PART ONE

SUMMARY OF RECOMMENDATIONS MADE IN HEARINGS BEFORE THE COMMITTEE ON FINANCE ON H.R. 6098—THE INTEREST EQUALIZATION TAX EXTENSION ACT OF 1967

PREPARED FOR THE USE

OF THE

COMMITTEE ON FINANCE

BY THE STAFF

OF THE

JOINT COMMITTEE ON
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A. TREASURY RECOMMENDATIONS AND RELATED COMMENTS BY OTHERS

1. Rate of Tax (Sec. 3(a) of the Bill and Sec. 4911(b) of the Code

Under present law the interest equalization tax is imposed on stocks and debt obligations at rates which are the equivalent of a 1 percent per annum interest cost to the foreign seller or borrower. The bill raises the maximum rates to the equivalent of a 1½ percent per annum interest cost.

(*a*) The Treasury Department recommends that the maximum interest equalization tax rates be raised to a level which is the equivalent of a 2 percent per annum interest cost. The Treasury Department indicates the higher maximum tax rates are needed because the differential between interest rates in the United States and interest rates in Europe could widen to the point where the equivalent of a 1½ percent per annum interest cost would be insufficient to restrain the flow of capital from the United States to Europe.

(*b*) A number of witnesses expressed opposition to any increase in the tax rate applicable to foreign stock on the grounds that the existing rate has been, and will continue to be, an effective barrier to net sales of foreign stocks in the United States. The proposed increase in the tax rates applicable to foreign debt obligations was also opposed, primarily because the differential between interest rates between the U.S. and Europe is not considered to be of sufficient magnitude at the present time to warrant an increase in the tax rates. Henri L. Froy, chairman, foreign committee, National Association of Securities Dealers, Inc.; G. Keith Funston, president, New York Stock Exchange; Robert F. Seebeck, former chairman, foreign investment committee, Investment Bankers Association of America, Association of Stock Exchange Firms; and Ralph S. Saul, president, American Stock Exchange.

2. Discretionary Authority of President To Vary Interest Equalization Tax Rates (Sec. 3(a) of the Bill and Sec. 4911(b) of the Code)

Under the bill the President is granted discretionary authority to vary the interest equalization tax rates within a range represented by the present rates and rates 50 percent higher. In effect this means the President is granted discretionary authority to vary the interest equalization tax rates within a range which is the equivalent of a 1 percent to a 1½ percent per annum interest cost. Any exercise of this authority must make the same proportionate change in the rates of tax applicable to debt obligations (both new and outstanding) and the rate of tax applicable to stock (both new and outstanding).

(*a*) The Treasury Department recommends that the range be enlarged so the President has discretionary authority to vary the tax rates from the equivalent of a zero to a 2 percent per annum interest cost. It is stated that the wider range is needed because it is difficult to predict future interest rate developments in the United States and Europe with precision and the spread between interest rates in the United States and interest rates in Europe could both widen and narrow. The recommended range of flexibility in the interest equalization tax rates is designed to protect against both types of possible development and to permit the tax to be set at a level which is more closely aligned with the prevailing interest rate differential.

(*b*) Mr. Henri L. Froy, chairman, Foreign Committee, National Association of Securities Dealers, Inc., Mr. Robert F. Seebeck, former chairman, Foreign Investment Committee, Investment Bankers Association, and the New York Clearing House Association expressed support for the Treasury Department's recommendation that the President be granted discretionary authority to vary the interest equalization tax rates downward to zero.

Mr. Robert F. Seebeck, and the Association of Stock Exchange Firms expressed support for the Treasury Department's recommendation that the President be granted discretionary authority to vary the tax rates applicable to debt obligations from the equivalent of a zero to a 2 percent per annum interest cost.

(*c*) Mr. Paul C. Cohen, partner of Stein Roe & Farnham, investment counsel, testified that there are differences between the balance of payments considerations regarding stock and those regarding debt obligations, as well as between the considerations regarding new and outstanding issues. He recommended that the President be given the flexibility to respond to these different considerations by allowing him to exercise his discretionary authority to vary the tax rates separately with respect to each of four categories: (1) new stock; (2) outstanding stock; (3) new debt obligations; and (4) outstanding debt obligations.

(*d*) Mr. Henri L. Froy, chairman, foreign committee, National Association of Securities Dealers, Inc., and Mr. Robert F. Seebeck, former chairman, foreign investment committee, Investment Bankers Association of America, recommended that the President be granted discretionary authority to vary the tax rates separately with respect to stocks on the one hand and debt obligations on the other.

(*e*) Mr. Keith Funston, president, New York Stock Exchange, opposed any grant of discretionary authority to the President to vary the interest equalization tax rates on the grounds that it would introduce a new element of uncertainty in world capital markets, and that it might inhibit the growing spirit of cooperation in international financial matters.

(*f*) The New York Clearing House Association and Mr. Robert F. Seebeck, former chairman, foreign investment committee, Investment Bankers Association of America, recommended deletion of that provision of the bill which grants the President the authority to specify the extent to which an increase in the interest equalization tax rates ordered by him is to apply in situations where an unconditional obligation or similar commitment to acquire foreign securities existed as of the date the order was issued. It was suggested that allowing the President to impose new tax rates on financings which have advanced to this point could have a substantial adverse effect on the business of financial institutions, which frequently and as a normal course of business enter into future loan commitments.

3. Loans Guaranteed by Export-Import Bank (Sec. 4914(c)(1) of the Code)

Under present law, a debt obligation issued by a foreign importer in connection with a sale of property or services by an American to the importer is exempt from the interest equalization tax, if an agency or wholly owned instrumentality of the United States, such as the Export-Import Bank, guarantees or insures payment of the obligation.

The Treasury Department recommends that this exemption be modified by removing the requirement that the foreign importer must be the person which issues the debt obligation. The Treasury Department indicates that it favors this change because often the debt obligation is not issued by the foreign importer but rather by a company affiliated with the importer, by the importer's bank, or by a semipublic credit institution. It suggests that the requirement of present law is unnecessary because the participation of a U.S. Government agency or instrumentality insures the export nature of the transaction.

4. Definition of Less Developed Country Corporation (Sec. 4916(c)(1) of the Code)

Under present law, the interest equalization tax does not apply to the acquisition of stock or a debt obligation of a less developed country corporation. One type of less developed country corporation is, in general, a foreign corporation (1) which derives at least 80 percent of its income from the use in foreign commerce of aircraft or ships registered under the laws of a less developed country, and (2) at least 80 percent of the assets of which are used in its shipping business.

The Treasury Department recommends, as an added requirement for qualification as a less developed country shipping corporation, that the corporation be at least 80 percent owned by residents of less developed countries or by U.S. persons, or both. The purpose of the added requirement is to deny the availability of the exclusion in cases where the shipping company is owned by residents of developed foreign countries and the only contact with less developed countries is the fact that the corporation's ships and aircraft are registered in a less developed country.

5. Prior American Ownership Exemption (Sec. 4918 of the Code)

Under present law, a purchaser of foreign securities is exempt from the interest equalization tax if the foreign securities are acquired from another U.S. person. There are two principal ways in which an American who acquires foreign securities may establish that he is entitled to this exemption. First, a certificate of American ownership (which states that the seller was a U.S. person) received in connection with the acquisition establishes that the purchaser is entitled to the exemption. Second, in the case of an acquisition through a registered broker in a trade on certain national securities exchanges or in the over-the-counter market, a "clean confirmation" from the broker (that is, a confirmation of the purchase which does not state that it may be subject to the tax) establishes that the purchaser is entitled to the exemption. In this type of trading, a selling broker may tell, in effect, a buying broker that the latter can issue a clean confirmation if the selling broker has in his possession a certificate of American ownership with respect to the stock being sold.

The Treasury Department recommends a series of modifications in the provisions of this exemption. First, the focus of the exemption would be shifted from one for prior American ownership to an exemption for prior American ownership and compliance. That is, a seller of foreign securities not only will have to be a U.S. person, but in addition will have to have satisfied any interest equalization tax obligations he may have had in connection with the securities. Second, an American who acquires foreign securities in a transaction subject to the tax will have to pay the tax before he disposes of the securities. Third, the manner in which the exemption may be established will be modified. A purchaser of foreign securities can establish that he is entitled to the exemption if he receives a Validation Certificate issued by the Internal Revenue Service with respect to the securities or if he receives an "IET clean confirmation" from the broker through whom he purchases the securities. The clean confirmation provisions of present law, regarding trading on certain national securities exchanges or in the over-the-counter market, will be modified in two respects. First, their applicability is to be limited to those registered brokers (participating firms) which agree to comply, and do comply, with new recordkeeping and reporting requirements to be prescribed by the Secretary of the Treasury. After August 14, 1967, any registered broker may become a participating firm by agreeing to comply with the recordkeeping and reporting requirements. During the transition period from July 15, 1967, to August 14, 1967, the participating firms are all members of the New York and American Stock Exchanges and those members of the National Association of Securities Dealers which either reported a net capital of at least $750,000 in their latest (prior to July 13, 1967) financial statement filed with the Securities and Exchange Commission or which effected at least 300 transactions in foreign securities during either the week commencing July 2, or July 9, 1967. Second, the clean confirmation procedures are to require a selling broker to have more substantial evidence that its customer has met his interest evualization tax obligations before the selling broker may tell, in effect, the buying broker that the exemption applies to the securities being sold. Generally, this latter requirement means the selling broker either must have received an Internal Revenue Service Validation Certificate from its customer with respect to the securities being sold or must have previously purchased the securities for its customer in a transaction to which the exemption applied. The Treasury recommends that the modified exemption and the procedures for establishing it be made effective as of July 15, 1967.

B. SUGGESTIONS NOT OPPOSED (OR OPPOSED ONLY IN PART) BY TREASURY

1. Acquisitions Arising Out of Sales of Real Property (Sec. 4(a) of the Bill and Sec. 4914(b)(14) of the Code)

The bill provides an exclusion from the tax for debt obligations acquired by an American in connection with the sale of real property located outside the United States if the American seller owned the foreign real property on July 18, 1963.

(*a*) Mr. William P. McClure in a statement called attention to a situation where a U.S. person who owned foreign real property on July 18, 1963, died and as a result the estate (or the heirs or beneficiaries) of this U.S. person is planning to sell the foreign real property to an alien and receive a debt obligation from the alien to finance the sale. He suggests that Congress did not mean to impose a tax in situations of this type and recommends that the debt obligation received in cases of this type be excluded from the application of the tax.

(*b*) Mr. Roger Carter in a statement presented the case where a U.S. person owning foreign real property on July 18, 1963, subsequently sold the property to a trust he created and the trust plans to receive a debt obligation from a foreign person in connection with the prospective sale of the property to the foreign person. He recommends that the exclusion provided in the bill be modified to apply in situations where a U.S. person owning foreign real property on July 18, 1963, subsequently sells it to another U.S. person who then resells the property to a foreigner, accepting a debt obligation in partial payment.

2. International Monetary Stability Exclusion Penalty (Sec. 4(d) of the Bill and Sec. 4917 of the Code)

In connection with the present monetary stabilization exclusion from the interest equalization tax for newly issued Canadian stock or debt obligations, present law provides a penalty for the failure to file certain information on time concerning purchases of securities. The penalty is 5 percent per month, up to a maximum of 25 percent, of what the tax would be on the securities in the absence of the exclusion. This limited penalty presently applies, however, only to acquisitions from October 10, 1965, onward; for periods before that time, late filing resulted in the complete loss of the exemption. The bill extends the 5 to 25 percent penalty applicable since October 9, 1965, to the period from the initiation of the interest equalization tax to October 9, 1965. The bill also provides that State governments which have made acquistions of Canadian stock or debt obligations are to have the period of 60 days after the enactment of the bill in which to file the required notice concerning their past acquisitions. Those which do so are not be to subjected to the penalty for failing to file the notice on time.

Mr. Charles N. Schenck III, of Wiggens & Dana, in a statement noted that a school or university which is not even required to file income tax information returns is as unaccustomed to having to deal with Federal tax matters as State governments. He recommended that the relief provided in the bill for State governments be extended to schools and universities which are exempt from the requirement to file income tax information returns under section 6033(a)(2) of the code.

(*b*) The Chamber of Commerce of the United States and the Connecticut General Life Insurance Co. in statements pointed out that many people have been trapped and penalized by the requirement that a notice must be filed with respect to acquisitions of Canadian securities in order to secure the complete exemption. It was suggested that much confusion has existed with regard to this requirement. The chamber of commerce and Connecticut General support the extension of the limited penalty to the period prior to October 9, 1965, which is contained in the bill, and also urge adoption of the amendment intended to be proposed by Senator Ribicoff which would extend the relief provided in the bill for States to any U.S. person. In effect this amendment would eliminate any penalty with respect to acquisitions by any U.S. person which occurred before the bill is enacted, if the required notice is filed within 60 days after the enactment of the bill.

3. Finance Companies (Sec. 4(g) of the Bill and Sec. 4920(a)(3) of the Code)

The bill provides that a U.S. Corporation primarily engaged in the business of borrowing funds abroad and using those funds to finance sales by affiliated domestic companies of property or services to foreign persons, may elect to be exempt from the tax on the debt obligations it acquires as a result of these financing activities. The financing company may only make loans, however, in connection with those sales where 15 percent of the property or services sold consists of U.S. property or services of U.S. persons.

(*a*) The National Foreign Trade Council in a statement recommends the following modifications in this provision:

(i) The bill requires "substantially all" of the business of the financing company to be in making the specified types of loans to foreign persons. To provide a reasonable and definite standard, this test should be clarified by providing that the qualified financing business must constitute a specified percentage (such as 90 percent) of total business, rather than "substantially all."

(ii) Under the bill, financing may be provided only for sales by affiliated entities. It is suggested that this be expanded to allow the financing company to lend money in connection with sales of property produced, manufactured, assembled or extracted by affiliated entities even though the sales involved are made by unaffiliated persons, such as dealerships, and to lend money in connection with sales of trade ins on this property, as well as in connection with sales of trade ins on the trade ins. The financing company also should be allowed to make capital loans to related or unrelated dealers and distributors, and to make loans to, or acquire stock of, any foreign corporation in which a tax-free direct investment could otherwise be made. In addition, the domestic financing company should be allowed to acquire stock or debt obligations of a 30 percent directly or indirectly owned foreign finance subsidiary.

(iii) An affiliated corporation is defined in the bill in the same manner as under the consolidated return provisions. This definition should be modified by lowering the ownership requirement of affiliation from 80 to 50 percent and also by including foreign, as well as domestic, corporations in the affiliated group for this purpose.

(iv) The requirement contained in the bill that 15 percent of the content of property or services sold by an affiliated entity must be U.S. property or services should not be applied to any of the new types of situations covered in No. (ii) above.

(v) The requirement that a financing company may make loans only out of funds borrowed abroad should specifically allow the company to include in its foreign borrowing amounts borrowed from affiliated foreign corporations. In addition, the financing company should be permitted to carry the ordinary trade accounts payable which result from day-to-day business operations.

(vi) The requirement of the bill that the maturity of the loans made by the financing corporation cannot exceed the maturity of the loans made to the corporation by foreign persons would require a complex and difficult tracing of, and a matching of the maturity dates of, the funds borrowed by the corporation and the funds lent by the corporation. This requirement should be rephrased in a manner which would accomplish the same result without requiring the tracing and matching. For example, it could be required that loans made by the financing corporation be carried throughout the period to maturity solely with funds borrowed abroad. In any event, this requirement should be formulated in a manner which takes account of normal commercial borrowing practices abroad, such as the commonly used so-called overdraft system.

The National Foreign Trade Council also recommends that consideration be given to extending the application of a financing company provision to a foreign branch of a U.S. company, which makes loans to foreign persons with funds borrowed abroad, in cases where the company is engaged not only in the financing business, but also in a manufacturing or selling activity.

The National Foreign Trade Council further recommends that a U.S. parent corporation should be allowed to invest free of the tax in an affiliated (80 percent directly or indirectly owned) foreign financing company which is capitalized with funds obtained abroad and which engages in financing activities similar to those engaged in by the domestic financing company discussed above. The suggested reason for this provision is that it is sometimes more appropriate to use a foreign corporation to finance overseas sales of products manufactured by affiliated corporations.

(*b*) Mr. Edward A. Sigler, of Chrysler Corp., in a statement supports the adoption of a financing company provision similar to that recommended by the National Foreign Trade Council. He suggests, however, the following further modifications:

(i) The ownership requirement of affiliation should be lowered to 10 percent.

(ii) The financing company should be allowed to borrow funds from affiliated foreign corporations which have obtained the funds by borrowing from foreign persons, if the U.S. parent corporation advises the Treasury Department in advance of the foreign borrowing.

(iii) An amount equal to the equity investment in the financing subsidiary, for which the U.S. parent corporation would receive a direct investment exclusion from the tax, should be required to be invested in a manner which would not be subject to the tax if done directly by the U.S. parent corporation (such as in securities of a less developed country).

(*c*) Mr. Thomas E. Jenks, of Lee, Toomey & Kent, proposed in his statement another type of financing company provision. He recommends an amendment which would allow a domestic or a foreign subsidiary of a U.S. corporation to acquire free of the tax obligations of foreign persons arising out of wholesale or retail sales, if the sales were of products manufactured or assembled by an affiliated (80 percent directly or indirectly owned) domestic or foreign company.

4. Transfers to Foreign Branch Office of Domestic Securities Dealer (Sec. 4912(b)(2)(B) of the Code)

Under present law, a foreign branch office, of a U.S. securities dealer, which is engaged in the foreign securities business may elect to be treated as a foreign person for purposes of the interest equalization tax. The effect of this is to exempt the foreign branch office from the tax on its acquisitions of foreign securities. If, however, money is transferred from the U.S. head office to, or applied for the benefit of, an electing foreign branch office, the transfer is considered a taxable acquisition of foreign stock by the head office.

Mr. Bernard E. Brandes, of Stroock & Stroock & Lavan, in a statement presented the situation in which the London branch office of Loeb, Rhoades & Co., a U.S. securities broker-dealer, has elected to be treated as a foreign person for purposes of the tax. The principal function of the London branch office at all times has been to generate business for the New York office. The Internal Revenue Service has taken the position that if the New York office pays any part of its commission income on business generated by the London office to the London office, the payment will be subject to the tax. Mr. Brandes points out that if the business were generated by an unrelated foreign securities dealer, Loeb, Rhoades would have to pay a part of its commission on the business to that dealer. This payment would not be subject, however, to the tax. He suggests that Congress did not intend to impose the interest equalization tax on an arm's-length commission which is paid by a U.S. securities dealer to its electing foreign branch office in connection with business generated by that office, and he recommends that such an arm's-length commission be excluded from the tax in this type of situation.

5. Treatment of Certain Foreign Stock Issues as Domestic Issues (Sec. 4920(b) of the Code)

Under present law, a class of stock of a foreign corporation is treated as domestic stock (and, therefore, not subject to the tax when acquired by Americans) if more than 65 percent of the class of stock was owned by U.S. persons prior to July 19, 1963. Only those shares of stock which were outstanding as of the foreign corporation's last record date before July 19, 1963, and which possess identical rights in the control, profits, and assets of the corporation are considered a class of stock.

A representative of the British American Oil Company in a statement submitted indicated that the shares of stock of this corporation were identical in all respects prior to July 19, 1963, except that some of these shares were restricted as to their participation in dividends paid by the corporation. The restriction was imposed under a bylaw of the corporation adopted in 1956 but the bylaw provided automatically for the lifting of the restriction in 1965. If the temporary restriction is considered to create two separate classes of stock, one class will not be treated as domestic stock since less than 65 percent of this class was owned by Americans prior to July 19, 1963. On the other hand, if all of the corporation's stock is considered to be one class of stock, the stock will be treated as domestic stock since more than 65 percent of its total stock was held by Americans prior to July 19, 1963.

Since the restriction automatically terminated pursuant to a bylaw which existed before the effective date of the interest equalization tax and also because all the shares of stock in the foreign corporation became identical and indistinguishable in all respects within 2 years from that effective date, he recommended that the definition of a class of stock be modified to include shares of stock subject to a temporary restriction such as in the situation presented.

C. OTHER RECOMMENDATIONS

1. Switching or Rollover Amendments

Two amendments were suggested which would permit U.S. investors to switch foreign security investments without application of the interest equalization tax in certain types of cases. Under present law the tax applies when an American purchases foreign securities (not owned by an American) even though the purchase was made with funds previously invested in foreign securities. This policy was adopted on the grounds that the balance of payments was aided not only by preventing American funds from going abroad but also by encouraging their repatriation.

(*a*) Mr. Ralph E. Purvis in his testimony recommends an exclusion from the tax for acquisitions made before September 2, 1964 (the enactment date of the tax), either with funds, including investments, held outside the United States on July 18, 1963 (the date the tax became effective), or with foreign credit obtained before September 2, 1964.

(*b*) Mr. George Reinhardt in a statement recommends an exclusion from the tax for acquisitions of foreign securities (during any period including the future) made with funds held outside the United States at the time of the enactment of the interest equalization tax, and also for acquisitions made with funds which were inherited from a foreign person after the enactment of the tax (including funds obtained from the sale of inherited foreign securities).

2. Direct Investment Exclusion (Sec. 4915 of the Code)

Under present law direct investments by U.S. persons in 10 percent or more owned foreign subsidiaries are not subject to the interest equalization tax (although they are subject to the Commerce Department's voluntary guidelines). The exclusion does not apply, however, if the foreign subsidiary is formed or availed of for the principal purpose of acquiring foreign securities which would be subject to the tax if acquired directly by an American.

Mr. Robert H. Brome, senior vice president and general counsel of Bankers Trust Co., in a statement, recommends that the direct investment exclusion be retroactively modified to allow a U.S. person to invest without being subject to the tax in 10 percent or more owned foreign subsidiaries which acquire foreign securities with foreign source assets (such as funds borrowed abroad) or with earnings on such assets, and which segregate their foreign source assets on their books. The proposed modification would be of primary benefit to financial type institutions since they are the most likely ones to use foreign source assets to acquire foreign securities. The suggested rationale for this modification is that acquisitions of foreign securities by a foreign subsidiary do not adversely affect our balance of payments, inasmuch as the acquisitions are made with foreign source assets.

3. EXEMPTION FOR OUTSTANDING FOREIGN STOCK

(*a*) Mr. G. Keith Funston, president, New York Stock Exchange, Mr. Ralph S. Saul, president, American Stock Exchange, and the Association of Stock Exchange Firms recommended that all outstanding shares of stock of foreign companies be exempted from the interest equalization tax. The following reasons were suggested for such an exemption: the most satisfactory way to close the gap between the flow of capital abroad and the flow of foreign capital here is not to limit the former, but rather to stimulate the latter; capital investments abroad generate the return of even more funds to the United States over the long run; the difficult problems of enforcing the tax on acquisitions of foreign stocks from foreign persons would be eliminated; and such an exemption may be necessary in order for the securities industry to be able to persuade foreign persons to buy more U.S. securities.

(*b*) Mr. Ralph S. Saul, president, American Stock Exchange, recommended that the provisions of present law, which provide the President with standby authority to exempt from the tax new or original issues of foreign securities of a foreign country, if failure to grant an exemption would imperil or threaten to imperil international monetary stability, should be extended to cover outstanding securities as well.

4. Uniform Application of the Interest Equalization Tax

Under present law, the President has authority to exempt from the tax new securities issues of a foreign country if necessary in the interests of international monetary stability. This authority has been exercised with respect to new Canadian securities and, to a limited extent, with respect to Japanese debt obligations. Present law also contains an exemption from the tax for investments in less developed countries.

Mr. Harry B. Fuchs, in a statement, suggests that the outlook for the U.S. balance of payments is unfavorable and, in view of this, he recommends that the tax be applied equally in the case of all foreign countries. It appears he is recommending the removal of the exemptions for international monetary stability and for investments in less developed countries.

5. Exclusion for Loans to Foreign Investment Trusts To Be Used To Acquire U.S. Securities

Mr. James G. S. Gammell, of British Assets Trust Ltd., a United Kingdom investment trust, in a statement recommends an exclusion from the interest equalization tax for loans made by U.S. banks and insurance companies to foreign investment trusts, the proceeds of which are to be used for portfolio investments in U.S. securities. He suggests that loans of this type do not have an adverse effect on our balance of payments because the proceeds of the loans are invested in the United States. Moreover, he notes that to the extent the dividends on the investments are insufficient to pay the interest on the loans, money will have to come from abroad, and that will have a favorable effect on our balance of payments.

6. Extension of the Tax (Sec. 2 of the Bill and Sec. 4911(d) of the Code)

Under present law, the interest equalization tax terminates as of July 31, 1967. The bill extends the tax for 2 more years, or until July 31, 1969. Three witnesses expressed the opinion that the extension of the tax should be limited to 1 year because sufficient changes may occur within the next year so that it may be in the national interest to review a question of this magnitude at that time. Additionally, it was suggested that a 1-year extension would demonstrate that the interest equalization tax is as objectionable to the United States as it is to many foreign nations and nationals, and also allow us to demonstrate that the United States did not favor the tax as a permanent feature of its laws, Robert F. Seebeck, former chairman, Foreign Investment Committee, Investment Bankers Association of America; G. Keith Funston, president, New York Stock Exchange, Association of Stock Exchange Firms; Ralph S. Saul, president, American Stock Exchange.

7. Resale of Debt Obligations by U.S. Dealers (Sec. 4(e) of Bill and Sec. 4919(a)(2) of the Code)

Under present law, U.S. dealers in foreign debt obligations may acquire these obligations without payment of tax (through a credit or refund) if: (a) they resell to foreigners within 90 days after purchase, or (b) they resell within 90 days to another U.S. dealer who resells within the same or the next business day to foreigners. In the case of debt obligations acquired by a U.S. dealer and sold to a second U.S. dealer, the bill provides that the acquisitions are to be free of tax if the second dealer resells to foreigners within 30 days (instead of within 1 day) from the date of purchase. This amendment applies to debt obligations which are sold by the first U.S. dealer to the second U.S. dealer after January 25, 1967.

Mr. Robert F. Seebeck, former chairman, Foreign Investment Committee, Investment Bankers Association of America, in his testimony suggests that certain U.S. dealers were unfairly penalized by the original 1-day rule. He recommends that the new 30-day rule be made retroactive to July 18, 1963.

8. Export Credit Transactions (Secs. 4914(c) and 4914(j) of the Code)

Present law exempts from the tax debt obligations acquired by Americans from foreign persons in connection with various types of export and export-related transactions. Generally, an exporter who subsequently transfers a debt obligation of this type to a person other than a commercial bank will lose the exemption, unless the original loan was reasonably necessary to effect the export transaction and the terms of the debt obligation are not unreasonable in light of the credit practices of the business in which the exporter is engaged.

(*a*) Mr. Robert F. Seebeck, former chairman, Foreign Investment Committee, Investment Bankers Association of America, in his testimony recommended various liberalizing modifications of the existing exemptions for debt obligations arising out of export and export-related transactions. He suggested that these exemptions do not have an adverse effect on the balance of payments because they stimulate exports, and that the recommended modifications of the exemptions are necessary in order to make them more workable and usable. Specifically, he proposed the following modifications:

(i) The export and export-related exemptions should be available in the case where foreign stock is received by the exporter as well as where foreign debt obligations are received.

(ii) There should be an additional export exemption from the tax whereby the export nature of a bond issue for a foreign borrower which is to be exempted would be evidenced by the fact that the proceeds of the bond issue would be escrowed with a U.S. commercial bank and released only against documents showing shipment of U.S. goods abroad to the borrower.

(*b*) The National Foreign Trade Council, and Mr. Robert F. Seebeck, former chairman, Foreign Investment Committee, Investment Bankers Association of America, suggested that the previsions of present law which limit the situations in which an exporter can subsequently transfer a debt obligation arising out of an export or export-related transaction without losing the export exemption impose severe administrative burdens on U.S. exporters. The Council recommended that, in order to facilitate the expansion of U.S. exports, U.S. exporter be allowed to transfer an export or export-related debt obligation to an affiliated (80 percent directly or indirectly owned) foreign or domestic corporation without the transfer causing the loss of the exemption which previously applied when the exporter acquired the obligation. Mr. Seebeck recommended that a U.S. exporter be allowed to transfer a debt obligation of this type to any person without loss of the exemption.

9. Exemption for Foreign Securities Issues Which Are Primarily Foreign Subscribed (Sec. 4919 of the Code)

Mr. Robert F. Seebeck, former chairman, Foreign Investment Committee, Investment Bankers Association of America, recommended in his testimony an additional exemption from the interest equalization tax for new foreign securities issues which are primarily subscribed to by foreign persons. He suggested that the exemption would allow the U.S. investment banking industry an opportunity to participate more actively in international dollar financing. Specifically, he proposed an exemption from the tax for any new foreign securities issue which is acquired by U.S. underwriters if not more than 25 percent (or such other higher or lower percentage as the Secretary of the Treasury may determine from time to time) of the issue is sold to U.S. persons.

10. The Interest Equalization Tax in General

Mr. Henri L. Froy, chairman, Foreign Committee, National Association of Securities Dealers, Inc., Mr. Robert F. Seebeck, former chairman, Foreign Investment Committee, Investment Bankers Association of America, and the Chamber of Commerce of the United States expressed opposition to the interest equalization tax in principle.

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