
| " " 8 1/2 " " " " 9 1/2 " | 7.10 |
| " " 9 1/2 " " " " 10 1/2 " | 7.70 |
| " " 10 1/2 " " " " 11 1/2 " | 8.30 |
| " " 11 1/2 " " " " 13 1/2 " | 9.10 |
| " " 13 1/2 " " " " 16 1/2 " | 10.30 |
| " " 16 1/2 " " " " 18 1/2 " | 11.35 |
| " " 18 1/2 " " " " 21 1/2 " | 12.25 |
| " " 21 1/2 " " " " 23 1/2 " | 13.05 |
| " " 23 1/2 " " " " 26 1/2 " | 13.75 |
| " " 26 1/2 " " " " 28 1/2 " | 14.35 |
| 28 1/2 years or more | 15.00 |

The tax would not be deductible for federal income tax purposes but would be included as an item of cost in the tax basis for the stock or obligation acquired.

Liability for the Tax

The United States person making a taxable acquisition would be liable for the tax, which would be collected through the filing of returns. The first of such returns would be due at the end of the first full calendar month following the end of the calendar quarter in which legislation imposing the tax is enacted and would cover all prior acquisitions subject to the legislation. Returns would thereafter be due at the end of the calendar month following each calendar quarter in which a United States person made any acquisition. This would not be a stamp tax; no obligation to compute or collect the tax would be imposed on the issuer or seller, or any underwriter, dealer, broker, or transfer or deposit agent (except with respect to his own purchases).

Exclusion of Securities Previously Held by Americans

An acquisition from another United States person would not be subject to tax. To permit tracing of securities covered by this exclusion, a United States transferor would execute a certificate attesting that he was a United States citizen, resident or corporation during the period of his ownership of the security. A nominee would be permitted to attest that the security had been held for the account of a United States person if such nominee kept adequate records to identify the actual owner of the securities and such owner's United States citizenship, residence or incorporation. The signature on any certificate would be required to be guaranteed by a bank or member of the National Association of Securities Dealers. In determining his liability for the tax, a purchaser would be entitled to rely on any such certificate. While the certificate might be delivered along with the security in most cases, it could be delivered within a reasonable time thereafter.

There are attached temporary forms of certificates, together with instructions and sample filled-in forms, which the Treasury Department will accept in fulfillment of these requirements pending enactment of the legislation by the Congress and issuance of regulations and forms thereunder. These interim forms will be made available promptly by the Internal Revenue Service, and facsimile reproductions conforming to the requirements of Revenue Procedure 61-31, 1960-2 Cum. Bull. 1003, will be accepted.

Explanation of Exemptions

As indicated above, no acquisition would be subject to the tax

if the obligation acquired is payable upon demand or within three years of its acquisition. Most trade financing transactions will fall within this exception. In addition, the exemption of loans made by commercial banks in the ordinary course of their banking business will permit tax-free trade financing on a longer-term basis.

Direct investments in overseas subsidiaries and affiliates would be exempted from the tax. A direct investor would be defined as one who owns at least ten percent of the total combined voting power of all classes of stock of a foreign corporation entitled to vote. If a United States person qualified as a direct investor, his acquisition of both stock and debt securities of the foreign corporation would be exempted. This exemption would be denied, however, if the foreign corporation were formed or availed of by a United States person for the purpose of acquiring securities which would be subject to tax if acquired directly, unless the foreign corporation acquired the securities in the normal course of a commercial banking, securities underwriting, or brokerage business conducted in one or more foreign countries. Insurance companies would be exempted from tax on the acquisition of foreign securities in the normal course of a foreign insurance business carried on either directly or through subsidiaries, to the extent that the securities acquired are, or would have been, required to be held in connection with such business by application to such business of foreign laws which were in force on the date of the President's message.

Purchases of securities issued by any international organization of which the United States is a member would not bear the tax. This would exempt purchases by Americans of the obligations of such organizations as the International Bank for Reconstruction and Development and the Inter-American Development Bank.

The exemption for acquisition of securities issued by governments of less developed countries would include purchases of securities issued by any corporation with the guarantee of such a government, as well as securities of political subdivisions.

The exemption for purchases of securities issued by corporations operating in less developed countries would apply to any corporation which for its last annual accounting period prior to the acquisition by the United States person had conformed to the definition of a "less developed country corporation" in Section 955(c) of the Internal Revenue Code, by reason of conducting an active business in one or more countries designated as less developed for purposes of this tax. The exemption would also be made available for the securities of any foreign corporation which established to the satisfaction of the Secretary of the Treasury or his delegate that it had met these

standards for a period of at least 60 days prior to issuance of its securities and might reasonably be expected to continue to meet them for such period as the Secretary or his delegate may deem appropriate to carry out the intent of this exemption.

The countries which would be considered less developed for this purpose would be designated in an Executive Order to be issued by the President. For the interim period prior to the issuance of this Executive Order, all countries designated by Executive Order No. 11071 dated December 27, 1962, as less developed countries for purposes of the Revenue Act of 1962, would be considered less developed countries. This includes all countries, and overseas territories and possessions of countries, (other than countries within the Sino-Soviet bloc) except the following:

| | |
|---|---|
| Australia | Luxembourg |
| Austria | Monaco |
| Belgium | Netherlands |
| Canada | New Zealand |
| Denmark | Norway |
| France | Republic of South Africa |
| Germany (Federal Republic) | San Marino |
| Hong Kong | Spain |
| Italy | Sweden |
| Japan | Switzerland |
| Liechtenstein | United Kingdom |

The designation of a country could be terminated by further Executive Order, but such termination would not affect acquisitions of securities occurring prior to issuance of the Executive Order.

| FORM 3625 (JULY 1963) U. S. TREASURY DEPARTMENT INTERNAL REVENUE SERVICE | CERTIFICATE OF AMERICAN OWNERSHIP INTEREST EQUALIZATION TAX (See instructions on reverse) | |
|---|---|---|
| NAME OF TRANSFEROR | ADDRESS OF TRANSFEROR | SOCIAL SEC. NO. OR EMPLOYERS IDENT. NO, IF ANY |

THE FOREGOING HEREBY CERTIFIES THAT HE WAS THE ACTUAL OWNER OF:

| NO. OF SHARES OR FACE AMOUNT OF SECURITY | CERTIFICATE NUMBER, IF ANY | NAME OF ISSUER OR OBLIGOR | CLASS OF STOCK OR DESCRIPTION OF SECURITY |
|---|---|---|---|
| | | | |

| FROM: DATE OF ACQUISITION OR JULY 18, 1963, WHICHEVER IS LATER | TO: DATE OF TRANSFER |
|---|---|
| | |

AND THAT DURING ALL OF THIS TIME HE WAS A UNITED STATES:

☐ CITIZEN ☐ RESIDENT ☐ CORPORATION ☐ TRUST OR ☐ ESTATE

| SIGNATURE (*If Corporation, Partnership, Trust or Estate, give title*) | DATE |
|---|---|
| SIGNATURE GUARANTEE (*See instructions*) | DATE |

## INSTRUCTIONS

**NOTE: The term "foreign securities" as used herein means stock, securities or other obligations of foreign issuers or obligors or depositary receipts or other evidence of interest in, or rights to acquire, such interests.**

PURPOSE.--The Congress is considering proposed legislation which would impose a tax on purchases and certain other acquisitions of foreign securities by United States citizens, residents, and other United States persons, including tax exempt organizations.

The proposed tax, which would be effective July 19, 1963, does not apply to the purchase or other acquisition of securities from United States citizens, residents or other persons who had such a domestic status either during the entire period of their ownership or continuously since July 18, 1963.

This certificate is designed to provide information needed to determine whether the purchase or other acquisition of the foreign securities qualifies for exemption from the tax.

WHO MAY EXECUTE CERTIFICATE.--This form MAY NOT be executed by anyone other than a transferor of foreign securities who was a United States citizen, resident or other United States person throughout the period of his ownership or continuously since July 18, 1963.

WHO MUST SECURE THE CERTIFICATE.--This form or an acceptable substitute (see below) properly completed must be secured by the purchaser of the foreign securities from the seller if he wishes to claim exemption from the tax on the transaction and has not secured a certificate from the nominee of the seller.

WHEN TO FILE.--The certificate should be retained until the Congress acts upon the proposed legislation. At that time further instructions will be issued by the Treasury Department.

SIGNATURE GUARANTEE.--The signature guarantee must be executed by a bank or a member of the National Association of Securities Dealers.

SUBSTITUTE FORMS.--Substitutes for the form will be accepted provided they contain all the information required by the form and are certified in the same manner.

NOMINEE.--This form may not be executed by a nominee. Certifications to acquire exemption from the tax on the transfer of foreign securities held by nominees are to be made on Form 3626.

| FORM 3625 (JULY 1963) U. S. TREASURY DEPARTMENT INTERNAL REVENUE SERVICE | CERTIFICATE OF AMERICAN OWNERSHIP INTEREST EQUALIZATION TAX (See instructions on reverse) | |
|---|---|---|
| NAME OF TRANSFEROR<br>Ajax Securities Corporation | ADDRESS OF TRANSFEROR<br>39 North Broadway<br>New York, New York | SOCIAL SEC. NO. OR EMPLOYERS IDENT. NO, IF ANY<br>64-1816829 |

THE FOREGOING HEREBY CERTIFIES THAT HE WAS THE ACTUAL OWNER OF:

| NO. OF SHARES OR FACE AMOUNT OF SECURITY | CERTIFICATE NUMBER, IF ANY | NAME OF ISSUER OR OBLIGOR | CLASS OF STOCK OR DESCRIPTION OF SECURITY |
|---|---|---|---|
| #100,000 | 72-135-72-234 | Foreign Widgets, Inc. | 5½% First Mtg. Bonds of 1972 |

| FROM: DATE OF ACQUISITION OR JULY 18, 1963, WHICHEVER IS LATER | TO: DATE OF TRANSFER |
|---|---|
| July 18, 1963 | July 30, 1963 |

AND THAT DURING ALL OF THIS TIME HE WAS A UNITED STATES:

☐ CITIZEN ☐ RESIDENT ☑ CORPORATION ☐ TRUST OR ☐ ESTATE

| SIGNATURE (*If Corporation, Partnership, Trust or Estate, give title*)<br>Ajax Securities Corporation By John Drinker, Pres. | DATE<br>Aug. 5, 1963 |
|---|---|
| SIGNATURE GUARANTEE (*See instructions*)<br>Dealer & Company By L. P. Dealer, Secy. | DATE<br>Aug 5, 1963 |

**EXAMPLE**

| FORM 3626 (JULY 1963) U. S. TREASURY DEPARTMENT INTERNAL REVENUE SERVICE | CERTIFICATE OF AMERICAN OWNERSHIP BY NOMINEE INTEREST EQUALIZATION TAX (*See instructions on reverse*) | |
|---|---|---|
| NAME OF NOMINEE | ADDRESS OF NOMINEE | SOCIAL SEC. NO. OR EMPLOYERS IDENT. NO., IF ANY |

THE FOREGOING HEREBY CERTIFIES THAT (1) HE IS A REGISTERED NOMINEE UNDER SECTION 4351(d) OF THE INTERNAL REVENUE CODE AND (2) THAT, ON THE DATE OF TRANSFER INDICATED BELOW, HE HELD, AS NOMINEE FOR THE ACTUAL OWNER, THE FOLLOWING SECURITIES:

| NUMBER OF SHARES OR FACE AMT. OF SECURITY | CERTIFICATE NUMBER, IF ANY | NAME OF ISSUER OR OBLIGOR | CLASS OF STOCK OR DESCRIPTION OF SECURITY |
|---|---|---|---|
| | | | |

AND (3) THAT THE PERSON FOR WHOM HE WAS ACTING AS NOMINEE ACTUALLY OWNED THESE SECURITIES:

| FROM: DATE OF ACQUISITION OR JULY 18, 1963, WHICHEVER IS LATER | TO: DATE OF TRANSFER |
|---|---|

AND (4) THAT DURING ALL OF THIS TIME SUCH PERSON WAS A UNITED STATES:

☐ CITIZEN ☐ RESIDENT ☐ CORPORATION ☐ TRUST OR ☐ ESTATE

| SIGNATURE (*If Corporation, Partnership, Trust, or Estate, give title*) | DATE |
|---|---|
| SIGNATURE GUARANTEE (*See instructions*) | DATE |

## INSTRUCTIONS

**NOTE: The term "foreign securities" as used herein means stock, securities or other obligations of foreign issuers or obligors or depositary receipts or other evidence of interest in, or rights to acquire, such interests.**

**PURPOSE.--The Congress is considering proposed legislation which would impose a tax on purchases and certain other acquisitions of foreign securities by United States citizens, residents, and other United States persons, including tax exempt organizations.**

**The proposed tax which would be effective July 19, 1963 does not apply to the purchase or other acquisition of securities from United States citizens, residents or other persons who had such a domestic status either during the entire period of their ownership or continuously since July 18, 1963.**

**This certificate is designed to provide information needed to determine whether the purchase or other acquisition of the foreign securities qualifies for exemption from the tax.**

**WHO MAY EXECUTE CERTIFICATE.--This form MAY NOT be executed by anyone other than a registered nominee acting for a seller of foreign securities who was a United States citizen, resident or other United States person throughout the period of his ownership or continuously since July 18, 1963. While a nominee executing this form need not identify the actual owner, he should maintain sufficient records to support the statements certified herein.**

**WHO MUST SECURE THE CERTIFICATE.--This form or an acceptable substitute (see below) properly completed must be secured by the purchaser of the foreign securities if he wishes to claim exemption from the tax on the transaction and has not secured a certificate from the seller.**

**WHEN TO FILE.--The certificate should be retained until the Congress acts upon the proposed legislation. At that time further instructions will be issued by the Treasury Department.**

**SIGNATURE GUARANTEE.--The signature guarantee must be executed by a bank or a member of the National Association of Securities Dealers.**

**SUBSTITUTE FORMS.--Substitutes for the form will be accepted provided they contain all the information required by the form.**

**ACTUAL OWNERS.--This form may not be executed by the actual owner of the foreign securities being transferred. Certification by the actual owner should be made on Form 3625.**

| FORM 3626 (JULY 1963) U. S. TREASURY DEPARTMENT INTERNAL REVENUE SERVICE | CERTIFICATE OF AMERICAN OWNERSHIP BY NOMINEE INTEREST EQUALIZATION TAX (*See instructions on reverse*) | |
|---|---|---|
| NAME OF NOMINEE: Member, Inc. | ADDRESS OF NOMINEE: 222 S. Wall St. Chicago, Illinois | SOCIAL SEC. NO. OR EMPLOYERS IDENT. NO., IF ANY: 64-2334232 |

THE FOREGOING HEREBY CERTIFIES THAT (1) HE IS A REGISTERED NOMINEE UNDER SECTION 4351(d) OF THE INTERNAL REVENUE CODE AND (2) THAT, ON THE DATE OF TRANSFER INDICATED BELOW, HE HELD, AS NOMINEE FOR THE ACTUAL OWNER, THE FOLLOWING SECURITIES:

| NUMBER OF SHARES OR FACE AMT. OF SECURITY | CERTIFICATE NUMBER, IF ANY | NAME OF ISSUER OR OBLIGOR | CLASS OF STOCK OR DESCRIPTION OF SECURITY |
|---|---|---|---|
| 300 | LZ 23456 | Widgets, Inc. | Common Stock |

AND (3) THAT THE PERSON FOR WHOM HE WAS ACTING AS NOMINEE ACTUALLY OWNED THESE SECURITIES:

| FROM: DATE OF ACQUISITION OR JULY 18, 1963, WHICHEVER IS LATER | TO: DATE OF TRANSFER |
|---|---|
| July 30, 1963 | August 30, 1963 |

AND (4) THAT DURING ALL OF THIS TIME SUCH PERSON WAS A UNITED STATES:

☒ CITIZEN ☐ RESIDENT ☐ CORPORATION ☐ TRUST OR ☐ ESTATE

| SIGNATURE (*If Corporation, Partnership, Trust, or Estate, give title*) | DATE |
|---|---|
| Member Inc. by Ralph Miller, Vice President | Sept. 4, 1963 |
| SIGNATURE GUARANTEE (*See instructions*): National Bank of N.Y. By Henry Roe, Vice President | Sept 4, 1963 |

**EXAMPLE**

**[DISCUSSION DRAFT]**

AUGUST 8, 1963

88TH CONGRESS
1ST SESSION

# H. R.

---

IN THE HOUSE OF REPRESENTATIVES

AUGUST , 1963

Mr. ________________ introduced the following bill; which was referred to the Committee on ________________

---

# A BILL

To amend the Internal Revenue Code of 1954 to impose a tax on acquisitions of certain foreign securities in order to equalize costs of longer-term financing in the United States and in markets abroad, and for other purposes.

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
5 "Interest Equalization Tax Act of 1963".
6 (b) AMENDMENT OF 1954 CODE.—Except as otherwise
7 expressly provided, whenever in this Act an amendment is
8 expressed in terms of an amendment to a section or other
9 provision, the reference shall be considered to be made to a

1 section or other provision of the Internal Revenue Code of
2 1954.

3 **SEC. 2. INTEREST EQUALIZATION TAX.**

4 (a) IMPOSITION OF TAX.—Subtitle D (relating to mis-
5 cellaneous excise taxes) is amended by adding at the end
6 thereof the following new chapter:

7 **"CHAPTER 41—INTEREST EQUALIZATION**
8 **TAX**

"Sec. 4911. Imposition of tax.
"Sec. 4912. Acquisitions.
"Sec. 4913. Limitation on tax on certain acquisitions.
"Sec. 4914. Exclusion for certain acquisitions.
"Sec. 4915. Exclusion for direct investments.
"Sec. 4916. Exclusion for investments in less developed countries.
"Sec. 4917. Exclusion for new issues where required for international monetary stability.
"Sec. 4918. Exemption for prior American ownership.
"Sec. 4919. Sales by underwriters and dealers to foreign persons.
"Sec. 4920. Definitions.

9 **"SEC. 4911. IMPOSITION OF TAX.**

10 "(a) DEBT OBLIGATIONS.—There is hereby imposed,
11 on each acquisition by a United States person (as defined
12 in section 4920) of a debt obligation of a foreign obligor
13 (if such obligation has a period remaining to maturity of
14 three years or more), a tax equal to a percentage of the
15 actual value of the debt obligation measured by the period

1 remaining to its maturity and determined in accordance with
2 the following table:

| "If the period remaining to maturity is: | The tax, as a percentage of actual value, is: |
|---|---|
| "At least 3 years, but less than 3½ years | 2.75 percent |
| At least 3½ years, but less than 4½ years | 3.55 percent |
| At least 4½ years, but less than 5½ years | 4.35 percent |
| At least 5½ years, but less than 6½ years | 5.10 percent |
| At least 6½ years, but less than 7½ years | 5.80 percent |
| At least 7½ years, but less than 8½ years | 6.50 percent |
| At least 8½ years, but less than 9½ years | 7.10 percent |
| At least 9½ years, but less than 10½ years | 7.70 percent |
| At least 10½ years, but less than 11½ years | 8.30 percent |
| At least 11½ years, but less than 13½ years | 9.10 percent |
| At least 13½ years, but less than 16½ years | 10.30 percent |
| At least 16½ years, but less than 18½ years | 11.35 percent |
| At least 18½ years, but less than 21½ years | 12.25 percent |
| At least 21½ years, but less than 23½ years | 13.05 percent |
| At least 23½ years, but less than 26½ years | 13.75 percent |
| At least 26½ years, but less than 28½ years | 14.35 percent |
| 28½ years or more | 15.00 percent |

3 "(b) STOCK.—There is hereby imposed, on each acqui-
4 sition by a United States person (as defined in section
5 4920) of stock of a foreign issuer, a tax equal to 15 percent
6 of the actual value of the stock.

7 "(c) PERSONS LIABLE FOR TAX.—

8 "(1) IN GENERAL.—The tax imposed by subsection
9 (a) or (b) shall be paid by the person acquiring the
10 stock or debt obligation involved.

11 "(2) CROSS REFERENCE.—

**"For imposition of penalty on maker of false certificate in lieu of or in addition to tax on acquisition in certain cases, see section 6681.**

1 "(d) TERMINATION OF TAX.—The tax imposed by
2 subsection (a) or (b) shall not apply to any acquisition
3 made after December 31, 1965.

4 **"SEC. 4912. ACQUISITIONS.**

5 "(a) IN GENERAL.—For purposes of this chapter,
6 the term 'acquisition' means any purchase, transfer, distribu-
7 tion, exchange, or other transaction by virtue of which
8 ownership is obtained either directly or through a nominee,
9 custodian, or agent. Any extension or renewal of an exist-
10 ing debt obligation requiring affirmative action of the obligee
11 at the time of the extension or renewal shall be considered
12 the acquisition of a new debt obligation. In the case of an
13 agreement to make an acquisition, the acquisition shall be
14 deemed to have occurred at the time when the parties to the
15 agreement first became unconditionally obligated to com-
16 plete the transaction.

17 "(b) SPECIAL RULES.—

18 "(1) CERTAIN TRANSFERS TO FOREIGN TRUSTS,
19 PARTNERSHIPS, OR ESTATES.—Any transfer (other than
20 in a sale or exchange for full and adequate considera-
21 tion) of money or other property to a foreign trust,
22 partnership, or estate (except to the extent that such
23 transfer results in an acquisition otherwise taxable under
24 this chapter) shall be deemed an acquisition by the
25 transferor of stock of a foreign issuer in an amount equal

1 to the actual value of the money or property transferred,
2 if and to the extent that such trust, partnership, or estate
3 is availed of to acquire stock or debt obligations of one or
4 more foreign issuers or obligors other than debt obliga-
5 tions having a period remaining to maturity of less than
6 three years.

7 "(2) CAPITAL CONTRIBUTIONS BY SHAREHOLD-
8 ERS.—Any transfer of money or other property as a
9 contribution to the capital of a foreign corporation by a
10 shareholder shall be deemed an acquisition by such
11 shareholder of stock of the foreign corporation in an
12 amount equal to the actual value of the money or prop-
13 erty transferred, for purposes of this chapter.

14 "(3) REORGANIZATION EXCHANGES.—Any acqui-
15 sition of stock or a debt obligation of a foreign issuer or
16 obligor in an exchange to which section 354, 355, or
17 356 applies shall be considered an acquisition from the
18 foreign issuer or obligor in exchange for its stock or for
19 its debt obligations.

20 **"SEC. 4913. LIMITATION ON TAX ON CERTAIN ACQUISI-**
21 **TIONS.**

22 "(a) GENERAL RULE.—If stock or a debt obligation of
23 a foreign issuer or obligor is acquired by a United States
24 person as the result of—

1 "(1) the surrender for cancellation of a debt obliga-
2 tion to the foreign obligor;
3 "(2) the extension or renewal of an existing debt
4 obligation requiring affirmative action of the obligee; or
5 "(3) the exercise of an option or similar right to
6 acquire such stock or debt obligation,
7 then the tax imposed on such acquisition shall not exceed
8 the amount determined under subsection (b).
9 "(b) LIMITATION.—The tax imposed upon an acquisi-
10 tion described in subsection (a) shall be limited to—
11 "(1) the amount of tax imposed by section 4911,
12 less
13 "(2) the amount of the tax that would have been
14 imposed under section 4911 if the debt obligation which
15 was surrendered, extended, or renewed, or the option or
16 similar right which was exercised, had been acquired in
17 a transaction subject to such tax immediately prior to
18 such surrender, extension, renewal, or exercise.
19 For purposes of this subsection, a defaulted debt obligation
20 of the government of a foreign country or a political sub-
21 division thereof (or an agency of such a government) which
22 has been in default for at least 10 years and which is sur-
23 rendered in exchange for another debt obligation of that
24 government (or agency) shall be deemed to have an actual

1 value and period remaining to maturity equal to that of the
2 debt obligation acquired.

3 **"SEC. 4914. EXCLUSION FOR CERTAIN ACQUISITIONS.**

4 "(a) TRANSACTIONS NOT CONSIDERED ACQUISI-
5 TIONS.—The term 'acquisition' shall not include—

6 "(1) any transfer between a person and his nomi-
7 nee, custodian, or agent;

8 "(2) any transfer described in section 4343 (a)
9 (relating to certain transfers by operation of law from
10 decedents, minors, incompetents, financial institutions,
11 bankrupts, successors, foreign governments and aliens,
12 trustees, and survivors);

13 "(3) any transfer to a United States person by gift,
14 legacy, bequest, or inheritance;

15 "(4) any distribution by a corporation to a
16 shareholder with respect to or in exchange for its stock;
17 or

18 "(5) any exercise of a right to convert a debt obli-
19 gation, pursuant to its terms, into stock.

20 "(b) EXCLUDED ACQUISITIONS.—The tax imposed by
21 section 4911 shall not apply to the acquisition—

22 "(1) THE UNITED STATES.—Of stock or debt
23 obligations by an agency or wholly-owned instrumental-
24 ity of the United States.

1 "(2) COMMERCIAL BANK LOANS.—Of stock or
2 debt obligations by a commercial bank in making loans
3 in the ordinary course of its commercial banking busi-
4 ness.
5 "(3) EXPORT CREDIT.—Of a debt obligation by a
6 United States person as all or part of the purchase price
7 of property manufactured, produced, grown, or ex-
8 tracted in the United States by such person (or by one
9 or more includible corporations in an 'affiliated group',
10 as defined in section 1504, of which such person is a
11 member), but only if such debt obligation is either held
12 to maturity (or until his death) by the United States
13 person or transferred to an agency or wholly-owned in-
14 strumentality of the United States or to a commercial
15 bank acquiring the debt obligation in the ordinary course
16 of its commercial banking business.
17 "(4) ACQUISITION REQUIRED UNDER FOREIGN
18 LAW.—Of stock or debt obligations by a United States
19 person doing business in a foreign country to the extent
20 that the acquisition is reasonably necessary to satisfy
21 minimum requirements relating to holdings of stock or
22 debt obligations of local issuers or obligors imposed by
23 the laws of such foreign country. For purposes of the
24 preceding sentence, in the event that the minimum
25 requirements referred to exceed the requirements, if

1 any, applicable in the foreign country on July 18, 1963,
2 such minimum requirements shall be determined as
3 though the requirements, if any, applicable on July 18,
4 1963, were in effect on the date of the acquisition.

5 **"SEC. 4915. EXCLUSION FOR DIRECT INVESTMENTS.**

6 "(a) GENERAL RULE.—The tax imposed by section
7 4911 shall not apply, except as provided in subsections (b)
8 and (c) of this section, to the acquisition by a United States
9 person of stock or a debt obligation of a foreign corporation
10 if immediately after the acquisition such person owns 10
11 percent or more of the total combined voting power of all
12 classes of stock of such foreign corporation. For purposes
13 of the preceding sentence, stock owned, directly or indi-
14 rectly, by or for a foreign corporation shall be considered
15 as being owned proportionately by its shareholders.

16 "(b) EXCEPTION FOR FOREIGN CORPORATIONS
17 FORMED OR AVAILED OF FOR TAX AVOIDANCE.—

18 "(1) IN GENERAL.—The exclusion from tax pro-
19 vided for in subsection (a) shall be inapplicable in any
20 case where the foreign corporation is formed or availed
21 of by the United States person for the principal pur-
22 pose of acquiring, through such corporation, an interest
23 in stock or debt obligations of one or more other foreign
24 issuers or obligors, the direct acquisition of which by the

1 United States person would be subject to the tax imposed
2 by section 4911.
3 "(2) REQUIRED HOLDINGS, UNDERWRITERS, AND
4 COMMERCIAL BANKS.—For purposes of this subsection,
5 the acquisition by a United States person of stock or
6 debt obligations of a foreign corporation which acquires
7 stock or debt obligations of foreign issuers or obligors—
8 "(A) to satisfy minimum requirements relating
9 to holdings of stock or debt obligations of local
10 issuers or obligors imposed by the laws of foreign
11 countries where such foreign corporation is doing
12 business,
13 "(B) in the ordinary course of its business of
14 underwriting and distributing securities issued by
15 other persons, or acting as a broker, or
16 "(C) in making loans in the ordinary course
17 of its business as a commercial bank,
18 shall not, by reason of such acquisitions by the foreign
19 corporation, be considered an acquisition by the United
20 States person of an interest in stock or debt obligations
21 of foreign issuers or obligors.
22 "(c) EXCEPTION FOR ACQUISITIONS MADE WITH
23 INTENT TO SELL TO UNITED STATES PERSONS.—The ex-
24 clusion from tax provided for in subsection (a) shall be inap-
25 plicable in any case where the acquisition of stock or debt

1 obligations of the foreign corporation is made with an intent
2 to sell, or to offer to sell, any part of the stock or debt obliga-
3 tions acquired to United States persons.

4 "SEC. 4916. EXCLUSION FOR INVESTMENTS IN LESS DE-
5 VELOPED COUNTRIES.

6 "(a) GENERAL RULE.—The tax imposed by section
7 4911 shall not apply to the acquisition by a United States
8 person of—
9 "(1) a debt obligation issued or guaranteed by the
10 government of a less developed country or a political
11 subdivision thereof, or by an agency of such a govern-
12 ment; or
13 "(2) stock or a debt obligation of a less developed
14 country corporation.
15 "(b) LESS DEVELOPED COUNTRY DEFINED.—For pur-
16 poses of this section, the term 'less developed country' means
17 any foreign country (other than an area within the Sino-
18 Soviet bloc) with respect to which, as of the date of an
19 acquisition referred to in subsection (a), there is in effect
20 an Executive order by the President of the United States
21 designating such country as an economically less developed
22 country for purposes of the tax imposed by section 4911.
23 For purposes of the preceding sentence, Executive Order
24 Numbered 11071, dated December 27, 1962 (designating
25 certain areas as economically less developed countries for

1 purposes of subparts A and F of part III of subchapter N,
2 and section 1248 of part IV of subchapter P, of chapter 1),
3 shall be deemed to have been issued and in effect for pur-
4 poses of the tax imposed by section 4911 on July 18, 1963,
5 and continuously thereafter until there is in effect the
6 Executive order referred to in the preceding sentence. An
7 overseas territory, department, province, or possession of
8 any foreign country may be designated as a separate country.
9 No designation shall be made under this subsection with
10 respect to any of the following:

| | | |
|---|---|---|
| 11 | Australia | Luxembourg |
| 12 | Austria | Monaco |
| 13 | Belgium | Netherlands |
| 14 | Canada | New Zealand |
| 15 | Denmark | Norway |
| 16 | France | Republic of South Africa |
| 17 | Germany (Federal Republic) | San Marino |
| 18 | Hong Kong | Spain |
| 19 | Italy | Sweden |
| 20 | Japan | Switzerland |
| 21 | Liechtenstein | United Kingdom. |

22 After the President (under the first sentence of this subsec-
23 tion) has designated any foreign country as an economically
24 less developed country for purposes of the tax imposed by

1 section 4911, he shall not terminate such designation (either
2 by issuing an Executive order for that purpose or by issuing
3 an Executive order which has the effect of terminating such
4 designation) unless, at least thirty days prior to such termina-
5 tion, he has notified the Senate and the House of Representa-
6 tives of his intention to terminate such designation.

7 "(c) LESS DEVELOPED COUNTRY CORPORATION DE-
8 FINED.—

9 "(1) IN GENERAL.—For purposes of this section,
10 the term 'less developed country corporation' shall have
11 the same meaning as it has for purposes of section
12 955(c) (1) and (2) and the regulations thereunder,
13 except that the determination of whether a corporation is
14 a less developed country corporation shall be made (A)
15 with respect to the most recent complete annual account-
16 ing period of such corporation, except as provided in
17 paragraph (2), and (B) in accordance with the
18 foreign country's status under subsection (b) of this
19 section.

20 "(2) SPECIAL RULE FOR ORIGINAL OR NEW
21 ISSUES.—A foreign corporation shall be treated, for
22 purposes of this section, as a less developed country
23 corporation with respect to an acquisition of its stock
24 or debt obligations by a United States person as all or

1 part of an original or new issue if, prior to such acquisi-
2 tion, it is established to the satisfaction of the Secretary
3 or his delegate that such foreign corporation—
4 "(A) has satisfied the requirements of sub-
5 paragraphs (A) and (B) of section 955(c) (1) or
6 subparagraphs (A) and (B) of section 955(c)
7 (2) for such period of time as the Secretary
8 or his delegate may by regulations prescribe, and
9 "(B) may thereafter be reasonably expected to
10 continue to satisfy such requirements for such fur-
11 ther period of time as the Secretary or his delegate
12 may by regulations prescribe,
13 taking into account for purposes of this paragraph only
14 that portion of the corporation's gross income which is
15 properly attributable to the periods of time prescribed
16 and only those days which are within such periods.

17 **"SEC. 4917. EXCLUSION FOR NEW ISSUES WHERE RE-**
18 **QUIRED FOR INTERNATIONAL MONETARY**
19 **STABILITY.**

20 "If the President shall at any time determine that the
21 application of the tax imposed by section 4911 will have
22 such consequences for a foreign country as to imperil or
23 threaten to imperil the stability of the international monetary
24 system, he may by Executive order specify that such tax
25 shall not apply to the acquisition by a United States person

1 of stock or a debt obligation of such foreign country, any
2 agency or political subdivision thereof, any corporation,
3 partnership, or trust (other than a company registered
4 under the Investment Company Act of 1940) organized
5 under its laws, or any individual resident therein, to the
6 extent that such stock or debt obligation is acquired as all
7 or part of an original or new issue which is registered under
8 the Securities Act of 1933 or as to which there is filed
9 such prior notification of issue as the Secretary or his
10 delegate may prescribe by regulations. Such Executive
11 order may be applicable to all such issues or to any aggregate
12 amount or classification thereof which shall be stated therein
13 and shall apply to acquisitions occurring during such period
14 of time as shall be stated therein. If the order is applicable
15 to a limited aggregate amount of such issues it shall apply
16 to those issues as to which registration statements under the
17 Securities Act of 1933 first become effective, or the ac-
18 quisition of which pursuant to notification first occurs, during
19 the period specified in the order.

20 **"SEC. 4918. EXEMPTION FOR PRIOR AMERICAN OWNER-**
21 **SHIP.**

22 "(a) GENERAL RULE.—The tax imposed by section
23 4911 shall not apply to an acquisition of stock or a debt
24 obligation of a foreign issuer or obligor if it is established
25 by clear and convincing evidence that the person from whom

1 such stock or debt obligation was acquired was a United
2 States person throughout the period of his ownership or con-
3 tinuously since July 18, 1963.

4 "(b) CERTIFICATE OF AMERICAN OWNERSHIP.—For
5 purposes of subsection (a), a certificate of American owner-
6 ship (executed and filed in such manner and setting forth
7 such information as the Secretary or his delegate may by
8 regulations prescribe) received in connection with an ac-
9 quisition shall be conclusive proof for purposes of this ex-
10 emption of prior American ownership unless the person
11 making such acquisition has actual knowledge that the
12 certificate is false in any material respect.

13 "SEC. 4919. SALES BY UNDERWRITERS AND DEALERS TO
14 FOREIGN PERSONS.

15 "(a) CREDIT OR REFUND.—The tax paid under section
16 4911 on the acquisition of stock or debt obligations of a
17 foreign issuer or obligor shall constitute an overpayment of
18 tax to the extent that such stock or debt obligations—

19 "(1) PRIVATE PLACEMENTS.—Are acquired by an
20 underwriter from the foreign issuer or obligor and are
21 sold directly by the underwriter to persons other than
22 United States persons in transactions not involving a
23 public offering;

24 "(2) PUBLIC OFFERINGS.—Are acquired by an
25 underwriter from the foreign issuer or obligor for dis-

1 tribution in connection with a public offering registered
2 with the Securities and Exchange Commission and are
3 sold as part of such public offering by the underwriter
4 (including sales by other United States persons partici-
5 pating in the distribution of the stock or debt obligations
6 acquired by the underwriter) to persons other than
7 United States persons; or
8 "(3) FOREIGN DOLLAR BONDS.—Consist of foreign
9 dollar bonds acquired by a dealer in the ordinary course
10 of his business and sold by the dealer to persons other
11 than United States persons within 30 days after their
12 acquisition.
13 Under regulations prescribed by the Secretary or his dele-
14 gate, credit or refund (without interest) shall be allowed or
15 made with respect to such overpayment.
16 "(b) EVIDENCE TO SUPPORT CREDIT OR REFUND.—An
17 underwriter claiming credit or refund under this section
18 shall file with the return required by section 6011(d) on
19 which credit is claimed, or with the claim for refund, such
20 information as the Secretary or his delegate may by regu-
21 lations prescribe. Credit or refund shall not be allowed with
22 respect to stock or debt obligations sold by a United States
23 person participating in the distribution of the stock or debt
24 obligations acquired by ~~the~~ underwriter unless the under-

1 writer ~~shall~~ establish by clear and convincing evidence that
2 such stock or debt obligations were sold to persons other
3 than United States persons. For purposes of the preceding
4 sentence, a certificate of sales to foreign persons (executed in
5 such manner by the United States person making such sales,
6 filed in such manner, and setting forth such information as
7 the Secretary or his delegate may by regulations prescribe)
8 shall be conclusive proof for purposes of the credit or refund
9 that such sales were made to a person other than a United
10 States person unless the underwriter relying upon the cer-
11 tificate has actual knowledge that the certificate is false in
12 any material respect. In any case where two or more
13 underwriters form a purchasing and selling group for the
14 purpose of acquiring stock or debt obligations of a single
15 foreign issuer or obligor, the filing of a certificate of sales
16 to foreign persons by any one of such underwriters may, to
17 the extent provided by regulations prescribed by the Secre-
18 tary or his delegate, constitute the filing of such certificate
19 for all of such underwriters.
20 "(c) DEFINITIONS.—For purposes of this section—
21 "(1) the term 'underwriter' means any person who
22 has purchased stock or debt obligations from the issuer
23 or obligor thereof with a view to the distribution through
24 resale of such stock or debt obligations;

1 "(2) the term 'dealer' means any person who is
2 a member of the National Association of Securities
3 Dealers and who is regularly engaged, as a merchant, in
4 purchasing stock and debt obligations and selling them
5 to customers with a view to the gains and profits that
6 may be derived therefrom; and
7 "(3) the term 'foreign dollar bonds' means any
8 debt obligations of a foreign obligor under the terms of
9 which principal and interest are payable only in United
10 States currency.
11 **"SEC. 4920. DEFINITIONS.**
12 "For purposes of this chapter—
13 "(1) DEBT OBLIGATION.—
14 "(A) IN GENERAL.—Except as provided in
15 subparagraph (B), the term 'debt obligation'
16 means—
17 "(i) any indebtedness, whether or not
18 represented by a bond, debenture, note, certifi-
19 cate, or other writing, whether or not secured
20 by a mortgage, and whether or not bearing
21 interest; and
22 "(ii) any interest in, or any option or
23 similar right to acquire, a debt obligation re-

1 ferred to in this subparagraph, whether or not
2 such interest, option, or right is in writing.
3 "(B) EXCEPTIONS.—The term 'debt obliga-
4 tion' shall not include any obligation which—
5 "(i) is convertible by its terms into stock
6 of the obligor;
7 "(ii) is received as compensation for the
8 performance of services by a United States
9 person; or
10 "(iii) arises out of the divorce, separate
11 maintenance, or support of a United States
12 person.
13 "(2) STOCK.—The term 'stock' means—
14 "(A) any stock, share, or other capital interest
15 in a corporation, association, insurance company, or
16 joint-stock company;
17 "(B) any interest of a limited partner in a
18 limited partnership;
19 "(C) any interest in an investment trust;
20 "(D) any indebtedness which is convertible
21 by its terms into stock of the obligor; and
22 "(E) any interest in, or option or similar right
23 to acquire, any stock described in this paragraph.
24 "(3) FOREIGN ISSUER OR OBLIGOR.—The terms
25 'foreign issuer', 'foreign obligor', and 'foreign issuer or

1 obligor' mean any issuer of stock or obligor of a debt
2 obligation, as the case may be, which is—
3 "(A) (i) an international organization of which
4 the United States is not a member,
5 "(ii) the government of a foreign country or
6 any political subdivision thereof, or an agency of
7 such a government, or
8 "(iii) a corporation, association, insurance
9 company, joint-stock company, partnership, or
10 estate or trust which is not a United States person
11 as defined in paragraph (4), or a nonresident alien
12 individual;
13 "(B) a domestic corporation (other than a
14 domestic corporation described in subparagraph
15 (C)) formed or availed of for the principal purpose
16 of obtaining capital for any ~~other~~ person referred to
17 in this paragraph; or

not made in bill

18 "(C) a domestic corporation which, as of July
19 18, 1963, was a management company registered
20 under the Investment Company Act of 1940 (15
21 U.S.C. 80a–1—80b–2) if—
22 "(i) at least 80 percent of the value of the
23 stock and debt obligations owned by such cor-
24 poration on July 18, 1963, and at least 80 per-
25 cent of the value of the stock and debt obliga-

1 tions owned by such corporation at the end of
2 every calendar quarter thereafter, consists of
3 stock or debt obligations of foreign issuers or
4 obligors;
5 "(ii) such corporation elects to be treated
6 as a foreign issuer or obligor for purposes of this
7 chapter; and
8 "(iii) such corporation does not materially
9 increase its assets during the period from July
10 18, 1963, to the date of such election through
11 borrowing or through issuance or sale of its
12 stock (other than stock issued or sold on or
13 before September 15, 1963, as part of a public
14 offering with respect to which a registration
15 statement was first filed with the Securities and
16 Exchange Commission on July 18, 1963, or
17 within 90 days prior thereto).
18 The election under clause (ii) shall be made on
19 or before the thirtieth day after the date of the
20 enactment of this chapter under regulations pre-
21 scribed by the Secretary or his delegate. Such
22 election shall be effective as of the date specified
23 by the corporation, but not later than the date on
24 which such election is made, and shall remain in

1 effect until revoked. If, at the close of any suc-
2 ceeding calendar quarter, the company ceases to
3 meet the requirement of clause (i), the election
4 shall thereupon be deemed revoked. When an elec-
5 tion is revoked no further election may be made.
6 If the assets of a foreign corporation are acquired
7 by a domestic corporation in a reorganization de-
8 scribed in subparagraph (F) of section 368 (a) (1),
9 the two corporations shall be considered a single
10 domestic corporation for purposes of this subpar-
11 agraph.

12 "(4) UNITED STATES PERSON.—The term 'United
13 States person' means—

14 "(A) a citizen or resident of the United States,

15 "(B) a partnership created or organized in the
16 United States or under the laws of the United States
17 or of any State,

18 "(C) a corporation created or organized in the
19 United States or under the laws of the United
20 States or of any State, other than a corporation
21 described in subparagraph (B) or (C) of para-
22 graph (3),

23 "(D) an agency or wholly-owned instrumen-
24 tality of the United States,

1 "(E) a State or any agency, instrumentality,
2 or political subdivision thereof, and
3 "(F) any estate or trust—
4 "(i) the income of which from sources
5 without the United States is includible in gross
6 income under subtitle A (or would be so in-
7 cludible if not exempt from tax under section
8 501 (a), section 521 (a), or section 584 (b)),
9 or
10 "(ii) which is situated in the Common-
11 wealth of Puerto Rico or a possession of the
12 United States.
13 As used in this paragraph, the term 'United States' in a
14 geographical sense includes the States, the District of
15 Columbia, the Commonwealth of Puerto Rico, and the
16 possessions of the United States, and the term 'State'
17 includes the District of Columbia, the Commonwealth of
18 Puerto Rico, and the possessions of the United States.
19 "(5) PERIOD REMAINING TO MATURITY.—
20 "(A) IN GENERAL.—Subject to the modifica-
21 tions set forth in subparagraph (B), the period re-
22 maining to maturity of a debt obligation shall be
23 that period beginning on the date of its acquisition
24 and ending on the fixed or determinable date when,

1 according to its terms, the final payment of principal
2 becomes due.
3 "(B) MODIFICATIONS.—The period remaining
4 to maturity—
5 "(i) of any interest in, or any option or
6 similar right to acquire, any debt obligation
7 shall be the period remaining to maturity of that
8 debt obligation;
9 "(ii) of any debt obligation which is re-
10 newable without affirmative action by the
11 obligee, or of any interest in or option or simi-
12 lar right to acquire such a debt obligation, shall
13 end on the last day of the final renewal period;
14 and
15 "(iii) of a debt obligation which is subject
16 to retirement prior to its maturity through op-
17 eration of a mandatory sinking fund shall be de-
18 termined under regulations prescribed by the
19 Secretary or his delegate."
20 (b) TECHNICAL AMENDMENT.—The table of chapters
21 for subtitle D is amended by adding at the end thereof the
22 following item:

"CHAPTER 41. Interest equalization tax."

22 (c) EFFECTIVE DATE.—
23 (1) GENERAL RULE.—Except as provided by par-

1 agraphs (2) (3), (4), (5), and (6), the amend-
2 ments made by this section shall apply with respect to
3 acquisitions of stock and debt obligations made after
4 July 18, 1963.

5 (2) PREEXISTING COMMITMENTS.—Such amend-
6 ments shall not apply to an acquisition made pursuant to
7 an obligation to acquire which on July 18, 1963—

8 (A) was unconditional, or

9 (B) was subject only to conditions contained
10 in a formal contract under which partial perform-
11 ance had occurred.

12 (3) PUBLIC OFFERING.—Such amendments shall
13 not apply to an acquisition made on or before September
14 15, 1963, if—

15 (A) a registration statement (within the
16 meaning of the Securities Act of 1933) was in
17 effect with respect to the stock or debt obligation
18 acquired at the time of its acquisition;

19 (B) the registration statement was first filed
20 with the Securities and Exchange Commission on
21 July 18, 1963, or within 90 days prior thereto; and

22 (C) no amendment was filed with the Securi-
23 ties and Exchange Commission after July 18, 1963,
24 and prior to the acquisition which had the effect
25 of increasing the number of shares of stock or the

1 aggregate face amount of the debt obligations cov-
2 ered by the registration statement.
3 (4) LISTED SECURITIES.—Such amendments shall
4 not apply to an acquisition made on or before August 16,
5 1963, if the stock or debt obligation involved was ac-
6 quired on a national securities exchange registered with
7 the Securities and Exchange Commission.
8 (5) OPTIONS AND FORECLOSURES.—Such amend-
9 ments shall not apply to an acquisition—
10 (A) of stock pursuant to the exercise of an
11 option or similar right, if such option or similar right
12 was held on July 18, 1963, by the person making
13 the acquisition, or
14 (B) of stock or debt obligations as a result of a
15 foreclosure by a creditor pursuant to the terms of an
16 instrument held by such creditor on July 18, 1963.
17 (6) DOMESTICATION.—Such amendments shall not
18 apply to the acquisition by a domestic corporation of
19 the assets of a foreign corporation pursuant to a reorgan-
20 ization described in subparagraph (F) of section
21 368(a)(1) if the acquisition occurs prior to January
22 1, 1964, and the foreign corporation was a management
23 company registered under the Investment Company
24 Act of 1940 (15 U.S.C. 80a-1—80b-2) from July 18,
25 1963, until the time of the acquisition.

1 (7) MEANING OF TERMS.—Terms used in this sub-
2 section (except as specifically otherwise provided) shall
3 have the same meaning as when used in chapter 41 of
4 the Internal Revenue Code of 1954.

5 **SEC. 3. RETURNS.**

6 (a) MAKING OF RETURNS.—Section 6011 (relating to
7 general requirement of return, statement, or list) is
8 amended by redesignating subsection (d) as subsection (e),
9 and by adding after subsection (c) the following new
10 subsection:

11 "(d) INTEREST EQUALIZATION TAX RETURNS.—
12 Every person shall make a return for each calendar quarter
13 during which he incurs liability for the tax imposed by sec-
14 tion 4911, or would so incur liability but for the provisions
15 of section 4918. The return shall, in addition to such other
16 information as the Secretary or his delegate may by regula-
17 tions require, include a list of all acquisitions made by such
18 person during the calendar quarter which are exempt under
19 the provisions of section 4918, and shall be accompanied by
20 clear and convincing evidence showing that the acquisitions
21 are so exempt."

22 (b) TIME FOR FILING RETURNS.—Part V of sub-
23 chapter A of chapter 61 (relating to time for filing returns
24 and other documents) is amended by adding at the end
25 thereof the following new section:

1 "SEC. 6076. TIME FOR FILING INTEREST EQUALIZATION
2 TAX RETURNS.

3 "Each return made under section 6011 (d) (relating to
4 interest equalization tax) shall be filed on or before the
5 last day of the first month following the period for which
6 it is made."

7 (c) CLERICAL AMENDMENT.—The table of sections for
8 part V of subchapter A of chapter 61 is amended by adding
9 at the end thereof the following:

"Sec. 6076. Time for filing interest equalization tax returns."

10 (d) FIRST RETURN PERIOD.—Notwithstanding any
11 provision of section 6011 (d) of the Internal Revenue Code
12 of 1954, the first period for which returns shall be made
13 under such section 6011 (d) shall be the period commencing
14 July 19, 1963, and ending at the close of the calendar quar-
15 ter in which the enactment of this Act occurs.

16 SEC. 4. DISALLOWANCE OF DEDUCTION FOR AMOUNT
17 PAID AS INTEREST EQUALIZATION TAX.

18 Section 263 (a) (relating to capital expenditures) is
19 amended by adding at the end thereof the following new
20 paragraph:

21 "(3) Any amount paid as tax under the provisions
22 of section 4911 (relating to imposition of interest
23 equalization tax) except to the extent that any amount

1 attributable to the amount paid as tax is included as
2 gross income for the taxable year."

3 **SEC. 5. PENALTIES.**

4 (a) ASSESSABLE PENALTIES.—Subchapter B of chapter
5 68 (relating to assessable penalties) is amended by adding
6 at the end thereof the following new sections:

7 **"SEC. 6680. FAILURE TO FILE INTEREST EQUALIZATION**
8 **TAX RETURNS.**

9 "In addition to the penalty imposed by section 7203
10 (relating to willful failure to file return, supply information,
11 or pay tax), any person who is required under section
12 6011(d) (relating to interest equalization tax returns) to
13 file a return for any period in respect of which, by reason of
14 the provisions of section 4918 or 4919, he incurs no liability
15 for payment of the tax imposed by section 4911, and who
16 fails to file such return within the time prescribed by section
17 6076, shall pay a penalty of $10 or 5 percent of the amount
18 of tax for which he would incur liability for payment under
19 section 4911 but for the provisions of section 4918 or 4919,
20 whichever is the greater, for each such failure unless it is
21 shown that the failure is due to reasonable cause. The
22 penalty imposed by this section shall not exceed $1,000
23 for each failure to file a return.

1 "SEC. 6681. FALSE EQUALIZATION TAX CERTIFICATES.
2 "(a) FALSE CERTIFICATE OF AMERICAN OWNER-
3 SHIP.—In addition to the criminal penalty imposed by section
4 7241, any person who willfully executes a certificate of
5 American ownership described in section 4918 (b) which
6 contains a misstatement of material fact shall be liable to a
7 penalty equal to 125 percent of the amount of the tax im-
8 posed by section 4911 on the acquisition of the stock or debt
9 obligation involved which, but for the provisions of section
10 4918 (b), would be payable by the person acquiring the
11 stock or debt obligation.
12 "(b) FALSE CERTIFICATE OF SALES TO FOREIGN PER-
13 SONS.—In addition to the criminal penalty imposed by section
14 7241, any person who willfully executes a certificate of sales
15 to foreign persons described in section 4919 (b) which con-
16 tains a misstatement of material fact shall be liable to a
17 penalty equal to 125 percent of the amount of the tax im-
18 posed by section 4911 on the acquisition of the stock or debt
19 obligation involved which, but for the provisions of section
20 4919 (b), would be payable by the underwriter acquiring
21 the stock or debt obligation.
22 "(c) PENALTY TO BE IN LIEU OF TAX IN CERTAIN
23 CASES.—Unless the person acquiring the stock or debt ob-

1 ligation involved had actual knowledge that the certificate
2 was false in any material respect, the penalty under sub-
3 section (a) or (b) shall be in lieu of any tax on the acquisi-
4 tion of such stock or debt obligation under section 4911."
5 (b) CRIMINAL PENALTY.—Part II of subchapter A
6 of chapter 75 (relating to penalties applicable to certain
7 taxes) is amended by adding at the end thereof the follow-
8 ing new section:
9 **"SEC. 7241. PENALTY FOR FRAUDULENT EQUALIZATION**
10 **TAX CERTIFICATES.**
11 "Any person who willfully executes a certificate of
12 American ownership described in section 4918 (b), or a cer-
13 tificate of sales to foreign persons described in section
14 4919 (b), which is known by him to be fraudulent or to be
15 false in any material respect shall be guilty of a misde-
16 meanor and, upon conviction thereof, shall for each offense
17 be fined not more than $1,000, or imprisoned not more than
18 1 year, or both."
19 (c) CLERICAL AMENDMENTS.—
20 (1) The table of sections for subchapter B of
21 chapter 68 is amended by adding at the end thereof
22 the following:

"Sec. 6680. Failure to file interest equalization tax returns.
"Sec. 6681. False equalization tax certificates."

1 (2) The table of sections for part II of subchapter
2 A of chapter 75 is amended by adding at the end
3 thereof the following:

"Sec. 7241. Penalty for fraudulent equalization tax certificates."

[DISCUSSION DRAFT]

AUGUST 8, 1963

88TH CONGRESS
1ST SESSION

# H. R.

# A BILL

To amend the Internal Revenue Code of 1954 to impose a tax on acquisitions of certain foreign securities in order to equalize costs of longer-term financing in the United States and in markets abroad, and for other purposes.

By Mr. ________________

AUGUST , 1963

Referred to the Committee on ______________________

NEW YORK TIMES
July 22, 1963

# *Japan Fund Given Exemption on Tax*

The Japan Fund, Inc., announced over the weekend that the United States Treasury Department would recommend that it be exempt from certain provisions of proposed interest-equalization tax legislation.

These would include the fund's investment of the proceeds of its rights offering, which started on July 10 and expires on July 24 (Wednesday), and the fund's investment of the proceeds of sales of securities in its portfolio.

The fund said the recommendation was made for the purpose of leaving the fund free to manage its portfolio in the event of the passage of the proposed legislation and it would be conditioned on the fund's refraining from raising new money from United States sources and from issuing certificates of American ownership in connection with any sales made of its foreign securities.

The Japan Fund is a closed-end investment company, specializing in Japanese securities. The present offering of rights is being underwritten by Bache & Co.; Paine, Webber, Jackson & Curtis, and the Nikko Securities Company, Ltd.

NEW YORK TIMES
July 22, 1963

# Tax Forms, 3625 and 2626, Set For Levy on Foreign Securities

**By ROBERT METZ**

Critics of President Kennedy's "interest-equalization taz" find it curious that befor a bill to implement the tax on purchases of new foreign securities has even been written, two tax forms have already been introduced.

The forms are designed to help Americans prove, in appropriate cases, that they bought their securities from Americans and are thus exempt from the tax. The tax is 15 per cent on purchases of stocks from foreigners, and it ranges from 2.75 to 15 per cent on such purchases of foreign bonds.

The effective date of the new tax is July 18, if the securities are purchased over the counter, the informal market that is most widely used by buyers and sellers of foreign securities—and it is Aug. 16 for securities purchasek on the major stock exchanges—assuming the measure is adopted by Congress. This is doubtful many believe, since a retroactive feature is involved. Congress has proved loath to pass retroactive legislation in the past.

At any rate, as long as the measure is under consideration, the forms will have to be filled out just in case.

There are two forms, 3625 and. 3626 Substitute forms supplying all the information required by the form will be acceptable. Form 3625 is for actual owners, the other form is for "nominees." Nominees are those with power of attorney over securities, such as bank officers who buy and sell for trust beneficiaries.

The Treasury Department injected a note of whimsy in filling out sample forms. On form 3625, the "name of issuer or obligor" was "Foreign Widgets, Inc.; the transferor, Ajax Securities Corporation, John drinker, president. The transferor's signature must be guaranteed by a bank or member of the National Association of Securities Dealers. In this case, Dealer & Co., L. R. Dealer, Secretary.

For those who are not exempt, the Treasury stated:

"The tax is not a stamp tax. A United States person who axquires any foreign stock or debt obligation will be required to file a return and pay the tax at the time of filing. The first of such returns will be due at the end of the first full calendar month following the end of the calendar quarter in which implementing legislation is enacted and will cover all prior acquisitions subject to its provisions." The department continued:

"Returns thereafter will be due at the end of the calendar month following each calendar quarter in which a United States person makes any acquisition subject to the legislation.

"This tax will not be deductible for Federal income tax purposes, but will be included in the adjusted basis of the foreign stock or debt obligation acquired."

The rate of tax will be figured forom the period beginning with the date of acquisition and ending at maturity. The maturity of an obligation is the latest date on which, under its terms, the amount payable to the holder of such obligation may remain outstanding.

July 18, 1963

# DETAILED EXPLANATION OF THE INTEREST EQUALIZATION TAX

## 1. General Description of the Tax.

The proposed Interest Equalization Tax is a special excise tax to be imposed through the end of 1965 on the acquisition of foreign stock, securities or obligations, other than those specifically exempted. The tax is payable by all United States persons, including organizations exempt from federal income tax. It is based on the actual value of the interest acquired; in the case of debt securities or obligations, the rate of tax will vary with the period remaining until maturity. The tax applies to portfolio purchases of foreign securities, whether representing new or already outstanding issues, and whether the acquisition is effected in the United States or abroad. It does not apply, however, to purchases of securities presently held by Americans.

The tax will not generally be applicable to direct investments by United States persons in overseas subsidiaries or affiliates, nor will it apply to any indebtedness payable upon demand or maturing in less than three years. Moreover, loans made by commercial banks in the ordinary course of their banking business will be exempted. The tax will not be applied to purchases of securities issued by international organizations of which the United States is a member, governments of countries considered to be less developed, and corporations whose principal activities are centered in less developed countries.

The tax is not a stamp tax. A United States person who acquires any foreign stock or debt obligation will be required to file a return and pay the tax at the time of filing. The first of such returns will be due at the end of the first full calendar month following the end of the calendar quarter in which implementing legislation is enacted and will cover all prior acquisitions subject to its provisions. Returns thereafter will be due at the end of the calendar month following each calendar quarter in which a United States person makes any acquisition subject to the legislation.

The tax is applicable to acquisitions occurring after the date of the President's Message in which it was proposed. Since an acquisition is deemed to occur when the purchaser first becomes unconditionally obligated to buy, the tax does not apply to purchase commitments made on the open market on or before the date of the President's Message, or to other purchases which the buyer on that date was unconditionally obligated to make. Substantial evidence will be required, however, to demonstrate the existence of such an obligation. The tax is also inapplicable to acquisitions made within 60 days after the date of the President's Message if the foreign stock or debt obligation acquired was covered by a registration statement filed with the Securities and Exchange Commission within 90 days prior to the date of the President's Message.

This tax will not be deductible for federal income tax purposes, but will be included in the adjusted basis of the foreign stock or debt obligation acquired.

2. Rate and Computation of Tax.

The tax is based upon the actual value of the interest acquired, actual value being determined under principles established by the Treasury Regulations pertaining to the documentary stamp tax on original issues of stock. Under these rules, the price agreed upon by parties dealing at arm's length in a transaction subject to no special conditions constitutes actual value. See Treas. Reg. §47.4301-1(b)(2)(ii).

In the case of stock or other equity interests, the rate of tax is 15 percent. In the case of debt obligations, the rate of tax is a percentage varying, in accordance with the period remaining before maturity, as follows:

| Maturity | Tax Rate |
|---|---|
| At least 3 years, but less than 3 1/2 years | 2.75% |
| " " 3 1/2 " " " " 4 1/2 " | 3.55 |
| " " 4 1/2 " " " " 5 1/2 " | 4.35 |
| " " 5 1/2 " " " " 6 1/2 " | 5.10 |
| " " 6 1/2 " " " " 7 1/2 " | 5.80 |
| " " 7 1/2 " " " " 8 1/2 " | 6.50 |
| " " 8 1/2 " " " " 9 1/2 " | 7.10 |
| " " 9 1/2 " " " " 10 1/2 " | 7.70 |
| " " 10 1/2 " " " " 11 1/2 " | 8.30 |
| " " 11 1/2 " " " " 13 1/2 " | 9.10 |
| " " 13 1/2 " " " " 16 1/2 " | 10.30 |
| " " 16 1/2 " " " " 18 1/2 " | 11.85 |
| " " 18 1/2 " " " " 21 1/2 " | 12.25 |
| " " 21 1/2 " " " " 23 1/2 " | 13.05 |
| " " 23 1/2 " " " " 26 1/2 " | 13.75 |
| " " 26 1/2 " " " " 28 1/2 " | 14.35 |
| 28 1/2 years or more | 15.00 |

In determining the rate of tax applicable to the acquisition of an obligation, the actual period of time beginning with the date of acquisition and ending at maturity is taken into account. The maturity of an obligation is deemed to be the latest date on which, under its terms, the amount payable to the holder of such obligation may remain outstanding. Thus, for example, the 13.75 percent rate applies if payment is not absolutely required in less than 23 1/2 years. Where an obligation is renewable without affirmative action manifesting consent on the part of the holder, the period to maturity is considered to include any renewal period. Any extension of the term of an existing obligation through affirmative action on the part of the holder will be regarded as the acquisition of a new debt obligation with a remaining period to maturity equal to the remaining life of the old obligation plus the extension period.

The computation of the tax may be illustrated by the following examples:

Example 1

On June 1, 1964, A, a United States citizen, purchases from B, a nonresident alien, 20-year bonds of X, a foreign government, having an actual value of $20,000. The bonds mature on December 31, 1974 and therefore have a remaining period to maturity of 10 years and 7 months. Assuming that the transaction is not exempt, A would incur a tax of 8.30 percent of the actual value of the bonds or $1,660.

Example 2

The facts are the same as in Example (1) except that, under the terms of the bonds, the obligation is automatically renewable for an additional period of 10 years if the holder does not demand payment within 30 days following the elapse of the initial term. The period to maturity is deemed to include the renewal period of 10 years. Accordingly, assuming that the transaction is not exempt, A would incur a tax of 12.25 percent of the actual value of the bonds or $2,500.

Example 3

In 1962, C, a domestic corporation, acquires from Y, a foreign corporation, 5-year promissory notes of Y with a face value of $17,500. In 1965, C surrenders the notes to Y in exchange for new 30-year bonds of Y. The new bonds have an actual value of $18,000. The period to maturity is deemed to include the entire period to maturity of the new bonds, or 30 years. Accordingly, assuming that the transaction is not exempt, C will incur a tax of 15 percent of the actual value of the new bonds or $2,700.

Example 4

In January of 1964, D, a United States citizen, acquires from Z, a foreign corporation, on original issue, its 15-year bonds, having an actual value of $10,000. Under the terms of the indenture securing the issue of bonds, a sinking fund is to be accumulated by Z and used at the end of each year to retire bonds to be selected by lot. The bonds are considered to have a maturity of 15 years. Accordingly, assuming that the transaction is not exempt, D would incur a tax of 10.30 percent of the actual value of the bonds or $1,030.

3. Persons Subject to the Tax.

Every United States citizen, every resident individual or partnership, and every domestic corporation, estate or trust is subject to the tax. These terms have the meaning already assigned to them by the Internal Revenue Code; such persons are generally referred to as United States persons. Determination of liability for the tax is made as of the time of acquisition, and later changes in status have no effect. As set forth in paragraph 7, however, foreign stock or debt obligations cannot be acquired free of tax from a person who has not been a United States person throughout his entire period of ownership of such interest or continuously since the date of the President's Message.

These rules may be illustrated by the following examples:

Example 1

In 1964, A, a United States trust, all the beneficiaries of which are nonresident aliens, acquires stock in N, a foreign corporation. Assuming that the transaction is not exempt, A is subject to tax.

Example 2

On June 1, 1964, B, a citizen and resident of foreign country X, acquires bonds of foreign corporation O. On July 1, 1964, B becomes a resident of the United States and on July 15, 1964, acquires additional bonds of O. The June 1, 1964, acquisition of bonds by B is not subject to tax, and no tax is payable by B upon becoming a United States resident. However, assuming that the transaction is not exempt, the July 15, 1964, acquisition is subject to tax.

4. Interests the Acquisition of Which Is Subject to Tax.

The tax applies to the acquisition of any stock, security or other debt obligation of any international organization, foreign government (including any agency or political subdivision thereof), foreign corporation, partnership, estate or trust, or a nonresident alien individual, unless acquisition of the stock or obligation is covered by an exemption described in paragraph 5 or such transaction is an excluded acquisition described in paragraph 7. The status of the shareholders of a foreign corporation, members of a foreign partnership or beneficiaries of a foreign estate or trust is irrelevant for this purpose. The tax applies to the acquisition of any stock or obligation, whether or not negotiable and whether or not represented by a certificate or other writing, including any shares representing beneficial interest in an organization which would be taxable as a corporation under the provisions of Section 7701 of the Internal Revenue Code if subject to United States tax. Limited partnership interests would be treated as stock.

Acquisition of a depositary receipt or other evidence of interest in any of the foregoing is treated as an acquisition of the underlying asset. Options, warrants and rights to acquire foreign stock or obligations are subject to tax unless received in a distribution which is not considered a taxable acquisition, as described in paragraph 6.

5. Interests the Acquisition of Which Are Exempt from Tax.

Exemptions from the tax are provided for acquisitions of interests which do not fall within the area of long-term capital outflows to which the tax is designed to apply. These exemptions relate to the type of interest acquired.

Short-Term Indebtedness. The tax does not apply to the acquisition of any indebtedness payable upon demand or within three years of the date of acquisition. Thus, acquisition of a long-term obligation may qualify under this exemption if the obligation is due or overdue (and therefore payable upon demand) when acquired or payable within three years thereafter. The rules for fixing the period to maturity in order to determine the applicable tax rate, set forth in paragraph 2, also apply in determining whether an obligation is payable within three years. Accordingly, where an obligation is automatically renewable without affirmative action on the part of the holder, it is not considered an exempted short-term indebtedness unless the entire unexpired term, including any renewal periods, totals less than three years.

Commercial Bank Loans. Also exempted from the tax are acquisitions representing loans made for commercial purposes by banks in the ordinary course of their banking business. This exemption applies even if the maturity of the loan exceeds the minimum three-year period. It is irrelevant whether the loan is evidenced by a note or other evidence of indebtedness. The exemption does not extend, however, to investment banks, trust companies or

others not regularly engaged in a commercial banking business. Where a person is engaged both in the commercial banking business and in other businesses or activities, only those transactions related solely to the commercial banking business are exempt.

Required Reserves of Insurance Companies. An acquisition of foreign stock or debt obligations is exempt from the tax if made by a corporation in the normal course of an insurance business conducted in one or more foreign countries (and not with the intent to sell such interests or offer them for sale to any United States person), to the extent that the interests acquired are, or would have been, required to be held in connection with such business by application to such business of foreign laws which were in force on the date of the President's Message. Thus, a company insuring risks in a foreign country which requires the holding of reserves relating to such risks in local securities or obligations would be permitted to acquire free of tax the holdings necessary to meet such requirement with respect to its business. The exemption extends, however, only to the extent that the foreign country does not, after the date of the President's Message, enact more stringent reserve or holding requirements. The test is not the amount of holdings on the date of the President's Message; if, by applying the foreign law in effect on such date, increased local holdings are, or would have been, required (for example, to reflect higher levels of insurance in force), acquisitions necessary to achieve the needed increase are exempted. If, however, the increased holdings are required by changes in the applicable foreign law, acquisitions designed to meet the changed requirement are not exempt from the tax.

Direct Investment. The tax does not apply to the acquisition of a direct investment in a foreign subsidiary or affiliate. Under this exemption, any acquisition of the stock or debt obligations of a foreign corporation is free of the tax if the United States person immediately following the acquisition owns at least 10 percent of the total combined voting power of all classes of stock entitled to vote. The 10 percent test is applied without regard to the attribution rules prescribed by various provisions of the Internal Revenue Code. The exemption for direct investment applies to purchases of stock or obligations of the foreign corporation from third parties as well as loans and capital contributions made directly to it.

An acquisition qualifying as a direct investment is denied the exemption, however, if the foreign corporation is formed or availed of by the United States person for the purpose of acquiring any stock or obligation which would be subject to tax if acquired directly, unless the foreign corporation makes such acquisition: (a) in the normal course of a commercial banking, securities underwriting or brokerage business conducted in one or more foreign countries; or (b) in the normal course of an insurance business conducted in one or more foreign countries, to the extent that the interests acquired are, or would have been, required to be held in connection with such business by application to such business of foreign laws which were in force on the date of the President's Message. This rule is designed to prevent avoidance of the proposed tax by indirect acquisitions through foreign affiliates, while leaving free of tax investment in affiliates which acquire securities interests in the normal course of their active business activities.

An acquisition otherwise qualifying as a direct investment loses its exemption as such if made with the intent of selling or offering for sale to any United States person any stock or obligation acquired. This rule will prevent avoidance of the tax through a combination of the direct investment exemption and the exclusion from the tax of later acquisitions by other United States persons purchasing from the direct investor.

The principles set forth in this section may be illustrated by the following examples:

Example 1

On January 13, 1964, A, a United States citizen, acquires 100 shares of the only class of stock of foreign corporation N, which immediately thereafter has a total of 1,000 shares outstanding. N acqures no stock nor any obligations having a maturity of three years or more. A's acquisition of the 100 shares of N stock is exempt from tax as the acquisition of a direct investment.

Example 2

The facts are the same as in Example (1), except that later in 1964, A lends N $100,000, taking a five-year promissory note in return. A's acquisition of the indebtedness of N is exempt from tax as the acquisition of a direct investment.

Example 3

The facts are the same as in Example (1), except that later in 1964 A purchases from R, a nonresident alien, an additional 50 shares of the stock of N. A's acquisition of the 50 shares is exempt from tax as the acquisition of a direct investment.

Example 4

The facts are the same as in Example (1), except that N is a foreign personal holding company, engaged solely in investing and trading in stock and obligations of foreign persons. Since N is availed of by A for the purpose of acquiring interests which would be subject to tax if acquired directly by A, A's acquisition of the 100 shares of N stock is not exempt as the acquisition of a direct investment.

Example 5

The facts are the same as in Example (1), except that N acquires 100 percent of the voting stock of foreign corporation O, which acquires no stock or obligations of foreign persons. A's acquisition of the 100 shares of N stock is exempt from tax as the acquisition of a direct investment, since the interest acquired by N in O would, if acquired directly by A, be exempt from tax as the acquisition of a direct investment.

International Organizations. The tax is also inapplicable to acquisitions of obligations of international organizations of which the United States is a member. This exemption does not extend to purchases of obligations of foreign persons, even though these obligations are acquired from an international organization of which the United States is a member.

Less Developed Countries. The tax is not applicable to the acquisition of obligations issued or guaranteed by the government of a less developed country or an agency or subdivision of such a government. Nor is it applicable to stock or obligations of a corporation

which, during its last annual accounting period prior to the acquisition, meets the definition of a "less developed country corporation" in Section 955(c) of the Internal Revenue Code by reason of conducting an active business in countries designated as less developed for purposes of this tax. This includes companies which meet the standards of Section 955(c)(2) by reason of their deriving income from aircraft or vessels registered under the laws of a designated country. The exemption would also be available for new issues of stock or obligations of a corporation which establishes to the satisfaction of the Secretary or his delegate that it has met these tests for a period of 60 days prior to the issuance of such stock or obligations and that it may reasonably be expected to continue to meet such tests for such period as the Secretary or his delegate may deem appropriate.

The countries to be considered less developed countries for the purposes of this exemption will be designated in an Executive Order to be issued by the President. For the interim period prior to the issuance of an Order under the new legislation, all countries designated as less developed by Executive Order No. 11071, dated December 27, 1962, will be considered to be less developed for purposes of this tax. This includes all countries, and overseas territories and possessions of countries, (other than countries within the Sino-Soviet bloc) except the following:

- Australia
- Austria
- Belgium
- Canada
- Denmark
- France
- Germany (Federal Republic)
- Hong Kong
- Italy
- Japan
- Liechtenstein
- Luxembourg
- Monaco
- Netherlands
- New Zealand
- Norway
- Republic of South Africa
- San Marino
- Spain
- Sweden
- Switzerland
- United Kingdom

The designation of a country as a less developed country could be terminated by a further Executive Order after 30 days notice to the Congress. Any termination will not affect the treatment of acquisitions occurring prior to the issuance of the terminating Executive Order.

6. Taxable Acquisitions.

In general, any acquisition of stock or debt obligations of a foreign issuer or obligor will be subject to tax unless specifically exempted. It is irrelevant whether, for federal income tax purposes, the transaction in which such interest is acquired would be characterized as a sale or exchange, a contribution to capital, a loan, or otherwise. The fact that the acquisition occurs as part of a transaction which is tax-free for federal income tax purposes does not mean that it is exempt from this tax. A contribution to the capital of a foreign corporation will be considered an acquisition of a stock interest in such corporation, whether or not any new shares or certificates are issued. A contribution of foreign stock or obligations to the capital of a domestic corporation constitutes a taxable acquisition by such

corporation. The pledge or mortgage of stock or obligations as security for a debt will not be considered an acquisition by the pledgee or mortgagee, but any subsequent foreclosure, collection or purchase will constitute a taxable acquisition.

When a United States person acquires an option, warrant or right to acquire foreign stock or obligations, the acquisition is limited to the option, warrant or right itself; and tax is computed on the actual value of that interest alone, at the rate applicable to the stock or obligations which may be acquired on exercise. A later exercise is considered a separately taxable acquisition; and the tax is then computed on the actual value of the interest then acquired, less the value of the option, warrant or right previously taxed. Conversion of an obligation into stock of the same issuer will be considered an acquisition subject to tax, but the amount will be reduced by the amount of tax appropriate to the acquisition of the obligation.

The distribution as a dividend of stock or obligations, or rights to acquire the same, will not be considered an acquisition. This is true whether or not such distribution is tax-free for federal income tax purposes. In addition, the tax will not be payable upon the receipt by a domestic corporation of stock or obligations in a foreign corporation, or its distribution of such stock or obligations to its shareholders, pursuant to a reorganization

described in Section 368(a) of the Code. These rules will permit the continued acquisition of foreign securities in cases where no outflow of capital from the United States is involved.

Gifts, legacies, bequests and similar donative transfers will not be treated as taxable acquisitions.

The fact that the acquiring person is an underwriter, dealer or other person engaged in the distribution of securities will not exempt him from tax. Thus, if an underwriter makes a firm purchase of securities the acquisition of which is subject to tax, this constitutes a taxable acquisition, even though the acquisition constitutes part of an underwriting distribution which contemplates the resale of the securities by the underwriter. (An exclusion in the case of resales to foreigners is set forth in paragraph 7. Subsequent acquisitions by Americans in the distribution process would not bear the tax under the rules relating to nontaxability of acquisitions from other American persons, described in paragraph 7. Exclusion of brokers and agents' transactions is also described in paragraph 7.)

If any security is acquired on behalf of a United States person by a nominee, the United States person is liable for the tax. Any acquisition by a United States person will be deemed to be for his own account and not as a nominee unless the person furnishes adequate proof that the acquisition was for the account of another person, whether a United States person or a foreigner.

To prevent avoidance of the tax through interposition of foreign entities, the transfer of cash or other property by a United States person to a foreign trust or partnership will be considered the acquisition of a taxable interest, unless it is first established to the satisfaction of the Secretary or his delegate that the foreign trust or partnership will not acquire stock, securities or obligations, the direct acquisition of which by the United States person would give rise to the tax.

The rules set forth in this section may be illustrated by the following examples:

Example 1

In 1964, A, a United States citizen, purchases for $1,000 warrants entitling him to purchase at any time within two years 100 shares of the common stock of M, a foreign corporation, at a total price of $10,000. Assuming that the transaction is not exempt, the acquisition of the warrants by A is subject to tax based upon the actual value of the warrants ($1,000 if A was dealing at arm's length and no special conditions affected the transaction).

Example 2

The facts are the same as in Example (1), except that later in 1964, A exercises the warrants. The shares acquired on exercise have an actual value at that time of $12,000. Assuming that the transaction is not exempt, the acquisition of shares of M stock by A is subject to tax based upon the actual value of the shares

at the time of their acquisition ($12,000), less the actual value of the warrants at the time of their acquisition ($1,000) or $11,000.

Example 3

B, a domestic corporation, receives as a dividend distribution from foreign corporation N rights to acquire the stock of foreign corporation O. B's acquisition of these rights is not a taxable acquisition.

Example 4

C, a United States citizen, is a stockholder in domestic corporation P. Pursuant to agreement, foreign corporation R acquires all of the stock of P in return for voting stock of R, in a transaction which qualifies as a reorganization under Section 368(a)(1)(B) of the Internal Revenue Code. P distributes the voting stock of R to C in exchange for his stock in P. Prior to the reorganization, the Commissioner of Internal Revenue issues a ruling under Section 367 of the Internal Revenue Code that the exchange pursuant to the reorganization was not in pursuance of a plan having as one of its principal purposes the avoidance of federal income taxes. Neither the acquisition by P nor the acquisition by C of the voting stock of R is considered a taxable acquisition.

Date of Acquisition. An acquisition is deemed to occur when a United States person first becomes unconditionally obligated to acquire the stock or debt obligation involved. In the normal open market purchase, this occurs on the trade date, that is, the date

when the order to purchase is executed. It is irrelevant when legal title passes to the acquiring person, when certificates or other evidence of interest are delivered, or when any payment or other performance by the purchaser occurs. If the obligation of the United States person to acquire the interest is subject to conditions precedent which are more than mere nominal conditions, the acquisition will not be deemed to occur until those conditions have been satisfied. For example, if the obligation of a United States lender to purchase promissory notes of a foreign corporation is subject to the purchaser's receipt on the closing date of an opinion of counsel that the notes are duly issued and binding obligations of the issuer, the acquisition will not be deemed to occur until that opinion has been delivered.

7. Nontaxable Acquisitions.

An acquisition will not be subject to tax if it constitutes merely a broker's or agent's transaction, if the acquisition is from another United States person, or if it is made by an underwriter or dealer for resale to foreigners as part of an underwriting distribution.

Brokers' and Nominees' Transactions. The tax would not apply to the acquisition by a broker or his nominee of foreign stock or securities solely for the purpose of enabling the broker to sell or accept delivery of the stock or securities on behalf of his customer. A transfer into the name of a selling agent, such as a bank, would

generally be subject to tax, although no liability would be incurred if a certificate or other evidence of interest is merely delivered to an agent who acquires no legal title or other interest in the underlying stock or security. An underwriter acting only on a "best efforts" basis therefore will not bear the tax. Several technical exemptions will be made in the case of transfers of legal title without change in beneficial ownership. These rules generally follow those applied under the stock and securities transfer taxes.

Acquisition from Another United States Person. An acquisition of stock or debt obligations by a United States person from another person who has been a United States person during the entire period of his ownership of the stock or debt obligations (or continuously since the date of the President's Message) will not be subject to tax. In determining whether he is exempted from tax by this rule, the purchaser will be entitled to rely upon a certificate supplied to him, attesting to the prior United States ownership. This certificate is to be executed either by the former owner or by the nominee of the former owner. The signature must be guaranteed by a bank or member of the National Association of Securities Dealers. Where the certificate is executed by a nominee, it will not be necessary to reveal the name of the actual owner to the purchaser; but the nominee will be required to maintain adequate records to identify the United States person for whose account the securities were held and to establish such owner's United States citizenship, residence or incorporation during his period of ownership. While it is anticipated that the certificate in the great majority of cases will be delivered to the purchaser at the time of delivery

of the related security, it could be delivered within any reasonable period of time thereafter. Temporary forms of certificates which the Treasury Department will accept on an interim basis will be made available promptly by the Internal Revenue Service.

The effect of this rule will be to exempt from the tax stock and debt obligations which are held by United States persons on the date of the President's Message, and to assure that only one acquisition tax will be paid on such interests thereafter acquired, so long as continuous United States ownership is maintained. A person who has not maintained his status as a United States person during the entire period of his ownership of a security (or continuously since July 18, 1963) would be unable to execute the certificate referred to above; this rule is intended to prevent abuse of the United States exemption through changes in residence status or place of incorporation.

Brokers, dealers and their nominees will be permitted under regulations prescribed by the Secretary or his delegate to utilize simplified certificate procedures where a large volume of transactions executed through other brokers or dealers are involved.

Anyone executing a false certificate will be liable for the tax that would otherwise have been collected from the purchaser upon the acquisition and to criminal and civil penalties. The purchaser, however, will still be absolved of any tax liability unless he has actual knowledge of fraud committed in the execution of the certificate.

Underwriters or Dealers Reselling to Foreigners. Any United States underwriter or dealer who resells foreign stock or securities

to foreigners, as part of the distribution of a new issue offered to the public, will be exempted from tax otherwise payable upon his acquisition of the stock or securities. Any person claiming this exemption will be required to report his acquisition, specify the manner in which such stock or securities were distributed, and attach to his appropriate return Certificates of American Ownership covering such stock or securities, executed by the underwriter or any dealer participating in the distribution and selling the interests to any person other than a United States person. Thus, for example, an underwriter, as part of an underwriting, may sell stock to a United States dealer who buys them for his own account. The underwriter is tentatively subject to the acquisition tax and may properly execute and deliver to the dealer a Certificate of American Ownership covering such stock. If the dealer does not in turn deliver a Certificate of American Ownership when he resells the stock, he may execute such a certificate with respect to the stock and return it to the underwriter. The underwriter may then claim exemption by filing the proper return and attaching the dealer's certificate. The dealer remains exempt from tax by virtue of the Certificate of American Ownership received from the underwriter.

In general, any resale by an underwriter or dealer will be subject to this rule if made within the period of time provided in the underwriting agreement for the distribution of the underwritten issue.

Payment of tax must, however, be made by the underwriter or

dealer upon filing of the return covering the period during which his acquisition occurred if the conditions for exemption have not then been fulfilled; and sales will not be considered to be part of the distribution of the issue unless it can be clearly established that the stock or securities sold are part of the seller's allotment or participation.

8. Effective Date.

As previously indicated the tax will be applicable to acquisitions occurring after the date of the President's Message, an acquisition being deemed to take place when a binding commitment is made to acquire the interest involved. The tax will not be imposed, however, on acquisitions of stock or securities covered by a registration statement (or, in the case of an open-end investment company, a post-effective amendment) filed with the Securities and Exchange Commission on, or within 90 days prior to, the date of the President's Message where such acquisitions occur within 60 days after the date of the President's Message. This rule relates only to the number of shares or face amount of indebtedness set forth in the registration as of the date of the President's Message; if the number of shares or face amount of indebtedness covered by the registration statement is increased by amendments filed after that date, none of such interests may be acquired free of tax. Other amendments to the registration statement will not affect the taxability of acquisitions.

This provision is designed to avoid hardship to foreign issuers with public offerings of securities in an advanced stage of preparation. The rules providing cut-off dates are designed to prevent abuse of the exception, either through reactivation of old filings of registration statements subsequently "put on the shelf" or in cases where a long-term exemption might otherwise be achieved under a registration statement contemplating a continuing public offering over a substantial period of time (as might be the case, for example, under a registration of shares offered by a foreign investment company).

9. Miscellaneous Provisions.

Returns and Payment of Tax. Every United States person making an acquisition of foreign stock or debt obligations which is subject to tax will be required to report that transaction by filing a return. In addition, a return will be required with respect to transactions which do not bear the tax because of prior American ownership or because of the exemption for interests resold by underwriters or dealers to foreigners. Returns will not be required with respect to interests the acquisition of which is exempt as described in paragraph 5 or with respect to brokers' or similar transactions described in paragraph 7.

The first of such returns will be required to be filed on or before the last day of the first full calendar month following the end of the calendar quarter in which implementing legislation is

enacted and will cover all transactions subject to the legislation occurring on or before the last day of such calendar quarter. Thereafter, returns will be required to be filed on or before the last day of the calendar month following the end of the calendar quarter in which an acquisition is made. All acquisitions for the covered quarter may be reported in the same return. Payment of any tax due on transactions reported in the return must accompany it. If the person filing the return has received any Certificate of American Ownership and claims exemption from tax on a transaction by reason of the prior American ownership shown in such certificate, the certificate must accompany the return. As described in paragraph 7, a certificate must also be submitted when an underwriter or dealer claims exemption by reason of resale to a foreigner.

Administrative Provisions. Provision will be made for the application of the civil and criminal penalties for the failure to file returns, filing of fraudulent returns, the willful failure to file a return or to pay tax, etc., which are provided in the case of other federal taxes. Interest on underpayment or nonpayment of the tax will also be collectible. The period of limitations for assessing the tax or for filing a claim for refund of taxes paid will be comparable to that provided in the case of federal income taxes.

# TREASURY DEPARTMENT

WASHINGTON, D.C.

July 18, 1963

FOR IMMEDIATE RELEASE (6:15 P.M. EDT)

The Treasury Department announced today that purchasers of foreign securities traded on a national securities exchange registered with the Securities and Exchange Commission would not be subject to the Interest Equalization Tax proposed by the President in his Message to the Congress today on purchases made on such exchanges prior to and including August 16, 1963.

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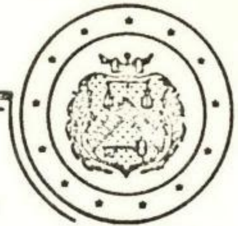
# TREASURY DEPARTMENT



WASHINGTON, D.C.


July 20, 1963

FOR IMMEDIATE RELEASE
SATURDAY, JULY 20, 1963

July 19 remains the effective date of the interest equalization tax, recommended by President Kennedy, on purchases of all foreign securities outside of the United States, the Treasury said today.

Following the President's Message on July 18, the Treasury announced a delay to August 16 as the date from which purchases of outstanding foreign securities would be subject to the rules of the proposed tax, if those purchases were effected on U. S. national securities exchanges registered with the Securities and Exchange Commission.

The delay does not apply to transactions carried out on foreign securities exchanges nor to transactions in the U. S. or elsewhere which are not carried out through U. S. registered securities exchanges. The recommended effective date of the proposed tax on such transactions, and for taxable newly issued foreign securities purchased by American investors, remains July 19.

The Treasury and representatives of the exchanges are currently developing the detailed procedures involved in applying the rules of the proposed tax to transactions on these U.S. exchanges.

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