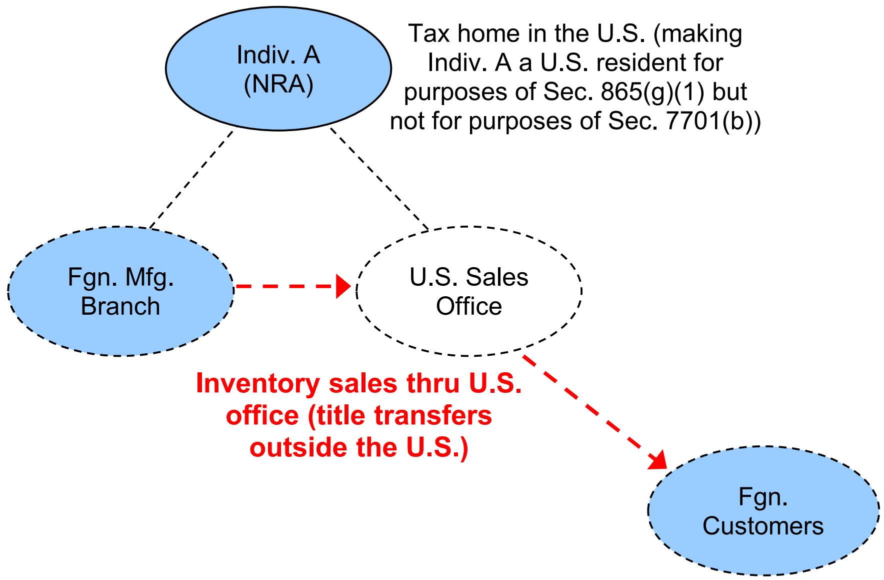
Prop. Reg. 1.864-6(c)(3)(i), Example 1

NRA With a US Tax Home Selling Foreign-Produced Inventory Thru a US Office



Nonresident alien individual A, who has a tax home in the United States, manufactures machinery in a foreign country and sells the machinery outside the United States through A's sales office in the United States for use in foreign countries. Title to the property sold is transferred to the foreign purchaser outside the United States, but no office or other fixed place of business of A in a foreign country participates materially in the sale made through its U.S. office. By reason of its sales activities in the United States, A is engaged in business in the United States during the taxable year. During the taxable year, A derives a total income of $250,000x from these sales. Under section 865(b)(2), all of A's income from these sales is foreign source as production occurs outside the United States. Under Reg. 1.864-6(c)(2), the amount of income that is allocable to A's U.S. office is determined under Reg. 1.865-3(d)(2). The taxpayer does not allocate income from the sale under the books and records method described in Reg. 1.865-3(d)(2)(ii). Thus, 50% of A's foreign source income, plus any additional income allocable based on the location of production activities under Reg.s 1.863-3(b) and 1.865-3(d)(2)(i) (in this case, $0x), is effectively connected for the taxable year with the conduct of A's U.S. trade or business, or $125,000x.