such as interest received by a foreign affiliate on short term deposits or on trade receivables and royalties received by such an affiliate in respect of patents or know-how developed by it abroad in the course of its active business operations (to name but a few) may be taxed currently in the hands of the Canadian shareholder as diverted income even though such income is in fact directly attributable to the foreign affiliate's active business. Such income is not diverted income.

Further, it has been noted that international corporations are not infrequently obliged by the laws of a foreign country to carry on their business operations in that country through a foreign affiliate which is controlled by residents of that country. In circumstances such as these, the fact that the foreign affiliate earns passive income. is often a matter which is beyond the control of the Canadian international corporation and is therefore not motivated by tax avoidance considerations. Nevertheless, in the absence of adequate de minimis relieving provisions in the proposed legislation, the Canadian international corporation will besubject to Canadian income tax on its "participating percentage" ~~of~~ such passive income.

This indiscriminate extension of the diverted income rules to include all passive income of foreign affiliates is further aggravated by the following:

1. Because of the manner in which the term "participating percentage" is defined, the amount taxable in a Canadian shareholder's hands under the passive income rules may, in some instances, be greater than the portion of the foreign affiliate's passive income that actually accrues to his benefit; this could occur where the foreign affiliate is not wholly-owned by one Canadian taxpayer and there is more than one class of shares of capital stock outstanding (treating certain income debentures as capital stock for this purpose).