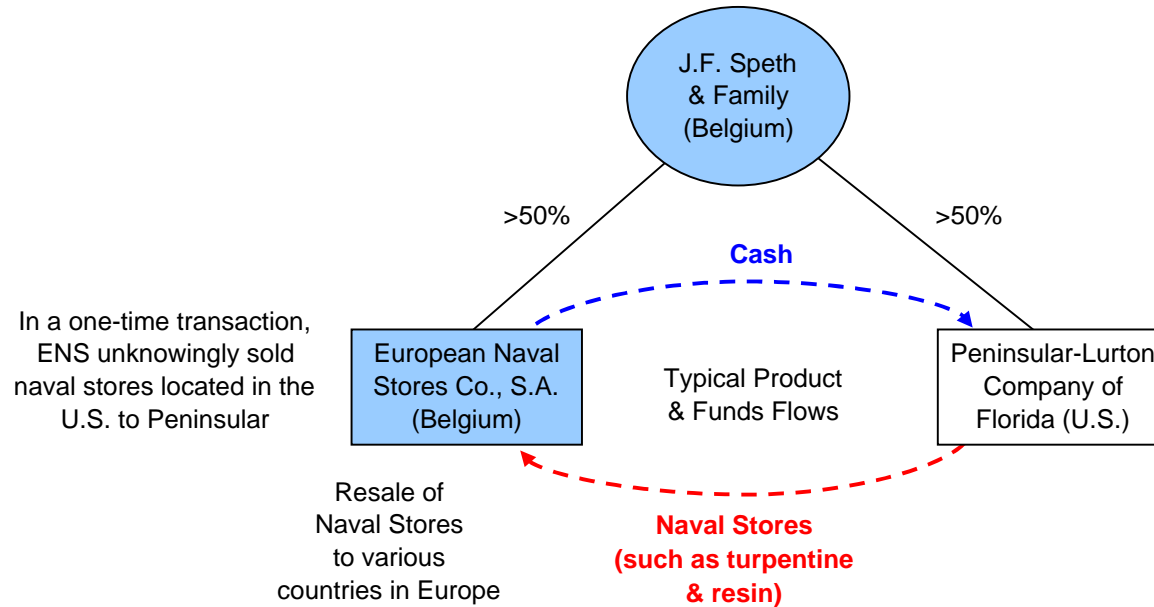


European Naval Stores Co. v. Commissioner 11 T.C. 127 (1948)

**Foreign Corporation
Not Engaged in U.S.
Trade or Business**

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In *European Naval Stores Co., S. A.*, a Belgian corporation ("ENS"), had purchased certain naval stores (such as turpentine and resin) in the U.S. in 1939. Delivery of the goods could not be accomplished because of embargoes following occupation of Belgium by the German armies. The related U.S. seller placed the goods in public storage until 1942 when, for the protection of ENS, it repurchased the goods without ENS's knowledge. Because of substantial price increases during the years the material was in storage, there were profits from the repurchase which were credited to ENS's account. In holding that the Belgian corporation was not engaged in a trade or business in the U.S., the Tax Court stated:

The meaning of the phrases "engaged in business," "carrying on business," and "doing business" were defined by the Circuit Court of Appeals for the Third Circuit in *Lewellyn v. Pittsburgh* * * *. It was stated therein that, "The three expressions, either separately, or connectedly, convey the idea of progression, continuity, or sustained activity. "Engaged in business" means occupied in business; employed in business. "Carrying on business" does not mean the performance of a single disconnected business act. It means conducting, prosecuting, and continuing business by performing progressively all the acts normally incident thereto, and likewise the expression "doing business," when employed as descriptive of an occupation, conveys the idea of business being done, not from time to time, but all the time.

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