

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) or 543(b)(1)(C) 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 or all 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 an independent 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 possibility that they may be considered as engaged in a trade or business in the United States, this does not mean that all such dealers or investment companies are so engaged. In such a situation, the question of whether a dealer or investment company is conducting a trade or business in the United States remains a question of fact to be determined under the rules of present law. Your committee has redrafted the House provision but no substantive change was intended.

*Effective date.*—These amendments apply with respect to taxable years beginning after December 31, 1966.

*b. Income effectively connected with the conduct of a trade or business in the United States (sec. 102(d) of the bill and sec. 864(c) of the code)*

*Present law.*—Under present law nonresident aliens and foreign corporations are generally taxable at the regular individual or corporate rates on all their U.S. source income if they are engaged in trade or business in the United States and are taxable at a flat 30-percent rate (or lower treaty rate) on all fixed or determinable income if not so engaged. This difference in treatment applies whether or not there