

ing an office or place of business abroad but also for a U.S. citizen, resident or for a domestic partnership where the citizen, resident or partnership has an office abroad. Your committee believes that the performance of temporary services in the United States subject to the same conditions as described above should be exempt from tax where the business abroad is that of a U.S. citizen, resident or partnership, just as it is in the case of a domestic corporation.

(c) *Explanation of provision.*—For the reasons given above, your committee's bill amends the source rule of present law relating to personal service income to provide that income from services performed by a nonresident alien temporarily present in the United States for not over 90 days in a year, if not in excess of \$3,000, is to be treated as foreign source income (and not subject to U.S. tax) not only in cases where the employer is a foreign person or a domestic corporation but also where the employer is a U.S. citizen or resident or a domestic partnership. Similar changes are also made in the definition of a "trade or business within the United States" to provide that this term does not include personal services performed for employers who are U.S. citizens or residents or for domestic partnerships where the conditions set forth above are met.

(d) *Effective date.*—These amendments are applicable with respect to taxable years beginning after December 31, 1966.

B. DEFINITIONS USED IN DETERMINING TAXABLE STATUS OF INCOME

1. *Trading in stocks or securities or in commodities (sec. 2(d) of the bill and sec. 864(b) (2) of the code)*

(a) *Present law.*—Present law specifically excludes from the activities which constitute engaging in a trade or business within the United States the trading activities conducted by a nonresident alien in stocks, securities, or commodities in the United States through a resident broker, commission agent, or custodian.

This rule also applies with respect to foreign corporations. However, a question has arisen whether a nonresident alien or foreign corporation is to be treated as carrying on a trade or business within the United States if the foreign person grants discretionary authority to a U.S. broker or other agent to carry out transactions in the United States with respect to his stocks, securities, or commodities. Under present law, the granting of this discretionary authority may prevent a nonresident alien or foreign corporation from qualifying for this exemption, with the result that income arising from these transactions and all other U.S. source income is subject to U.S. tax at the regular individual or corporate rates (based on a determination that such activities constitute carrying on a trade or business in the United States).

(b) *Reasons for provision.*—The granting of discretionary authority to a U.S. broker or agent is thought by many foreign investors to be a desirable protective device in the event they are not in a position to give buy or sell orders at any time and, in any event, such an arrangement is frequently the most convenient method of effecting stock, security, or commodity transactions. Moreover, the mere grant of this discretionary authority to a U.S. broker or agent would not appear to be significant enough to warrant treating the foreign per-