

**§ 879. Tax treatment of certain community income in the case of nonresident alien individuals**

**(a) General rule**

In the case of a married couple 1 or both of whom are nonresident alien individuals and who have community income for the taxable year, such community income shall be treated as follows:

(1) Earned income (within the meaning of section 911(d)(2)), other than trade or business income and a partner's distributive share of partnership income, shall be treated as the income of the spouse who rendered the personal services,

(2) Trade or business income, and a partner's distributive share of partnership income, shall be treated as provided in section 1402(a)(5),

(3) Community income not described in paragraph (1) or (2) which is derived from the separate property (as determined under the applicable community property law) of one spouse shall be treated as the income of such spouse, and

(4) All other such community income shall be treated as provided in the applicable community property law.

**(b) Exception where election under section 6013(g) is in effect**

Subsection (a) shall not apply for any taxable year for which an election under subsection (g) or (h) of section 6013 (relating to election to treat nonresident alien individual as resident of the United States) is in effect.

**(c) Definitions and special rules**

For purposes of this section—

**(1) Community income**

The term "community income" means income which, under applicable community property laws, is treated as community income.

**(2) Community property laws**

The term "community property laws" means the community property laws of a State, a foreign country, or a possession of the United States.

**(3) Determination of marital status**

The determination of marital status shall be made under section 7703(a).

(Added Pub. L. 94-455, title X, §1012(b)(1), Oct. 4, 1976, 90 Stat. 1613; amended Pub. L. 97-34, title I, §111(b)(4), Aug. 13, 1981, 95 Stat. 194; Pub. L. 98-369, div. A, title I, §139(a), (b)(1), July 18, 1984, 98 Stat. 677; Pub. L. 99-514, title XIII, §1301(j)(9), Oct. 22, 1986, 100 Stat. 2658.)

AMENDMENTS

1986—Subsec. (c)(3). Pub. L. 99-514 substituted "section 7703(a)" for "section 143(a)".

1984—Pub. L. 98-369, §139(b)(1), substituted "nonresident alien individuals" for "a resident or citizen of the United States who is married to a nonresident alien individual" in section catchline.

Subsec. (a). Pub. L. 98-369, §139(a), substituted in provision preceding par. (1) "married couple 1 or both of whom are nonresident alien individuals" for "citizen or resident of the United States who is married to a nonresident alien individual".

1981—Subsec. (a)(1). Pub. L. 97-34 substituted "section 911(d)(2)" for "section 911(b)".

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to bonds issued after Aug. 15, 1986, except as otherwise provided, see sections 1311 to 1318 of Pub. L. 99-514, set out as an Effective Date; Transitional Rules note under section 141 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §139(c), July 18, 1984, 98 Stat. 677, provided that: "The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1984."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable with respect to taxable years beginning after Dec. 31, 1981, see section 115 of Pub. L. 97-34, set out as a note under section 911 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1976, see section 1012(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 6013 of this title.

SUBPART B—FOREIGN CORPORATIONS

Sec.

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| 881. | Tax on income of foreign corporations not connected with United States business. |
| 882. | Tax on income of foreign corporations connected with United States business.     |
| 883. | Exclusions from gross income.  |
| 884. | Branch profits tax.  |
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AMENDMENTS

1986—Pub. L. 99-514, title XII, §1241(d), Oct. 22, 1986, 100 Stat. 2580, added item 884 and redesignated former item 884 as 885.

1966—Pub. L. 89-809, title I, §104(b)(3), Nov. 13, 1966, 80 Stat. 1557, substituted "Tax on income of foreign corporations not connected with United States business" for "Tax on foreign corporations not engaged in business in United States" in item 881, and "Tax on income of foreign corporations connected with United States business" for "Tax on resident foreign corporations" in item 882.

**§ 881. Tax on income of foreign corporations not connected with United States business**

**(a) Imposition of tax**

Except as provided in subsection (c), 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 foreign corporation as—

- (1) 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,
- (2) gains described in section 631(b) or (c),
- (3) in the case of—

(A) 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 foreign corporation (to the extent such discount was not theretofore taken into account under subparagraph (B)), and