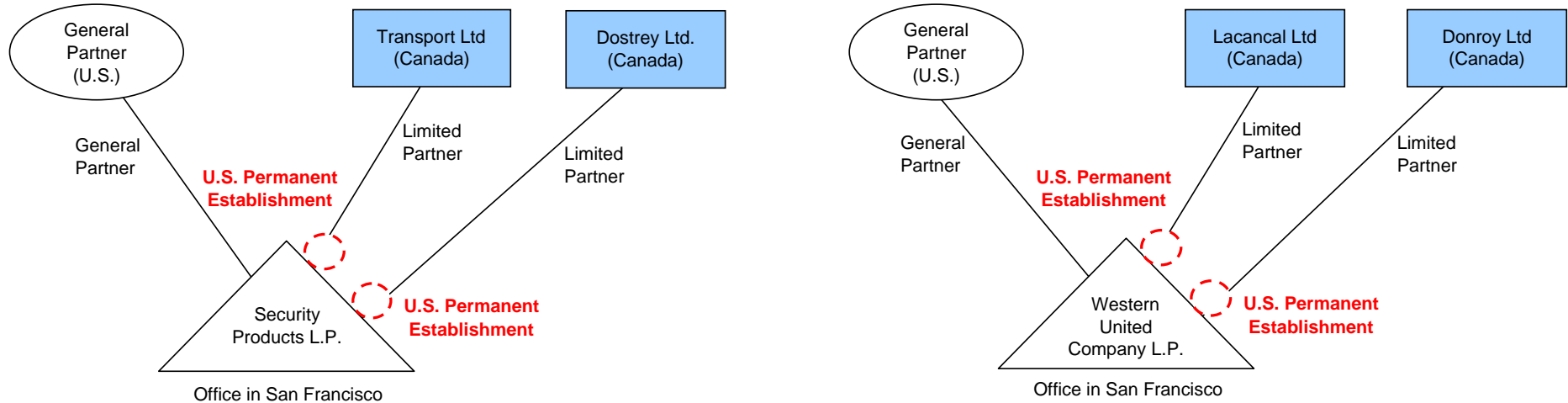


Donroy v. U.S.
301 F.2d 200 (9th Cr. 1962)

**Foreign Limited Partner In U.S.
Limited Partnership -
Permanent Establishment**

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Several Canadian corporations had invested into U.S. limited partnerships. The 9th Circuit affirmed the District Court in holding that the general partners are the general agents of the limited partners and that all the partners have an interest in the partnership assets, including its office. The issue was whether the Canadian corporations had permanent establishments in the United States within the meaning of Article XI of the Tax Convention with Canada.

In *de Amodio*, 34 T. C. 894 (1960), *affd.*, 299 F.2d 623 (3d Cir. 1962), the Tax Court held that a resident of Switzerland who owned certain U.S. rental property which he managed and operated through local real estate agents did not have a permanent establishment in the United States within the meaning of the similar Swiss Tax Convention (even though the taxpayer's activities rose to the level of being engaged in a U.S. trade or business). There, the Tax Court held that neither the real estate itself nor the real estate office of his brokers constituted a permanent establishment because the Convention expressly excepts business dealings through a broker or independent agent.

In this case, the general partner was treated as the general agent of each limited partner. Therefore, the office of the limited partnership was in effect the U.S. permanent establishment of the limited partner. See also *Unger v. Commissioner*, 936 F.2d 1316 (D.C. Cir. 1991).