of which is trading in commodities and the principal office of which is in the United States; and (2) in the case of both dealers and nondealers, the provisions of subparagraph (B) apply only if the commodities traded are of a kind customarily dealt in on an organized commodity exchange and if the transaction is of a kind customarily consummated at such place. This last exception, which is contained in subparagraph (B)(iii) of section 864(b)(2) corresponds to provisions contained in existing section 871(c) of the code.

Subparagraph (C) of section 846(b)(2) limits the application of subparagraphs (A) and (B) of that section, as those subparagraphs apply to dealers in stocks or securities or commodities, to those cases in which such dealers have no office or place of business within the United States at any time during the taxable year which is responsible, directly or indirectly, for effecting the trading activities. A similar provision is contained in existing section 871(c), but the existing provision does not apply to transactions in stocks or securities and it is not limited in its application to dealers only. For purposes of paragraph (2) of amended section 864(b), a person who is a dealer in securities or commodities shall be considered a dealer in securities or commodities, even though such person's transactions in securities or commodities conducted in the United States would not constitute such person as a dealer.

Effectively connected income, etc.

New section 864(c) contains rules to be used in determining whether income, gain, or loss is effectively connected with the conduct of a trade or business within the United States by a nonresident alien individual or foreign corporation. Income, gain, or loss which is effectively connected with the conduct of a trade or business within the United States is taken into account in determining the tax imposed in accordance with sections 871(b) and 882(a), as amended by sections 3(a) and 4(b) of the bill, respectively. Income, gain, or loss from sources within the United States which is not effectively connected with the conduct of a trade or business within the United States may be taken into account in determining the tax imposed by sections 871(a) and 881, as amended by sections 3(a) and 4(a) of the bill, respectively. Existing law does not require a determination as to whether income is, or is not, effectively connected with the conduct of a trade or business within the United States by a nonresident alien individual or by a foreign corporation.

General rule

Paragraph (1) of new subsection (c) provides that the rules contained in paragraphs (2), (3), and (4) of such subsection for determining whether income, gain, or loss shall be treated as effectively connected with the conduct of a trade or business within the United States shall apply only in the case of a nonresident alien individual, or of a foreign corporation, which is engaged in trade or business within the United States at some time during the taxable year for which the tax is being determined. Such paragraph also provides that no income, gain, or loss derived by a nonresident alien individual, or a foreign corporation, not engaged in trade or business within the United States during the taxable year will be treated as effectively