determining the tax imposed pursuant to amended section 871(b) or 882(a) of the code. To be so treated, the requirements of subparagraph (B), including the specific requirements of either clause (i), (ii), or (iii) thereof, must be satisfied.

Income, gain, or loss described in clause (i), (ii), or (iii) of subparagraph (B) is to be treated as effectively connected with the conduct of a trade or business within the United States only if the nonresident alien individual or the foreign corporation is engaged in trade or business within the United States during the taxable year and maintains a business office or other fixed place of business within the United States during such year. In addition, the items of income, gain, or loss described in clause (i), (ii), or (iii) must be attributable to such business office or other fixed place of business.

A nonresident alien individual or foreign corporation is not to be considered to have a business office or other fixed place of business in the United States merely because such alien individual or foreign corporation uses another person's office or other fixed place of business in the United States through which to transact business, if the alien individual's or foreign corporation's business activities in such office or other fixed place of business are relatively sporadic or infrequent, taking into account the overall needs and conduct of the business of such alien individual or foreign corporation. A foreign corporation will not be considered to have a business office or other fixed place of business in the United States merely because a person controlling such corporation has a business office or other fixed place of business in the United States from which he exercises general supervision and control over the policies of such foreign corporation.

Example (1).—A, a foreign corporation, is engaged in the business of buying and selling tangible personal property. Corporation A is a wholly owned subsidiary of B, a domestic corporation engaged in the business of buying and selling similar property, which has an office in the United States. Officers of B corporation are generally responsible for the policies followed by A corporation and are directors of A corporation, but A corporation has an independent group of officers, none of whom are regularly employed in the United States. In addition to this group of A corporation officers, that corporation has a managing director, C, who is also an officer of B corporation but who is permanently stationed outside the U.S. The day-to-day conduct of A corporation's business is handled by C and its other officers, but they regularly confer with the officers of B corporation and on occasion visit B corporation's office in the United States, at which times they continue to conduct the business of A corporation. Absent other circumstances, A corporation does not have a business office or other fixed place of business in the United States, even though it may be engaged in trade or business within the United States.

Example (2).—The facts are the same as in example (1) except that, on rare occasions, an employee of B corporation receives an order which he, after consultation with officials of A corporation and because B corporation cannot fill the order, accepts on behalf of A corporation rather than on behalf of B corporation. B corporation does not hold itself out as a person which those wishing to do business with A corporation should contact. Assuming that orders