

Joint Committee on Taxation

June 22, 1984

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POSSIBLE SENATE OFFER

77. U.S. source income --
converting U.S. source
income into foreign
source income. (p. 112)

Senate recedes, with technical amendments that (i) eliminate the three-year base period, (ii) apply the 10-percent threshold on the basis of earnings and profits rather than gross income and only to dividend and interest payments (not Subpart F inclusions) by companies with earnings and profits (without regard to interest paid to related persons), (iii) prevent manipulation of the threshold by interest payments to related parties, and (iv) extend the provision to foreign personal holding company inclusions.

Effective date.--House recedes but with a grandfather provision (i) creating a separate foreign tax credit limitation for income of the foreign finance subsidiaries that the Senate bill would grandfather until 1992 and income earned on term obligations held on March 7, 1984, and (ii) making liberalizing technical modifications.

78. Recharacterization of interest income as dividend income (p. 114)

(a) House recedes, with technical amendments that (i) eliminate the three-year base period, (ii) clarify that dividends are treated as coming first out of passive interest, and (iii) remove interest from active related parties from the provision.

(b) House recedes with amendment extending the provision to U.S. shareholders owning 10 percent or more of a foreign corporation.

(c) Technical amendment would treat any interest paid by corporation earning passive interest as coming first out of passive interest and prevent back-to-back loans from taxpayer to foreign corporation to interest payor.

Effective date.--The provision would apply to (i) interest earned after enactment by distributing corporations in taxable years beginning after enactment, and (ii) interest attributable to post-conference action investments. There would be an exception for term obligations held on March 7, 1984.

87. Phase-out of 30-percent withholding tax on portfolio interest paid to foreign investors (p. 124)

House recedes with following modifications:

1. Repeal (without phase-out) 30-percent withholding tax on portfolio interest paid to foreign investors (with Senate amendment exceptions). However, repeal applies only to obligations issued after date of enactment.

2. Effective date.--Applies to obligations issued (and estates of decedents dying) after date of enactment.