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Taxation and Operations Abroad, A Symposium Volume.

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TAXATION AND OPERATIONS ABROAD, A SYMPOSIUM VOLUME. Princeton, New Jersey: Tax Institute, Incorporated. 1960. Pp. x, 308. \$6.00.

This volume, the third in the Tax Institute series of publications on "The Impact of Taxation on Management Responsibility," graphically illustrates the pervasive impact of taxation on most business decisions in our day. The very existence of such an active sponsoring group as the Tax Institute, Incorporated, further reflects the fact that we live in a "tax era." Such organizations utilize much capable talent from government, the professions and private business in their studies in the field of taxation. Many far-sighted recommendations for improvement of the tax system have emerged from these studies.

This symposium volume represents a cross-section of the most advanced tax thinking on the general subject of taxation and its relationship to carrying on business in a foreign country. Nineteen experts contributed their considerable personal resources of time and trained skills to this symposium.

Perhaps the most striking effect of this symposium on the reader is the realization of how quickly the tax climate in a certain area may be drastically altered. At the time of this meeting in the latter part of 1959, a strong tide of official tax opinion was running in favor of liberalizing the federal income tax treatment of business operations abroad. The trend was toward encouragement of increased American investment in foreign lands; the income tax laws offered a ready device to implement this goal.

Many of the topics in this symposium reflect this trend, such as "Tax Incentives for Overseas Investments," "Tax Inducements as a Stimulus to Foreign Investment by United States Companies" and "Tax Inducements to Stimulate Foreign Investment from Treasury Point of view." The emphasis in late 1959, both government and private business, was on larger foreign investments and business commitments abroad by our taxpayers. To alter the federal tax system to accomplish this result was generally accepted as desirable; only the particular techniques were seriously debated.

Thus, the symposium presented Congressman Hale Boggs, author of H.R. 5, the basic legislative proposal for substantial change in the area

respect to employee conduct, instructions to agency heads to issue appropriate agency regulations, and a centralized office to coordinate ethics administration throughout the Executive branch. See Message from the President of the United States relative to Ethical conduct in the Government, H.R. Doc. No. 145, (87th Cong., 1st Sess.) April 27, 1961.

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of income tax on foreign business operations. That H.R. 5, the Boggs Bill, passed the House of Representatives in 1960 before languishing in the Senate proved the potency of its congressional appeal.

As Congressman Boggs stated at the symposium:

The subject of this symposium is one that has been occupying my attention in the Congress for some time. In my judgment, there are very few aspects of our foreign economic policy that are more deserving of serious and constructive consideration today. * * *

Without examining in detail the provisions of H.R. 5 and the other tax proposals that have been made by the Boeschstein and Straus reports, I would like to emphasize the importance and significance of enacting appropriate legislation in the field. * * * Necessarily, the role of government in our economic system must be limited so that in looking at what government can do, we must choose those things which it can do with a minimum of interference and direct involvement in the decisions and actions of the private sector. For this reason and for others, as well, tax reform must be a priority component of government policy in this area. It so happens too that it is the one aspect of policy in this area that requires congressional implementation. The tax reform measures that are chosen must be the ones that offer the greatest promise of being effective in promoting expanded private foreign investment. As in all areas of private and public life, this involves decisions and choices. It is my view that H.R. 5 represents a tax incentive program that is both effective and moderate.

* * * I therefore feel very confident about its prospects and look to completion of congressional action on the bill in 1960.

What happened to these prospects within a few months' period in 1960 is now history. H.R. 5 failed of passage in the Senate and the future of similar legislation is most precarious in view of the recent proposals of the new administration. The unfavorable balance of dollar payments probably acted as the most effective brake on H.R. 5 and the tax climate of encouraging foreign investment. President Kennedy's initial tax message to the Congress in April, 1961, certainly reflects the current official view to be a tightening, rather than a loosening, of federal income tax treatment of income earned abroad. Whether the Congress will agree with the President remains to be seen.

The President has proposed taxing all United States parent corporations on income of foreign subsidiaries, and taxing individual United

States stockholders of closely-held foreign corporations, unless the foreign income comes from "underdeveloped" countries. Further, he would end deferral of trading, licensing and insurance income earned in "tax haven" countries, regardless of whether they are "underdeveloped." He would also end the United States tax benefits of investment in foreign investment companies. He would tighten present rules on computing a United States corporation's credit for foreign taxes paid by a foreign subsidiary.

Not all of these administration proposals stem from the present unfavorable United States balance of dollar payments, or adverse dollar flow. The need to maintain tax revenue at least at its present level, plus a sentiment toward plugging so-called "tax loopholes," also accounts for them in some measure. Again, it is a truism that it is much easier, politically and administratively, to tighten the rules on foreign income than on domestic income. Fewer taxpayers are thus affected and usually with less pain than by sharp domestic income tax increases. In the uncertain juncture of our present world situation, our future tax structure covering income from operations and investment abroad will probably await definitive developments in the much larger arena of international relations.

This volume also is noteworthy for enlightening summaries of the tax systems of other countries and their effect on the choice of the form of a business organization for investments and operations abroad. Particularly helpful is a rather comprehensive discussion of taxation in the European Common Market, an area which perhaps has not been sufficiently explored by American industry. The writer concludes "that the incidence of indirect taxation is far more important in all of the member countries than it is in the United States" and "that the national differences and complexities in the area of direct taxes on income are likely to remain without much harmonization." In short, the American businessman must adjust to more indirect taxation and to more sporadic direct taxation than that to which he has become accustomed in our federal tax system.

An excellent outline of the opportunities in the use of Bahamian facilities is included. Favorable tax provisions are paramount in the attraction of these neighboring islands. Tax aspects of United States investments in Canada, with emphasis on Canadian investment funds, are also covered.

Such a volume might be considered incomplete without an analysis of the much publicized Puerto Rican tax exemption grants and what will happen there on their expiration. This topic produced some of the

liveliest panel discussions of the symposium, as might be expected in view of the rather revolutionary concept of the Puerto Rican tax system.

In the light of our tense international relations with a large segment of the world, continued study of every phase of our foreign problems is a prime requisite. Taxation is one phase, indeed an important phase, of these problems. A study of this volume will yield rewarding insight and understanding of this area, both from the standpoints of our system of taxation and the tax systems of other countries.

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