[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

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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.

21-851—63——3

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 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	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.

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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