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Questions

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Questions for Mr. Rosenbloom on Recent U.S. Tax Treaty Developments

QUESTION: Do you anticipate an increase in cooperation among tax administrators worldwide?

MR. ROSENBLoom: Yes. There has been a very significant increase in the last five years, and the movement is accelerating. The United States has been meeting fairly regularly with France, Germany, and the United Kingdom, and I would expect to see something like that with other countries.

QUESTION: Could you highlight some of the key points in the treaty with Spain?

MR. ROSENBLoom: The present draft of the treaty with Spain was negotiated before I came to the Treasury in the summer of 1977, so I am less familiar with it than with some of the others. My impression is that it is substantially in accord with the United States model, although there are probably some particular changes. I do know that the one issue on which negotiations broke down was technical assistance fees. Although the United States has been willing to compromise on that issue, Spain has since undertaken domestic tax reforms, and in addition has become embroiled with the United States on a controversial but unrelated trade issue, and it has been difficult to get back together to conclude the negotiations. We are working on it.

QUESTION: What do you foresee in the outcome of the German treaty and what is the time prospect? Is it going to parallel the United Kingdom treaty and its imputation system?

MR. ROSENBLoom: I hope the German treaty will not precisely parallel the United Kingdom treaty. The United Kingdom treaty has presented no end of problems.

The U.S. objective in regard to imputation systems is to achieve some form of compensation for U.S. investors for the effects of such systems. I think that's about as specific as one can get.

We have been flexible on the type of compensation but, generally speaking, we do not accept that the installation of an imputation system leaves matters as they were before. Something must be done.

German taxes are too high. They cause a lot of problems for everyone, including the United States, because of our overall foreign tax credit limitation. Our efforts can be summarized very simply as an attempt to reduce German taxes. How that purpose is implemented is difficult to predict.

QUESTION: Can we anticipate any new Section 367 regulations in the near future?

MR. ROSENBLoom: In the Internal Revenue Service a lot of attention is being given to the 367(b) regulations. These regulations stand in need of some work. The subject matter is highly complex, and I would not expect to see new regulations issued for some time. Moreover, I sus-

pect that many of the people involved in the (b) regulations are also involved in the 367(a) regulations. We have not progressed very far with those.

QUESTION: Is our unitary approach in certain states going to be more of a barrier in the German treaty than it has been in the United Kingdom treaty, or are there differences?

MR. ROSENBLOOM: No foreign country likes state unitary systems. On the other hand, it is going to be difficult, for obvious reasons, to change those systems, particularly in an election year.

I do not think that unitary systems present a serious problem to achieving treaties or protocols with any country, including the United Kingdom. But I do think that the position put forward by many of the foreign governments is correct and, therefore, I think in the long run it is in the interests of both the United States and the states to change the adverse effects of the unitary apportionment systems.

QUESTION: You mentioned in your talk increased input from Congress on the tax treaty policies. How do you see this acting in the future and do you think it is going to slow down the treaty process even further?

MR. ROSENBLOOM: Inquiries do not slow the process down, but if we had new procedures for pursuing the treaty process, I think things could be slowed down substantially. It is too early to know whether Congress is really serious about changing anything in the treaty process. I think it would be unfortunate to impede the process any more than it already is impeded.

There are some restraints on changing things. One of the restraints is that committees of the Congress tend to be fairly jealous of their jurisdictional prerogatives, and a lot of the changes that have been suggested would interfere with present jurisdictional alignments.

Quite apart from what the Treasury thinks, all considerations may point in the direction of doing nothing. As Bob Patrick, a former International Tax Counsel in the Treasury, said to me before lunch when we were discussing this very subject, if something works pretty well, there is no need to repair it. The treaty process in the United States works fairly well. If anything, it is on the slow side. There is certainly no need to add additional procedural reviews.