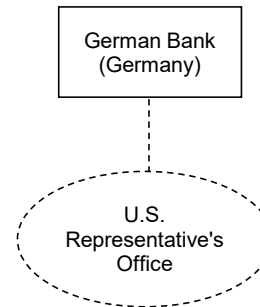


## Revenue Ruling 72-418

### U.S. Office of German Bank Was Not A Permanent Establishment

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A German bank, which was a foreign corporation and had its business management or seat in Germany, maintained a representative's office in the United States. The lease of the office space was in the name of an individual who was acting as the bank's representative. The German bank maintained an account with a bank incorporated in the United States out of which the expenses of the representative's office were paid by checks drawn on such United States bank.



#### Activities of the U.S. Office:

1. Investigates and obtains information regarding various commercial and financial matters in the United States of interest to the bank, and submits reports thereon to its head office in Germany. The nature of these reports covers a large field varying from specific credit reports on American banks to reports on general financial conditions in the United States. Assists the bank's United States and German customers with information, and furnishes German customers with letters of introduction to American banks or manufacturing corporations. On occasions, it authenticates signatures on letters or cables to the home office in Germany.  
Establishes and maintains contracts with banks, financial institutions, business corporations and government agencies in the United States, and furnishes them with information regarding German banking, financial, and business matters, and current interest and discount rates generally prevailing in Germany.  
On rare occasions, communicates with the bank's debtors in the United States and
4. obtains information regarding the possibility of repayment of past due obligations.  
Advertises for the bank throughout the United States in newspapers, periodicals and by
5. personal contacts.

#### Activities the U.S. Office did not engage in:

1. Buying, selling, paying, or collecting bills of exchange
2. Issuing letters of credit or receiving money for transmission or transmitting money by draft, check, cable, or otherwise, making loans
3. Receiving deposits or exercising fiduciary powers
4. Keeping or maintaining any books of account for the bank except a record of its own expenses
5. Concluding any contracts on behalf of the bank
6. Soliciting business on behalf of the bank.

The German-U.S. Income Tax Treaty provided that the term "permanent establishment" means a fixed place of business in which the business of an enterprise of one of the contracting States is wholly or partly carried on, and includes an "office." However, a permanent establishment is deemed not to include the maintenance of a fixed place of business for the collection of information for the enterprise, or for the purpose of advertising, for the supply of information, for scientific research or for similar activities, if they have a preparatory or auxiliary character, for the enterprise.

The ruling held that the business activities of the representative's office maintained by the German bank in the United States did not cause that office to be a "permanent establishment" of the bank in the United States.

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