

which would be treated as gross income from sources within the United States under sections 861 through 863 of the code if the property had been sold in the United States. Thus, for example, if a foreign corporation's branch in the United States sells outside the United States for use in the United States, goods which the home office of the corporation manufactures in a foreign country, the profit attributable to the branch in the United States may not exceed the income which under section 863 would be from sources within the United States if the goods had been sold in the United States.

In no case, however, will any income from a sale outside the United States of purchased personal property described in section 1221(1) of the code, where such sale is made through a business office or other fixed place of business in the United States by a nonresident alien individual or a foreign corporation, be treated as effectively connected with the conduct of a trade or business within the United States if the property is sold for use, consumption, or disposition outside the United States and an office or other fixed place of business maintained by the nonresident alien individual or foreign corporation outside the United States participated materially in such sale. For this purpose, an office or other fixed place of business maintained outside the United States will be considered to have participated materially in a sale if such foreign office or other fixed place of business (1) solicited the order which is the basis for the sale, (2) negotiated the contract of sale, or (3) performed significant services incident to such sale which were necessary to its consummation and were not subject to a separate agreement between the seller and the buyer. A foreign office or other fixed place of business will not be considered to have participated materially in a sale merely because (1) the sale is made subject to the final approval of such office or other fixed place of business, (2) the property sold was held in, and distributed from, such office or other fixed place of business, (3) such office or other fixed place of business was used for purposes of having title to the property pass outside the United States, or (4) such office or other fixed place of business performed merely clerical functions incident to such sale.

Generally, all the income derived from the sale outside the United States of personal property for use, consumption, or disposition outside the United States which would be United States source income if the property had been sold within the United States will be treated, for purposes of section 864(c)(4)(B), as attributable to a business office or other fixed place of business within the United States if the sale is made through such office or other fixed place of business and no office or other fixed place of business maintained by the taxpayer outside the United States participated materially in such sale.

*Income from United States life insurance business*

Subparagraph (C) of paragraph (4) provides that, in the case of a foreign corporation which is carrying on a life insurance business in the United States and is taxable, as provided by section 842 of the code, as amended by section 4(g)(1) of the bill, on its income which is effectively connected with the conduct of a life insurance business within the United States, all income of such corporation from sources without the United States which is attributable to its U.S. business