met. Thus, payments for personal services received by a nonresident alien are treated as foreign source income if (1) he was temporarily present in the United States for not over 90 days during the year; (2) the compensation does not exceed $3,000; and (3) the services are performed for a foreign employer not engaged in a trade or business in the United States or for a domestic corporation if the services are performed for an office or place of business it maintains in a foreign country or U.S. possession. Also, existing law provides that the rendering of personal services in the cases described above is not to constitute engaging in a trade or business in the United States.

*Explanation of provision.*—The act amends the source rule of existing law relating to personal service income to provide that income from services performed by a nonresident alien temporarily present in the United States for not over 90 days in a year, if not in excess of $3,000, is to be treated as foreign source income (and not subject to U.S. tax) not only in cases where the employer with the foreign office is a foreign person or a domestic corporation but also where such an employer is a U.S. citizen or resident or a domestic partnership. Similar changes are also made in the definition of a "trade or business within the United States" to provide that this term does not include personal services performed for employers who are U.S. citizens or residents or for domestic partnerships where the conditions set forth above are met.

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

### 2. DEFINITIONS USED IN DETERMINING TAXABLE STATUS OF INCOME

#### *a. Trading in stocks or securities or in commodities (sec. 102(d) of the act and sec. 864(b)(2) of the code)*

*Prior law.*—Prior law specifically excluded from the activities which constitute engaging in a trade or business within the United States the trading activities conducted by a nonresident alien in stocks, securities, or commodities in the United States through a resident broker, commission agent, or custodian. This rule also applied with respect to foreign corporations. However, under prior law, the granting of discretionary authority to the broker or agent may have prevented a nonresident alien or foreign corporation from qualifying for this exclusion, with the result that income arising from these transactions and all other U.S. source income was subject to U.S. tax at the regular individual or corporate rates (based on a determination that such activities constitute carrying on a trade or business in the United States).

*Explanation of provision.*—Prior law was amended to provide specifically that the trading in stocks, securities, or commodities in the United States, for one's own account, whether by a foreign person physically present in the United States, through an employee located here, or through a resident broker, commission agent, custodian, or other agent—whether or not that agent has discretionary authority—does not constitute a trade or business in the United States. This treatment, however, does not apply to dealers in stocks, securities, or commodities or to a foreign investment corporation if it has its principal office here.

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