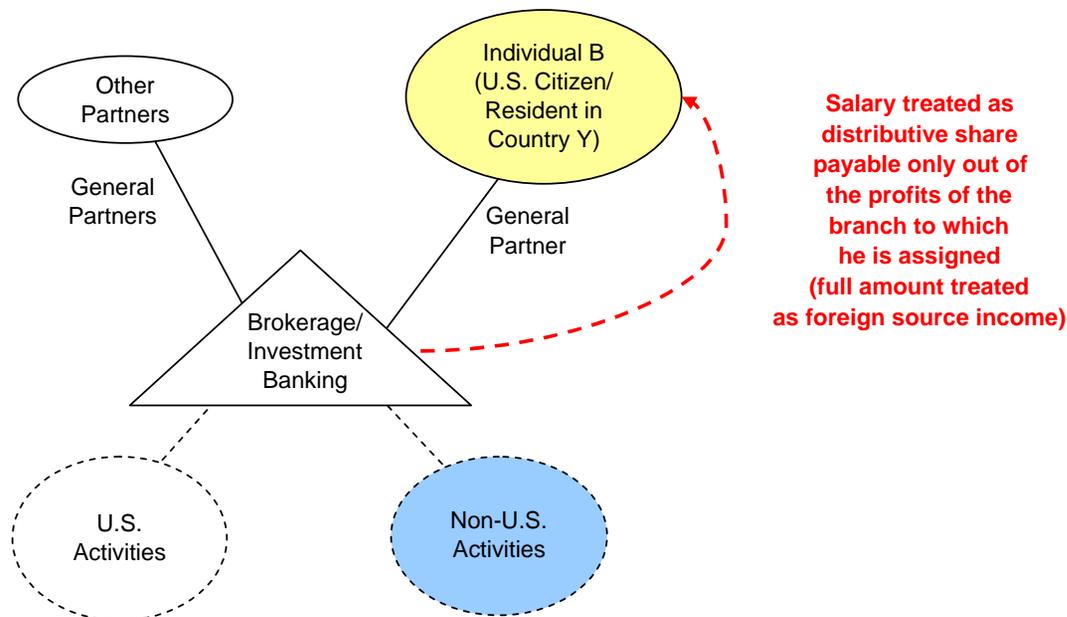


Revenue Ruling 67-158, Situation 2

Section 911 Exclusion of Partner's Distributive Share

Copyright © 2008 Andrew Mitchel LLC
International Tax Services
www.andrewmitchel.com



Taxpayer B is a U.S. citizen and a general partner in a firm engaged in the general brokerage and investment banking business conducted at its principal office in New York and other cities throughout the U.S. and the world. He is in charge of the partnership branch office in Y, a foreign country, and qualifies as a bona fide resident of Y within the meaning of section 911(a). The partnership agreement provides that each general partner shall be paid an annual salary at a rate fixed by the Executive Committee, and that he shall share in the net profits or losses of the partnership (computed after deducting salaries paid to the partners) in accordance with his percentage interest as fixed by the partnership agreement. The agreement provides that the salary of a general partner assigned to a foreign branch of the partnership shall be paid only out of the profits of the branch to which he is assigned. Under the terms of the agreement, such a partner may share only in the profits of the branch with which he is associated, even though his maximum share may be measured by a percentage of the net profits of the partnership derived from all sources. Furthermore, the sum of the salary and the share of partnership net profits paid or allocated to a partner residing in a foreign country for any year may not exceed the profits attributable to his foreign branch for that year. If this limitation should, for any year, reduce the salary paid or net profits allocable to a partner, the resulting deficit shall be paid or allocated to him in a succeeding year, to the extent that the profits of his foreign branch for the succeeding year are sufficient to permit this action. Since the amount of the so-called "salary" payments is determined with reference to partnership income, these payments are distributive share income to the recipient rather than guaranteed payments within the scope of section 707(c). Both personal services and capital are material income-producing factors of the partnership. Since the partnership agreement provides that taxpayer's distributive share is to be paid and distributed only to the extent that the profits of the foreign branch his entire distributive share of partnership income is considered income from foreign sources. A reasonable allowance as compensation for personal services rendered by the taxpayer, not in excess of 30 percent of his distributive share of the net profits of the trade or business, is considered earned income from sources without the United States for purposes of section 911(b).

[HUNDREDS of additional charts at www.andrewmitchel.com](http://www.andrewmitchel.com)