

son acting on his own account as engaging in a trade or business here. Moreover, individuals who trade in U.S. stocks and commodities are not treated as thereby being engaged in the business of buying and selling stocks and commodities, whether or not the volume of their activity is large. Also, the confusion regarding the status of a foreign investor who has granted discretionary authority to a U.S. agent may have acted to deter some foreign investment in the United States.

(c) *Explanation of provision.*—For the above reasons your committee has amended present law to specifically provide that, except in the case of a dealer, the trading in stocks, securities, or commodities in the United States, for one's own account, whether by a foreign person physically present in the United States, through an employee located here, or through a resident broker, commission agent, custodian, or other agent—whether or not that agent has discretionary authority—does not constitute a trade or business in the United States. Although this treatment generally applies to foreign corporations as well as individuals, it generally does not apply in the case of a foreign investment corporation if it has its principal office here.

It is not intended that as a result of this provision a foreign investment company (other than a corporation which is, or but for section 542(c) (7) would be, a personal holding company) is to be permitted to locate its general business activities in the United States and avoid taxation at the regular corporate rates on its income and gains effectively connected with its business in this country. However, a foreign investment company conducting its general business activities in a foreign country (i.e., having its principal office there) can conduct trading activities in the United States through an agent with discretionary authority, without this giving rise to its being considered as conducting a trade or business in the United States.

Whether a corporation's principal office is in the United States is to be determined by comparing the activities (other than trading in securities) which the corporation conducts from an office located in the United States with the activities it conducts from offices located outside the United States. For example, a corporation which carries on most of its stock and securities transactions through an agent with discretionary authority in the United States but maintains a general business office outside the United States in which its management is located and from which it communicates with its shareholders and the general public, solicits sales of its own stock, and maintains its corporate records and books of account, would not be considered as having its principal office in the United States.

Although, under this provision, a dealer is specifically excluded from those who may grant discretionary authority and not be deemed to be conducting a business in the United States, he may trade in securities or commodities, for his own account, through a U.S. agent without being considered to be conducting a business in the United States. However, this rule does not apply if at any time during the year he has an office or place of business in the United States through which, or by the direction of which, transactions in stocks, securities, or commodities are effected.

Even though this provision does not free some dealers in stocks, securities, or commodities, and investment companies from the possi-