

whether any such employee or agent, wherever located, is authorized to exercise his own discretion in trading activities conducted, or in effecting transactions, on behalf of his employer or principal. Moreover, the volume of stock or security transactions effected during the taxable year is not material in determining under section 864(b) (2) (A) (i) whether the individual or corporation is engaged in trade or business within the United States.

The provisions of subparagraph (A) (i) of section 864(b) (2) do not apply to a corporation the principal business of which is trading in stocks or securities for its own account and which maintains its principal office in the United States, unless such corporation is a personal holding company or would be a personal holding company but for section 542(c) (7) of the code, as amended by section 4(f) of the bill. Thus, for example, where a foreign investment company (which is not a personal holding company, other than by reason of section 542(c) (7)) has its principal office in the United States it is to be considered to be engaged in trade or business within the United States by reason of its trading in the United States in stocks or securities, and its income from its trading activities, as well as the dividends and interest received on the stocks and securities it holds as a result of such trading activities, constitute income effectively connected with its conduct of a trade or business within the United States. On the other hand, if the foreign investment company does not have its principal office in the United States, it is entitled to all the benefits provided by new section 864(b) (2) (A) (i) in respect of its trading in stocks or securities for its own account as are accorded under such section to a nonresident alien individual who is not a dealer in stocks or securities. For purposes of making the determination in respect of the foreign corporation's "principal office," a foreign corporation will be considered to have only one principal office; and an office will not be considered to be the principal office of a foreign corporation solely because it is a statutory office of such corporation.

Subparagraph (A) (ii) of section 864(b) (2) permits nonresident alien individuals and foreign corporations who are dealers in stocks or securities to trade in stocks or securities through a resident broker, commission agent, custodian, or other independent agent without being considered to be engaged in trade or business within the United States by reason of such activities. However, this provision is limited by subparagraph (C) of section 864(b) (2), as added by this section of the bill, and applies only if the dealer does not maintain an office or place of business in the United States at any time during the taxable year through which, or by the direction of which, the transactions in stocks or securities are effected.

Subparagraph (B) of section 864(b) (2) provides generally that a nonresident alien individual or a foreign corporation may engage in certain trading activities in commodities for the taxpayer's own account without being engaged in trade or business within the United States. The rules set out in subparagraph (B) are basically identical to those contained in subparagraph (A) of new section 864(b) (2) concerning trading in stocks or securities, except that (1) the provision applicable to traders who are not dealers in commodities applies whether or not such persons are corporations the principal business