

SUBPART A—NONRESIDENT ALIEN INDIVIDUALS

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AMENDMENTS

2008—Pub. L. 110-245, title III, §301(f), June 17, 2008, 122 Stat. 1647, added item 877A.

1986—Pub. L. 99-514, title XII, §1272(d)(13), Oct. 22, 1986, 100 Stat. 2595, inserted “; Guam, American Samoa, or the Northern Mariana Islands” in item 876.

1984—Pub. L. 98-369, div. A, title I, §139(b)(2), July 18, 1984, 98 Stat. 677, substituted “nonresident alien individuals” for “a resident or citizen of the United States who is married to a nonresident alien individual” in item 879.

1976—Pub. L. 94-455, title X, §1012(b)(3)(A), Oct. 4, 1976, 90 Stat. 1614, added item 879.

1966—Pub. L. 89-809, title I, §103(e)(2), (f)(2), Nov. 13, 1966, 80 Stat. 1551, 1552, inserted “; beneficiaries of estates and trusts” in item 875, added item 877, and redesignated former item 877 as 878.

§ 871. Tax on nonresident alien individuals**(a) Income not connected with United States business—30 percent tax****(1) Income other than capital gains**

Except as provided in subsection (h), there is hereby imposed for each taxable year a tax of 30 percent of the amount received from sources within the United States by a nonresident alien individual as—

(A) interest (other than original issue discount as defined in section 1273), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income,

(B) gains described in subsection (b) or (c) of section 631,

(C) in the case of—

(i) a sale or exchange of an original issue discount obligation, the amount of the original issue discount accruing while such obligation was held by the nonresident alien individual (to the extent such discount was not theretofore taken into account under clause (ii)), and

(ii) a payment on an original issue discount obligation, an amount equal to the original issue discount accruing while such obligation was held by the nonresident alien individual (except that such original issue discount shall be taken into account under this clause only to the extent such discount was not theretofore taken into account under this clause and only to the extent that the tax thereon does not exceed the payment less the tax imposed by subparagraph (A) thereon), and

(D) gains from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like property, or of any interest in any such property, to the extent such gains are from payments which are contingent on the productivity, use, or disposition of the property or interest sold or exchanged,

but only to the extent the amount so received is not effectively connected with the conduct of a trade or business within the United States.

(2) Capital gains of aliens present in the United States 183 days or more

In the case of a nonresident alien individual present in the United States for a period or periods aggregating 183 days or more during the taxable year, there is hereby imposed for such year a tax of 30 percent of the amount by which his gains, derived from sources within the United States, from the sale or exchange at any time during such year of capital assets exceed his losses, allocable to sources within the United States, from the sale or exchange at any time during such year of capital assets. For purposes of this paragraph, gains and losses shall be taken into account only if, and to the extent that, they would be recognized and taken into account if such gains and losses were effectively connected with the conduct of a trade or business within the United States, except that such gains and losses shall be determined without regard to section 1202 and such losses shall be determined without the benefits of the capital loss carryover provided in section 1212. Any gain or loss which is taken into account in determining the tax under paragraph (1) or subsection (b) shall not be taken into account in determining the tax under this paragraph. For purposes of the 183-day requirement of this paragraph, a nonresident alien individual not engaged in trade or business within the United States who has not established a taxable year for any prior period shall be treated as having a taxable year which is the calendar year.

(3) Taxation of social security benefits

For purposes of this section and section 1441—

(A) 85 percent of any social security benefit (as defined in section 86(d)) shall be included in gross income (notwithstanding section 207 of the Social Security Act), and

(B) section 86 shall not apply.

For treatment of certain citizens of possessions of the United States, see section 932(c).¹

(b) Income connected with United States business—graduated rate of tax**(1) Imposition of tax**

A nonresident alien individual engaged in trade or business within the United States during the taxable year shall be taxable as provided in section 1 or 55 on his taxable income which is effectively connected with the conduct of a trade or business within the United States.

¹ See References in Text note below.