

employee located here, or through a resident agent (whether or not the agent has discretionary authority) is not to constitute a trade or business in the United States for income tax purposes. A parallel rule is provided for those trading in commodities.

*Income effectively connected with the conduct of a trade or business in the United States.*—The benchmark to be used in determining whether income is to be subject to a flat 30-percent rate or taxed substantially the same as income earned here by a U.S. citizen or domestic corporation is whether or not the income is effectively connected with a U.S. business. In the case of investment and other fixed or determinable income and capital gains from U.S. sources the income is to be treated as effectively connected with a U.S. business if the income is derived from assets used or held for use in the conduct of a U.S. business or if the activities of the U.S. business are a material factor in the realization of the income. All other types of U.S. source income are to be considered to be effectively connected if there is a U.S. business. Income from sources without the United States is not to be treated as effectively connected with a U.S. business unless the nonresident alien or foreign corporation has a fixed place of business in the United States and the income is attributable to that place of business. Moreover, in general only rents and royalties from licensing, certain income from banking and so forth, and sales income are to be taken into account for this purpose and only to the extent the income is not “subpart F” income or income derived from a foreign corporation 50 percent owned by the nonresident alien or foreign corporation receiving the income. Also excluded from the definition of “effectively connected” foreign source income is (a) income derived from a transaction in which the U.S. office was not a material factor, (b) income not derived from the usual business activities of the U.S. office, and (c) income not properly allocable to the U.S. office. Additionally, a U.S. office is defined to exclude the office of certain agents. See also the related foreign tax credit provision.

*Income tax on nonresident alien individuals.*—The income of nonresident aliens which is effectively connected with a U.S. business is to be taxed at the regular graduated rates applicable to individuals and all income not so connected is to be taxed at a flat 30-percent rate (or lower applicable treaty rate). U.S. source capital gains of a nonresident alien not engaged in business in the United States are to be taxed only if the alien was in the United States for 183 days or more during the year. Deductions are allowable only to the extent allocable to income which is effectively connected to a U.S. business. Also, an election is provided which allows an alien to treat income from real property as U.S. business income in order to take deductions allocable to it.

*Expatriation to avoid income tax.*—U.S. source income and the effectively connected income of a citizen received for 10 years after expatriation is, in most cases, to be taxed at the regular U.S. tax rates if a principal purpose of the expatriation was the avoidance of U.S. income, estate, or gift taxes.

*Withheld taxes and declarations of estimated income tax.*—The Treasury Department is authorized to require payment of amounts withheld from nonresident aliens and foreign corporations on a more current basis, rather than the annual basis previously provided. Nonresident aliens who receive income which is effectively connected with