

**(4) Covered person**

The term “covered person” means, with respect to any person who pays or accrues a foreign income tax (hereafter in this paragraph referred to as the “payor”)—

(A) any entity in which the payor holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value),

(B) any person which holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value) in the payor,

(C) any person which bears a relationship to the payor described in section 267(b) or 707(b), and

(D) any other person specified by the Secretary for purposes of this paragraph.

**(5) Section 902 corporation**

The term “section 902 corporation” means any foreign corporation with respect to which one or more domestic corporations meets the ownership requirements of subsection (a) or (b) of section 902.

**(e) Regulations**

The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provides—

(1) appropriate exceptions from the provisions of this section, and

(2) for the proper application of this section with respect to hybrid instruments.

(Added Pub. L. 111-226, title II, §211(a), Aug. 10, 2010, 124 Stat. 2394.)

EFFECTIVE DATE

Pub. L. 111-226, title II, §211(c), Aug. 10, 2010, 124 Stat. 2395, provided that: “The amendments made by this section [enacting this section] shall apply to—

“(1) foreign income taxes (as defined in section 909(d) of the Internal Revenue Code of 1986, as added by this section) paid or accrued in taxable years beginning after December 31, 2010; and

“(2) foreign income taxes (as so defined) paid or accrued by a section 902 corporation (as so defined) in taxable years beginning on or before such date (and not deemed paid under section 902(a) or 960 of such Code on or before such date), but only for purposes of applying sections 902 and 960 with respect to periods after such date.

Section 909(b)(2) of the Internal Revenue Code of 1986, as added by this section, shall not apply to foreign income taxes described in paragraph (2).”

SUBPART B—EARNED INCOME OF CITIZENS OR RESIDENTS OF UNITED STATES

Sec.	
911.	Citizens or residents of the United States living abroad.
912.	Exemption for certain allowances.
[913.	Repealed.]

AMENDMENTS

1981—Pub. L. 97-34, title I, §§111(b)(1), 112(b)(1), Aug. 13, 1981, 95 Stat. 194, 195, substituted “Citizens or residents of the United States living abroad” for “Income earned by individuals in certain camps or from charitable services” in item 911 and struck out item 913 “Deduction for certain expenses of living abroad”.

1980—Pub. L. 96-595, §4(c)(2), Dec. 24, 1980, 94 Stat. 3467, inserted “or from charitable services” after “camps” in item 911.

1978—Pub. L. 95-615, §§202(g)(2), (3), 203(c), formerly §§202(f)(2), (3), 203(c), Nov. 8, 1978, 92 Stat. 3100, 3106, renumbered Pub. L. 96-222, title I, §108(a)(1)(A), Apr. 1, 1980, 94 Stat. 223, inserted in subpart heading “or Residents” after “Citizens”, substituted in item 911 “Income earned by individuals in certain camps” for “Earned income from sources without the United States”, and added item 913.

**§ 911. Citizens or residents of the United States living abroad**

**(a) Exclusion from gross income**

At the election of a qualified individual (made separately with respect to paragraphs (1) and (2)), there shall be excluded from the gross income of such individual, and exempt from taxation under this subtitle, for any taxable year—

(1) the foreign earned income of such individual, and

(2) the housing cost amount of such individual.

**(b) Foreign earned income**

**(1) Definition**

For purposes of this section—

**(A) In general**

The term “foreign earned income” with respect to any individual means the amount received by such individual from sources within a foreign country or countries which constitute earned income attributable to services performed by such individual during the period described in subparagraph (A) or (B) of subsection (d)(1), whichever is applicable.

**(B) Certain amounts not included in foreign earned income**

The foreign earned income for an individual shall not include amounts—

(i) received as a pension or annuity,

(ii) paid by the United States or an agency thereof to an employee of the United States or an agency thereof,

(iii) included in gross income by reason of section 402(b) (relating to taxability of beneficiary of nonexempt trust) or section 403(c) (relating to taxability of beneficiary under a nonqualified annuity), or

(iv) received after the close of the taxable year following the taxable year in which the services to which the amounts are attributable are performed.

**(2) Limitation on foreign earned income**

**(A) In general**

The foreign earned income of an individual which may be excluded under subsection (a)(1) for any taxable year shall not exceed the amount of foreign earned income computed on a daily basis at an annual rate equal to the exclusion amount for the calendar year in which such taxable year begins.

**(B) Attribution to year in which services are performed**

For purposes of applying subparagraph (A), amounts received shall be considered received in the taxable year in which the services to which the amounts are attributable are performed.

**(C) Treatment of community income**

In applying subparagraph (A) with respect to amounts received from services performed by a husband or wife which are community income under community property laws applicable to such income, the aggregate amount which may be excludable from the gross income of such husband and wife under subsection (a)(1) for any taxable year shall equal the amount which would be so excludable if such amounts did not constitute community income.

**(D) Exclusion amount****(i) In general**

The exclusion amount for any calendar year is \$80,000.

**(ii) Inflation adjustment**

In the case of any taxable year beginning in a calendar year after 2005, the \$80,000 amount in clause (i) shall be increased by an amount equal to the product of—

(I) such dollar amount, and

(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting “2004” for “1992” in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of \$100, such increase shall be rounded to the next lowest multiple of \$100.

**(c) Housing cost amount**

For purposes of this section—

**(1) In general**

The term “housing cost amount” means an amount equal to the excess of—

(A) the housing expenses of an individual for the taxable year to the extent such expenses do not exceed the amount determined under paragraph (2), over

(B) an amount equal to the product of—

(i) 16 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which such taxable year begins, multiplied by

(ii) the number of days of such taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1).

**(2) Limitation****(A) In general**

The amount determined under this paragraph is an amount equal to the product of—

(i) 30 percent (adjusted as may be provided under subparagraph (B)) of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which the taxable year of the individual begins, multiplied by

(ii) the number of days of such taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1).

**(B) Regulations**

The Secretary may issue regulations or other guidance providing for the adjustment

of the percentage under subparagraph (A)(i) on the basis of geographic differences in housing costs relative to housing costs in the United States.

**(3) Housing expenses****(A) In general**

The term “housing expenses” means the reasonable expenses paid or incurred during the taxable year by or on behalf of an individual for housing for the individual (and, if they reside with him, for his spouse and dependents) in a foreign country. The term—

(i) includes expenses attributable to the housing (such as utilities and insurance), but

(ii) does not include interest and taxes of the kind deductible under section 163 or 164 or any amount allowable as a deduction under section 216(a).

Housing expenses shall not be treated as reasonable to the extent such expenses are lavish or extravagant under the circumstances.

**(B) Second foreign household****(i) In general**

Except as provided in clause (ii), only housing expenses incurred with respect to that abode which bears the closest relationship to the tax home of the individual shall be taken into account under paragraph (1).

**(ii) Separate household for spouse and dependents**

If an individual maintains a separate abode outside the United States for his spouse and dependents and they do not reside with him because of living conditions which are dangerous, unhealthful, or otherwise adverse, then—

(I) the words “if they reside with him” in subparagraph (A) shall be disregarded, and

(II) the housing expenses incurred with respect to such abode shall be taken into account under paragraph (1).

**(4) Special rules where housing expenses not provided by employer****(A) In general**

To the extent the housing cost amount of any individual for any taxable year is not attributable to employer provided amounts, such amount shall be treated as a deduction allowable in computing adjusted gross income to the extent of the limitation of subparagraph (B).

**(B) Limitation**

For purposes of subparagraph (A), the limitation of this subparagraph is the excess of—

(i) the foreign earned income of the individual for the taxable year, over

(ii) the amount of such income excluded from gross income under subsection (a) for the taxable year.

**(C) 1-year carryover of housing amounts not allowed by reason of subparagraph (B)****(i) In general**

The amount not allowable as a deduction for any taxable year under subparagraph

(A) by reason of the limitation of subparagraph (B) shall be treated as a deduction allowable in computing adjusted gross income for the succeeding taxable year (and only for the succeeding taxable year) to the extent of the limitation of clause (ii) for such succeeding taxable year.

**(ii) Limitation**

For purposes of clause (i), the limitation of this clause for any taxable year is the excess of—

(I) the limitation of subparagraph (B) for such taxable year, over

(II) amounts treated as a deduction under subparagraph (A) for such taxable year.

**(D) Employer provided amounts**

For purposes of this paragraph, the term “employer provided amounts” means any amount paid or incurred on behalf of the individual by the individual’s employer which is foreign earned income included in the individual’s gross income for the taxable year (without regard to this section).

**(E) Foreign earned income**

For purposes of this paragraph, an individual’s foreign earned income for any taxable year shall be determined without regard to the limitation of subparagraph (A) of subsection (b)(2).

**(d) Definitions and special rules**

For purposes of this section—

**(1) Qualified individual**

The term “qualified individual” means an individual whose tax home is in a foreign country and who is—

(A) a citizen of the United States and establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or

(B) a citizen or resident of the United States and who, during any period of 12 consecutive months, is present in a foreign country or countries during at least 330 full days in such period.

**(2) Earned income**

**(A) In general**

The term “earned income” means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered.

**(B) Taxpayer engaged in trade or business**

In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income-producing factors, under regulations prescribed by the Secretary, a reasonable allow-

ance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of his share of the net profits of such trade or business, shall be considered as earned income.

**(3) Tax home**

The term “tax home” means, with respect to any individual, such individual’s home for purposes of section 162(a)(2) (relating to traveling expenses while away from home). An individual shall not be treated as having a tax home in a foreign country for any period for which his abode is within the United States.

**(4) Waiver of period of stay in foreign country**

Notwithstanding paragraph (1), an individual who—

(A) is a bona fide resident of, or is present in, a foreign country for any period,

(B) leaves such foreign country after August 31, 1978—

(i) during any period during which the Secretary determines, after consultation with the Secretary of State or his delegate, that individuals were required to leave such foreign country because of war, civil unrest, or similar adverse conditions in such foreign country which precluded the normal conduct of business by such individuals, and

(ii) before meeting the requirements of such paragraph (1), and

(C) establishes to the satisfaction of the Secretary that such individual could reasonably have been expected to have met such requirements but for the conditions referred to in clause (i) of subparagraph (B),

shall be treated as a qualified individual with respect to the period described in subparagraph (A) during which he was a bona fide resident of, or was present in, the foreign country, and in applying subsections (b)(2)(A), (c)(1)(B)(ii), and (c)(2)(A)(ii) with respect to such individual, only the days within such period shall be taken into account.

**(5) Test of bona fide residence**

If—

(A) an individual who has earned income from sources within a foreign country submits a statement to the authorities of that country that he is not a resident of that country, and

(B) such individual is held not subject as a resident of that country to the income tax of that country by its authorities with respect to such earnings,

then such individual shall not be considered a bona fide resident of that country for purposes of paragraph (1)(A).

**(6) Denial of double benefits**

No deduction or exclusion from gross income under this subtitle or credit against the tax imposed by this chapter (including any credit or deduction for the amount of taxes paid or accrued to a foreign country or possession of the United States) shall be allowed to the extent such deduction, exclusion, or credit is properly allocable to or chargeable against

amounts excluded from gross income under subsection (a).

**(7) Aggregate benefit cannot exceed foreign earned income**

The sum of the amount excluded under subsection (a) and the amount deducted under subsection (c)(4)(A) for the taxable year shall not exceed the individual's foreign earned income for such year.

**(8) Limitation on income earned in restricted country**

**(A) In general**

If travel (or any transaction in connection with such travel) with respect to any foreign country is subject to the regulations described in subparagraph (B) during any period—

(i) the term “foreign earned income” shall not include any income from sources within such country attributable to services performed during such period,

(ii) the term “housing expenses” shall not include any expenses allocable to such period for housing in such country or for housing of the spouse or dependents of the taxpayer in another country while the taxpayer is present in such country, and

(iii) an individual shall not be treated as a bona fide resident of, or as present in, a foreign country for any day during which such individual was present in such country during such period.

**(B) Regulations**

For purposes of this paragraph, regulations are described in this subparagraph if such regulations—

(i) have been adopted pursuant to the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.),<sup>1</sup> or the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), and

(ii) include provisions generally prohibiting citizens and residents of the United States from engaging in transactions related to travel to, from, or within a foreign country.

**(C) Exception**

Subparagraph (A) shall not apply to any individual during any period in which such individual's activities are not in violation of the regulations described in subparagraph (B).

**(9) Regulations**

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing rules—

(A) for cases where a husband and wife each have earned income from sources outside the United States, and

(B) for married individuals filing separate returns.

**(e) Election**

**(1) In general**

An election under subsection (a) shall apply to the taxable year for which made and to all

subsequent taxable years unless revoked under paragraph (2).

**(2) Revocation**

A taxpayer may revoke an election made under paragraph (1) for any taxable year after the taxable year for which such election was made. Except with the consent of the Secretary, any taxpayer who makes such a revocation for any taxable year may not make another election under this section for any subsequent taxable year before the 6th taxable year after the taxable year for which such revocation was made.

**(f) Determination of tax liability**

**(1) In general**

If, for any taxable year, any amount is excluded from gross income of a taxpayer under subsection (a), then, notwithstanding sections 1 and 55—

(A) if such taxpayer has taxable income for such taxable year, the tax imposed by section 1 for such taxable year shall be equal to the excess (if any) of—

(i) the tax which would be imposed by section 1 for such taxable year if the taxpayer's taxable income were increased by the amount excluded under subsection (a) for such taxable year, over

(ii) the tax which would be imposed by section 1 for such taxable year if the taxpayer's taxable income were equal to the amount excluded under subsection (a) for such taxable year, and

(B) if such taxpayer has a taxable excess (as defined in section 55(b)(1)(A)(ii)) for such taxable year, the amount determined under the first sentence of section 55(b)(1)(A)(i) for such taxable year shall be equal to the excess (if any) of—

(i) the amount which would be determined under such sentence for such taxable year (subject to the limitation of section 55(b)(3)) if the taxpayer's taxable excess (as so defined) were increased by the amount excluded under subsection (a) for such taxable year, over

(ii) the amount which would be determined under such sentence for such taxable year if the taxpayer's taxable excess (as so defined) were equal to the amount excluded under subsection (a) for such taxable year.

For purposes of this paragraph, the amount excluded under subsection (a) shall be reduced by the aggregate amount of any deductions or exclusions disallowed under subsection (d)(6) with respect to such excluded amount.

**(2) Special rules**

**(A) Regular tax**

In applying section 1(h) for purposes of determining the tax under paragraph (1)(A)(i) for any taxable year in which, without regard to this subsection, the taxpayer's net capital gain exceeds taxable income (hereafter in this subparagraph referred to as the capital gain excess)—

(i) the taxpayer's net capital gain (determined without regard to section 1(h)(11))

<sup>1</sup> See References in Text note below.

shall be reduced (but not below zero) by such capital gain excess,

(ii) the taxpayer's qualified dividend income shall be reduced by so much of such capital gain excess as exceeds the taxpayer's net capital gain (determined without regard to section 1(h)(11) and the reduction under clause (i)), and

(iii) adjusted net capital gain, unrecaptured section 1250 gain, and 28-percent rate gain shall each be determined after increasing the amount described in section 1(h)(4)(B) by such capital gain excess.

#### **(B) Alternative minimum tax**

In applying section 55(b)(3) for purposes of determining the tax under paragraph (1)(B)(i) for any taxable year in which, without regard to this subsection, the taxpayer's net capital gain exceeds the taxable excess (as defined in section 55(b)(1)(A)(ii))—

(i) the rules of subparagraph (A) shall apply, except that such subparagraph shall be applied by substituting “the taxable excess (as defined in section 55(b)(1)(A)(ii))” for “taxable income”, and

(ii) the reference in section 55(b)(3)(B) to the excess described in section 1(h)(1)(B), and the reference in section 55(b)(3)(C)(ii) to the excess described in section 1(h)(1)(C)(ii), shall each be treated as a reference to each such excess as determined under the rules of subparagraph (A) for purposes of determining the tax under paragraph (1)(A)(i).

#### **(C) Definitions**

Terms used in this paragraph which are also used in section 1(h) shall have the respective meanings given such terms by section 1(h), except that in applying subparagraph (B) the adjustments under part VI of subchapter A shall be taken into account.

#### **(g) Cross references**

**For administrative and penal provisions relating to the exclusions provided for in this section, see sections 6001, 6011, 6012(c), and the other provisions of subtitle F.**

(Aug. 16, 1954, ch. 736, 68A Stat. 289; Pub. L. 85-866, title I, §72(b), Sept. 2, 1958, 72 Stat. 1660; Pub. L. 87-834, §11(a), Oct. 16, 1962, 76 Stat. 1003; Pub. L. 88-272, title II, §237(a), Feb. 26, 1964, 78 Stat. 128; Pub. L. 89-809, title I, §105(e)(3), Nov. 13, 1966, 80 Stat. 1567; Pub. L. 94-455, title X, §1011(a), (b), title XIX, §§1901(a)(115), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1610, 1784, 1834; Pub. L. 95-30, title I, §102(b)(12), May 23, 1977, 91 Stat. 138; Pub. L. 95-600, title IV, §401(b)(4), title VII, §§701(u)(10)(A), 703(e), Nov. 6, 1978, 92 Stat. 2867, 2917, 2939; Pub. L. 95-615, title II, §202(a)-(e), (g)(1), formerly §202(a)-(f)(1), Nov. 8, 1978, 92 Stat. 3098-3100, renumbered §202(a)-(e), (g)(1), and amended Pub. L. 96-222, title I, §§107(a)(3)(B), 108(a)(1)(A), (C), (D), Apr. 1, 1980, 94 Stat. 223, 224; Pub. L. 96-595, §4(a)-(c)(1), Dec. 24, 1980, 94 Stat. 3466, 3467; Pub. L. 97-34, title I, §111(a), Aug. 13, 1981, 95 Stat. 190; Pub. L. 97-448, title I, §101(c), Jan. 12, 1983, 96 Stat. 2366; Pub. L. 98-369, div. A, title I, §17, July 18, 1984, 98 Stat. 505; Pub. L. 99-514, title XII, §1233(a), (b), Oct. 22, 1986, 100 Stat. 2564; Pub. L. 105-34, title XI,

§1172(a), Aug. 5, 1997, 111 Stat. 988; Pub. L. 109-222, title V, §515(a)-(c), May 17, 2006, 120 Stat. 367; Pub. L. 110-172, §4(c), Dec. 29, 2007, 121 Stat. 2476; Pub. L. 113-295, div. A, title II, §§202(b), 215(a), 221(a)(73), Dec. 19, 2014, 128 Stat. 4024, 4034, 4049.)

#### **INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS**

*For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.*

#### **REFERENCES IN TEXT**

The Trading With the Enemy Act, referred to in subsec. (d)(8)(B)(i), is act Oct. 6, 1917, ch. 106, 40 Stat. 411, which was classified to sections 1 to 6, 7 to 39, and 41 to 44 of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering in Title 50, and is now classified generally to chapter 53 (§4301 et seq.) of Title 50. For complete classification of this Act to the Code, see Tables.

The International Emergency Economic Powers Act, referred to in subsec. (d)(8)(B)(i), is Pub. L. 95-223, title II, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

#### **AMENDMENTS**

2014—Subsec. (b)(2)(D)(i). Pub. L. 113-295, §221(a)(73), amended cl. (i) generally. Prior to amendment, cl. (i) listed exclusion amounts for calendar years beginning from 1998 to 2002 and thereafter.

Subsec. (f)(1). Pub. L. 113-295, §215(a), inserted concluding provisions.

Subsec. (f)(2)(B)(ii). Pub. L. 113-295, §202(b), substituted “described in section 1(h)(1)(B), and the reference in section 55(b)(3)(C)(ii) to the excess described in section 1(h)(1)(C)(ii), shall each be treated as a reference to each such excess as determined” for “described in section 1(h)(1)(B) shall be treated as a reference to such excess as determined”.

2007—Subsec. (f). Pub. L. 110-172 amended heading and text generally, substituting provisions relating to determination of tax liability, special rules for determining regular tax and alternative minimum tax, and definitions for former provisions relating to determination of tax liability and tentative minimum tax.

2006—Subsec. (b)(2)(D)(ii). Pub. L. 109-222, §515(a)(1), substituted “2005” for “2007” in introductory provisions.

Subsec. (b)(2)(D)(ii)(II). Pub. L. 109-222, §515(a)(2), substituted “2004” for “2006”.

Subsec. (c)(1)(A). Pub. L. 109-222, §515(b)(2)(A), inserted “to the extent such expenses do not exceed the amount determined under paragraph (2)” after “the taxable year”.

Subsec. (c)(1)(B)(i). Pub. L. 109-222, §515(b)(1), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: “16 percent of the salary (computed on a daily basis) of an employee of the United States who is compensated at a rate equal to the annual rate paid for step 1 of grade GS-14, multiplied by”.

Subsec. (c)(2) to (4). Pub. L. 109-222, §515(b)(2)(B), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (d)(4). Pub. L. 109-222, §515(b)(2)(C)(i), substituted “, (c)(1)(B)(ii), and (c)(2)(A)(ii)” for “and (c)(1)(B)(ii)” in concluding provisions.

Subsec. (d)(7). Pub. L. 109-222, §515(b)(2)(C)(ii), which directed substitution of “subsection (c)(4)” for “subsection (c)(3)”, was executed by substituting “subsection (c)(4)(A)” for “subsection (c)(3)(A)” to reflect the probable intent of Congress.

Subsecs. (f), (g). Pub. L. 109-222, §515(c), added subsec. (f) and redesignated former subsec. (f) as (g).

1997—Subsec. (b)(2)(A). Pub. L. 105-34, §1172(a)(1), substituted “equal to the exclusion amount for the cal-

endar year in which such taxable year begins” for “of \$70,000”.

Subsec. (b)(2)(D). Pub. L. 105-34, § 1172(a)(2), added subpar. (D).

1986—Subsec. (b)(2)(A). Pub. L. 99-514, § 1233(a), in amending subpar. (A) generally, substituted “an annual rate of \$70,000” for “the annual rate set forth in the following table for each day of the taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1):

“In the case of taxable years beginning in:	The annual rate is:
1983, 1984, 1985, 1986, or 1987 .....	\$80,000
1988 .....	85,000
1989 .....	90,000
1990 and thereafter .....	95,000.”

Subsec. (d)(8), (9). Pub. L. 99-514, § 1233(b), added par. (8) and redesignated former par. (8) as (9).

1984—Subsec. (b)(2)(A). Pub. L. 98-369 amended table by striking out item which set the annual rate at \$75,000 for taxable years beginning in 1982, substituted item setting the annual rate at \$80,000 for taxable years beginning in 1983, 1984, 1985, 1986, or 1987 for items which had set annual rates of \$80,000 for taxable years beginning in 1983, \$85,000 for taxable years beginning in 1984, \$90,000 for taxable years beginning in 1985, and \$95,000 for taxable years beginning in 1986 and thereafter, and added items setting annual rates of \$85,000 for taxable years beginning in 1988, \$90,000 for taxable years beginning in 1989, and \$95,000 for taxable years beginning in 1990 and thereafter.

1983—Subsec. (c)(3)(B)(ii). Pub. L. 97-448, § 101(c)(2), substituted “subsection (a)” for “subsection (a)(1)”.

Subsec. (d)(7), (8). Pub. L. 97-448, § 101(c)(1), added par. (7) and redesignated former par. (7) as (8).

1981—Pub. L. 97-34 amended section generally, modifying the eligibility standards of existing law, replacing the existing system of deduction for excess living costs with an exclusion of a portion of foreign earned income, and providing for an individual’s election to exclude a portion of his income or to deduct an amount for housing, based on his housing expenses.

1980—Pub. L. 96-595 § 4(c)(1), inserted “or from charitable services” after “camps” in section catchline.

Subsec. (a). Pub. L. 96-595, § 4(a), inserted “or who performs qualified charitable services in a lesser developed country,” after “hardship area”.

Pub. L. 96-222, § 108(a)(1)(C), (D), substituted “a foreign country or” for “qualified foreign” in par. (2) and, in provisions following par. (2), substituted “his gross income any deduction,” for “his gross income” and “other than the deduction allowed by section 217” for “other than the deductions allowed by sections 217”.

Subsec. (c)(1)(A). Pub. L. 96-595, § 4(b)(1), substituted “Dollar limitations” for “In general” in heading, redesignated existing provisions as cl. (i), and in cl. (i) as so redesignated, inserted “Camp residents—In the case of an individual who resides in a camp located in a hardship area” before “the amount excluded”, and added cls. (ii) and (iii).

Subsec. (c)(1)(D), (E). Pub. L. 96-595, § 4(b)(2), added subpars. (D) and (E).

1978—Pub. L. 95-615, § 202(f)(1), substituted “Income earned by individuals in certain camps” for “Earned income from sources without the United States” in section catchline.

Subsec. (a). Pub. L. 95-615, § 202(a), in introductory provisions inserted reference to an individual described in section 913(a) who, because of his employment, resides in a camp located in a hardship area, in par. (1) substituted reference to amounts received from sources within a foreign country or countries for reference to amounts received from sources without the United States, in par. (2) substituted reference to amounts received from sources within qualified foreign countries for reference to amounts received from sources without the United States, and in provisions following par. (2) struck out “any deductions (other than those allowed by section 151, relating to personal exemptions),” after

“deduction from his gross income” and inserted “, other than the deductions allowed by sections 217 (relating to moving expenses)” after “subsection”.

Pub. L. 95-600, § 701(u)(10)(A), inserted provisions setting forth formula for determining amount of reduction of taxes, and struck out provisions relating to the credit against taxes.

Subsec. (c)(1)(A). Pub. L. 95-615, § 202(b), substituted “The amount excluded” for “Except as provided in subparagraphs (B) and (C), the amount excluded” and “an annual rate of \$20,000 for days during which he resides in a camp” for “an annual rate of \$15,000”.

Subsec. (c)(1)(B). Pub. L. 95-615, § 202(b), substituted provisions relating to conditions upon which an individual will be considered to reside in a camp because of his employment for provisions which related to the amount excluded from the gross income of an individual performing qualified charitable services.

Subsec. (c)(1)(C). Pub. L. 95-615, § 202(b), substituted provisions relating to definition of “hardship area” for provisions which related to the amount excluded from the gross income of an individual performing both qualified charitable services and other services.

Subsec. (c)(1)(D). Pub. L. 95-615, § 202(b), struck out subpar. (D) which defined “qualified charitable services”.

Subsec. (c)(7). Pub. L. 95-615, § 202(c), added par. (7).

Pub. L. 95-600, § 703(e), redesignated former par. (8) as (7). Such par. (8) was subsequently repealed by section 202(e) of Pub. L. 95-615 without taking into account the redesignation of par. (8) as (7) by Pub. L. 95-600. See 1978 Amendment note for subsec. (c)(8) below.

Subsec. (c)(8). Pub. L. 95-615, § 202(e), struck out par. (8) which related to the nonexclusion under subsec. (a) of any amount attributable to services performed in a foreign country or countries if such amount was received outside of the foreign country or countries where such services were performed and if one of the purposes was the avoidance of any tax imposed by such foreign country or countries on such amount.

Subsec. (d). Pub. L. 95-615, § 202(d)(1), redesignated subsec. (e) as (d), inserted “for the taxable year” after “section apply”, and struck out provision that an election was applicable to the taxable year for which made and to all subsequent taxable years. Former subsec. (d), which related to the computation of tax imposed by section 1 or section 1201 if an individual earned income which was excluded from gross income under subsec. (a) and which defined “net taxable income” and “net excluded earned income”, was struck out.

Subsec. (d)(1). Pub. L. 95-600, § 401(b)(4), struck out provisions respecting applicability of section 1201 of this title.

Subsecs. (e), (f). Pub. L. 95-615, § 202(d)(1), (2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

1977—Subsec. (d)(1)(B). Pub. L. 95-30 substituted “on the sum of (i) the amount of net excluded earned income, and (ii) the zero bracket amount” for “on the amount of net excluded earned income”.

1976—Subsec. (a). Pub. L. 94-455, §§ 1011(b)(1), 1906(b)(13)(A), struck out “or his delegate” after “Secretary” in par. (1), and in provisions following par. (2), inserted “or as a credit against the tax imposed by this chapter any credit for the amount of taxes paid or accrued to a foreign country or possession of the United States, to the extent that such deductions or credit is” after “personal exemptions”.

Subsec. (b). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (c)(1). Pub. L. 94-455, § 1011(a), reduced the amount excludable from individual’s gross income from \$20,000 to \$15,000 and \$20,000 for employees of charitable organizations, added special rule to be applied to income from charitable sources and other sources combined, inserted definition of “qualified charitable services”, and struck out provisions relating to \$25,000 exclusion for individual who has been a bona fide resident in a foreign country for an uninterrupted period of 3 years.

Subsec. (c)(7). Pub. L. 94-455, §1901(a)(115), struck out par. (7) relating to certain noncash remuneration from sources outside the United States.

Subsec. (c)(8). Pub. L. 94-455, §1011(b)(2), added par. (8).

Subsecs. (d) to (f). Pub. L. 94-455, §1011(b)(3), added subsecs. (d) and (e) and redesignated former subsec. (d) as (f).

1966—Subsec. (d). Pub. L. 89-809 designated existing text as par. (1) and added par. (2).

1964—Subsec. (c)(1)(B). Pub. L. 88-272 substituted “\$25,000” for “\$35,000”.

1962—Subsec. (a). Pub. L. 87-834 substituted “which constitute earned income attributable to services performed during such uninterrupted period” for “if such amounts constitute earned income (as defined in subsection (b)) attributable to such period” in par. (1), and “which constitute earned income attributable to services performed during such 18-month period” for “if such amounts constitute earned income (as defined in subsection (b)) attributable to such period” in par. (2), inserted provisions in pars. (1) and (2) requiring the amount excluded under such paragraphs to be computed by applying the special rules contained in subsec. (c), and eliminated provisions from par. (2) which limited the amount excluded under such paragraph to not more than \$20,000 if the 18-month period includes the entire taxable year, and to not more than an amount which bears the same ratio to \$20,000 as the number of days in the part of the taxable year within the 18-month period bears to the total number of days in such year if the 18-month period does not include the entire taxable year.

Subsecs. (c) and (d). Pub. L. 87-834 added subsec. (c) and redesignated former subsec. (c) as (d).

1958—Subsec. (c). Pub. L. 85-866 added subsec. (c).

#### EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 202(b) of Pub. L. 113-295 effective as if included in the provision of the American Taxpayer Relief Act of 2012, Pub. L. 112-240, to which such amendment relates, see section 202(f) of Pub. L. 113-295, set out as a note under section 55 of this title.

Amendment by section 215(a) of Pub. L. 113-295 effective as if included in the provisions of the Tax Technical Corrections Act of 2007, Pub. L. 110-172, to which such amendment relates, see section 215(c) of Pub. L. 113-295, set out as a note under section 56 of this title.

Amendment by section 221(a)(73) of Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-172 effective as if included in the provisions of the Tax Increase Prevention and Reconciliation Act of 2005, Pub. L. 109-222, to which such amendment relates, with certain exceptions, see section 4(d) of Pub. L. 110-172, set out as a note under section 355 of this title.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-222, title V, §515(d), May 17, 2006, 120 Stat. 368, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2005.”

#### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XI, §1172(b), Aug. 5, 1997, 111 Stat. 988, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 1997.”

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XII, §1233(c), Oct. 22, 1986, 100 Stat. 2565, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1986.”

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years ending after Dec. 31, 1983, see section 18(a) of Pub. L. 98-369, set out as a note under section 48 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-34, title I, §115, Aug. 13, 1981, 95 Stat. 196, provided that: “The amendments made by this subtitle [subtitle B (§§111-115) of title I of Pub. L. 97-34, amending this section and sections 37, 43, 62, 63, 105, 119, 410, 879, 1034, 1302, 1303, 1304, 1402, 3401, 6012, and 6091 of this title and repealing section 913 of this title] (other than section 114 [amending section 208 of Pub. L. 95-615, set out below]) shall apply with respect to taxable years beginning after December 31, 1981.”

#### EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-595, §4(d), Dec. 24, 1980, 94 Stat. 3467, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1978.”

Amendment by section 107(a)(3)(B) of Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

Amendment by section 108(a)(1)(A), (C), (D) of Pub. L. 96-222 effective as if included in the Foreign Earned Income Act of 1978, Pub. L. 95-615, see section 108(a)(2)(A) of Pub. L. 96-222, set out as a note under section 3 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 401(b)(4) of Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 401(c) of Pub. L. 95-600, set out as a note under section 1201 of this title.

Pub. L. 95-600, title VII, §701(u)(10)(B), Nov. 6, 1978, 92 Stat. 2917, as amended by Pub. L. 96-222, title I, §107(a)(1)(B), Apr. 1, 1980, 94 Stat. 222, provided that: “The amendment made by subparagraph (A) [amending this section] shall apply to taxable years beginning in calendar year 1978 but only in the case of taxpayers who make an election under section 209(c) of the Foreign Earned Income Act of 1978 [section 209(c) of Pub. L. 95-615, set out below].”

Amendment by section 703(e) of Pub. L. 95-600 effective on Oct. 4, 1976, see section 703(r) of Pub. L. 95-600, set out as a note under section 46 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT; ELECTION OF PRIOR LAW

Pub. L. 95-615, title II, §209, Nov. 8, 1978, 92 Stat. 3109, provided that:

“(a) GENERAL RULE.—Except as provided in subsections (b) and (c), the amendments made by this title [see section 201(a) of Pub. L. 95-615, set out as a Short Title of 1978 Amendment note under section 1 of this title] shall apply to taxable years beginning after December 31, 1977.

“(b) WAGE WITHHOLDING.—The amendment made by section 207(a) [amending section 3401 of this title] shall apply to remuneration paid after the date of the enactment of this Act. [Nov. 8, 1978].

“(c) ELECTION OF PRIOR LAW.—

“(1) A taxpayer may elect not to have the amendments made by this title [see section 201(a) of Pub. L. 95-615, set out as a Short Title of 1978 Amendment note under section 1 of this title] apply with respect

to any taxable year beginning after December 31, 1977, and before January 1, 1979.

“(2) An election under this subsection shall be filed with a taxpayer’s timely filed return for the first taxable year beginning after December 31, 1977.”

#### EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title X, §1011(d), Oct. 4, 1976, 90 Stat. 1611, as amended by Pub. L. 95-30, title III, §302, May 23, 1977, 91 Stat. 152; Pub. L. 95-615, §4(a), Nov. 8, 1978, 92 Stat. 3097, provided that: “The amendments made by this section [amending this section and section 36 of this title] shall apply to taxable years beginning after December 31, 1977.”

Amendment by section 1901(a)(115) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

#### EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-272, title II, §237(b), Feb. 26, 1964, 78 Stat. 128, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1964.”

#### EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-834, §11(c)(1), Oct. 16, 1962, 76 Stat. 1005, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years ending after September 4, 1962, but only with respect to amounts—

“(A) received after March 12, 1962, which are attributable to services performed after December 31, 1962, or

“(B) received after December 31, 1962, which are attributable to services performed on or before December 31, 1962, unless on March 12, 1962, there existed a right (whether forfeitable or nonforfeitable) to receive such amounts.”

#### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 applicable to taxable years beginning after Dec. 31, 1957, see section 72(c) of Pub. L. 85-866 set out as a note under section 6012 of this title.

#### REPEALS

Section 703(e) of Pub. L. 95-600, cited as a credit to this section, was repealed by Pub. L. 96-222, title I, §107(a)(3)(B), Apr. 1, 1980, 94 Stat. 223. See 1978 Amendment note for subsec. (c)(7) of this section set out above.

#### TREATMENT OF CERTAIN PERSONS IN PANAMA

Pub. L. 99-514, title XII, §1232(a), Oct. 22, 1986, 100 Stat. 2563, provided that: “Nothing in the Panama Canal Treaty (or in any agreement implementing such Treaty) shall be construed as exempting (in whole or in part) any citizen or resident of the United States from any tax under the Internal Revenue Code of 1954 or 1986. The preceding sentence shall apply to all taxable years whether beginning before, on, or after the date of the enactment of this Act [Oct. 22, 1986] (or in the case of any tax not imposed with respect to a taxable year, to taxable events after the date of enactment of this Act.)”

#### TAXABLE YEARS BEGINNING IN 1977 OR 1978; INDIVIDUALS WHO LEAVE FOREIGN COUNTRY AFTER AUGUST 31, 1978

Rules similar to the rules of section 913(j)(4) of this title to apply for the purposes of applying this section

for taxable years beginning in 1977 or 1978 in the case of an individual who leaves a foreign country after Aug. 31, 1978, see section 1(b) of Pub. L. 96-608, set out as an Effective Date of 1980 Amendment note under section 913 of this title.

#### INDIVIDUALS FOR WHOM UNUSED ZERO BRACKET AMOUNT COMPUTATION IS PROVIDED FOR TAXABLE YEARS BEGINNING IN 1977

Pub. L. 95-615, §4(b), Nov. 8, 1978, 92 Stat. 3097, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “If for any taxable year beginning in 1977—

“(1) an individual is entitled to the benefits of section 911 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], and

“(2) such individual chooses to take to any extent the benefits of section 901 of such Code, then such individual shall be treated for such taxable year as an individual for whom an unused zero bracket amount computation is provided by section 63(e) of such Code.”

#### REPORTS TO CONGRESSIONAL COMMITTEES; INFORMATION FROM FEDERAL AGENCIES

Pub. L. 95-615, title II, §208, Nov. 8, 1978, 92 Stat. 3108, as amended by Pub. L. 97-34, title I, §114, Aug. 13, 1981, 95 Stat. 195; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101-508, title XI, §11833, Nov. 5, 1990, 104 Stat. 1388-560, provided that:

“(a) GENERAL RULE.—As soon as practicable after December 31, 1993, and as soon as practicable after the close of each fifth calendar year thereafter, the Secretary of the Treasury shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate on the operation and effects of sections 911 and 912 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].

“(b) INFORMATION FROM FEDERAL AGENCIES.—Each agency of the Federal Government which pays allowances excludable from gross income under section 912 of such Code shall keep such records and furnish to the Secretary of the Treasury such information as he determines to be necessary to carry out his responsibility under subsection (a).”

### § 912. Exemption for certain allowances

The following items shall not be included in gross income, and shall be exempt from taxation under this subtitle:

#### (1) Foreign areas allowances

In the case of civilian officers and employees of the Government of the United States, amounts received as allowances or otherwise (but not amounts received as post differentials) under—

(A) chapter 9 of title I of the Foreign Service Act of 1980,

(B) section 4 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C., sec. 403e),<sup>1</sup>

(C) title II of the Overseas Differentials and Allowances Act, or

(D) subsection (e) or (f) of the first section of the Administrative Expenses Act of 1946, as amended, or section 22 of such Act.

#### (2) Cost-of-living allowances

In the case of civilian officers or employees of the Government of the United States stationed outside the continental United States (other than Alaska), amounts (other than

<sup>1</sup> See References in Text note below.