

Subsec. (f). Pub. L. 99-514, §1275(a)(2)(A), struck out subsec. (f) which provided a transitional rule for applying subsec. (b)(2) of this section with respect to taxable years beginning after Dec. 31, 1982, and before Jan. 1, 1985.

Pub. L. 99-514, §1876(f)(2), struck out subsec. (f) which provided that subsec. (a) of this section not apply in the case of a Virgin Islands corporation which is a FSC.

1984—Subsec. (f). Pub. L. 98-369 added subsec. (f) relating to FSC.

1983—Subsec. (a). Pub. L. 97-455 inserted “or in section 934A” after “subsection (b) or (c)”.

1982—Subsec. (b)(2). Pub. L. 97-248, §213(b)(1), substituted “65 percent” for “50 percent”.

Subsec. (e). Pub. L. 97-248, §213(b)(2), added subsec. (e).

Subsec. (f). Pub. L. 97-248, §213(b)(2), added a temporary subsec. (f) which provided that in applying subsec. (b)(2) with respect to taxable years beginning after December 31, 1982, and before January 1, 1985, “55 percent” shall be substituted for “65 percent” for taxable years beginning in calendar year 1983 and “60 percent” shall be substituted for “65 percent” for taxable years beginning in calendar year 1984.

1976—Subsec. (b). Pub. L. 94-455, §1901(a)(118), struck out “For the purposes of this subsection, all amounts received by such corporation within the United States, whether derived from sources within or without the United States, shall be considered as being derived from sources within the United States”.

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

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years ending after Oct. 22, 2004, see section 908(d)(1) of Pub. L. 108-357, set out as an Effective Date note under section 937 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1275(a)(2)(A), (c)(1), (2) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 1277 of Pub. L. 99-514, set out as a note under section 931 of this title.

Amendment by section 1876(f)(2) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to transactions after Dec. 31, 1984, in taxable years ending after such date, see section 805(a)(1) of Pub. L. 98-369, as amended, set out as a note under section 245 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97-455, §1(e), Jan. 12, 1983, 96 Stat. 2498, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting section 934A and amending this section] shall apply to amounts received after the date of the enactment of this Act [Jan. 12, 1983] in taxable years ending after such date.

“(2) WITHHOLDING.—The amendment made by subsection (b) [enacting section 1444 of this title] shall apply to payments made after the date of the enactment of this Act.”

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to taxable years beginning after Dec. 31, 1982, except that so much of this section to which former section 936(h)(6) applied by reason of subsec. (e)(4) of this section was applicable to taxable years ending after July 1, 1982, see section 213(e)(1), (2) of Pub. L. 97-248 set out as a note under section 246 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(118) 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

Pub. L. 86-779, §4(e)(1), Sept. 14, 1960, 74 Stat. 1000, provided that: “The amendments made by subsection (a) [enacting this section] shall apply to tax liability incurred with respect to taxable years beginning on or after January 1, 1960.”

#### PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [ §§1101-1147 and 1171-1177] or title XVIII [ §§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

#### **[§ 934A. Repealed. Pub. L. 99-514, title XII, § 1275(c)(3), Oct. 22, 1986, 100 Stat. 2599]**

Section, added Pub. L. 97-455, §1(a), Jan. 12, 1983, 96 Stat. 2497, related to income tax rate on Virgin Islands source income.

#### EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 1277 of Pub. L. 99-514, set out as an Effective Date of 1986 Amendment note under section 931 of this title.

#### **[§ 935. Repealed. Pub. L. 99-514, title XII, § 1272(d)(2), Oct. 22, 1986, 100 Stat. 2594]**

Section, added Pub. L. 92-606, §1(a), Oct. 31, 1972, 86 Stat. 1494; amended Pub. L. 108-357, title VIII, §908(c)(4), Oct. 22, 2004, 118 Stat. 1656, related to coordination of United States and Guam individual income taxes.

#### AMENDMENT SUBSEQUENT TO REPEAL

Pub. L. 108-357, title IX, §908(c)(4), (d), Oct. 22, 2004, 118 Stat. 1656, 1657, applicable to taxable years ending after Oct. 22, 2004, amended section, as in effect before the effective date of its repeal, in introductory provisions of subsec. (a), by substituting “who, during the entire taxable year” for “for the taxable year who”, in subssecs. (a)(1) and (b)(1)(B), by inserting “bona fide” before “resident”, in subsec. (b)(1)(A), by inserting “(other a bona fide resident of Guam during the entire taxable year)” after “United States”, and, in subsection (b)(2), by striking out “residence and” before “citizenship”.

#### EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 1277 of Pub. L. 99-514, set out as an Effective Date of 1986 Amendment note under section 931 of this title.

#### **[§ 936. Repealed. Pub. L. 115-141, div. U, title IV, § 401(d)(1)(C), Mar. 23, 2018, 132 Stat. 1206]**

Section, added Pub. L. 94-455, title X, §1051(b), Oct. 4, 1976, 90 Stat. 1643; amended Pub. L. 94-455, title XIX, §1901(b)(37)(B), Oct. 4, 1976, 90 Stat. 1803; Pub. L. 95-600, title VII, §701(u)(11)(A), (B), Nov. 6, 1978, 92 Stat. 2917; Pub. L. 97-248, title II, §201(d)(8)(B), formerly §201(c)(8)(B), §213(a), Sept. 3, 1982, 96 Stat. 420, 452, renumbered §201(d)(8)(B), Pub. L. 97-448, title III,

§306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 98-369, div. A, title IV, §474(r)(22), title VII, §712(g), title VIII, §801(d)(11), July 18, 1984, 98 Stat. 843, 947, 997; Pub. L. 99-499, title V, §516(b)(1)(B), Oct. 17, 1986, 100 Stat. 1770; Pub. L. 99-514, title II, §231(d)(3)(G), title VII, §701(e)(4)(D), title XII, §§1231(a)-(d), (f), 1275(a)(1), title XVIII, §1812(c)(4)(C), Oct. 22, 1986, 100 Stat. 2179, 2343, 2561-2563, 2598, 2835; Pub. L. 100-647, title I, §§1002(h)(3), 1012(h)(2)(B), (j), (n)(4), (5), title VI, §6132(a), Nov. 10, 1988, 102 Stat. 3370, 3502, 3512, 3515, 3721; Pub. L. 101-382, title II, §227(a), Aug. 20, 1990, 104 Stat. 661; Pub. L. 101-508, title XI, §11704(a)(11), Nov. 5, 1990, 104 Stat. 1388-518; Pub. L. 103-66, title XIII, §13227(a), (b), Aug. 10, 1993, 107 Stat. 489, 490; Pub. L. 104-188, title I, §§1601(a), 1704(t)(37), (80), Aug. 20, 1996, 110 Stat. 1827, 1889, 1891; Pub. L. 108-357, title IV, §402(b)(2), Oct. 22, 2004, 118 Stat. 1492; Pub. L. 110-172, §11(g)(12), Dec. 29, 2007, 121 Stat. 2490; Pub. L. 113-295, div. A, title II, §221(a)(12)(G), Dec. 19, 2014, 128 Stat. 4038; Pub. L. 115-97, title I, §14221(a), Dec. 22, 2017, 131 Stat. 2218, related to Puerto Rico and possession tax credit.

#### SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 115-141 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Mar. 23, 2018, for purposes of determining liability for tax for periods ending after Mar. 23, 2018, see section 401(e) of Pub. L. 115-141, set out as a note under section 23 of this title.

### § 937. Residence and source rules involving possessions

#### (a) Bona fide resident

For purposes of this subpart, section 865(g)(3), section 876, section 881(b), paragraphs (2) and (3) of section 901(b), section 957(c), section 3401(a)(8)(C), and section 7654(a), except as provided in regulations, the term “bona fide resident” means a person—

- (1) who is present for at least 183 days during the taxable year in Guam, American Samoa, the Northern Mariana Islands, Puerto Rico, or the Virgin Islands, as the case may be, and
- (2) who does not have a tax home (determined under the principles of section 911(d)(3) without regard to the second sentence thereof) outside such specified possession during the taxable year and does not have a closer connection (determined under the principles of section 7701(b)(3)(B)(ii)) to the United States or a foreign country than to such specified possession.

For purposes of paragraph (1), the determination as to whether a person is present for any day shall be made under the principles of section 7701(b).

#### (b) Source rules

Except as provided in regulations, for purposes of this title—

- (1) except as provided in paragraph (2), rules similar to the rules for determining whether income is income from sources within the United States or is effectively connected with the conduct of a trade or business within the United States shall apply for purposes of determining whether income is from sources within a possession specified in subsection (a)(1) or effectively connected with the conduct of a trade or business within any such possession, and

(2) any income treated as income from sources within the United States or as effectively connected with the conduct of a trade or business within the United States shall not be treated as income from sources within any such possession or as effectively connected with the conduct of a trade or business within any such possession.

#### (c) Reporting requirement

##### (1) In general

If, for any taxable year, an individual takes the position for United States income tax reporting purposes that the individual became, or ceases to be, a bona fide resident of a possession specified in subsection (a)(1), such individual shall file with the Secretary, at such time and in such manner as the Secretary may prescribe, notice of such position.

##### (2) Transition rule

If, for any of an individual's 3 taxable years ending before the individual's first taxable year ending after the date of the enactment of this subsection, the individual took a position described in paragraph (1), the individual shall file with the Secretary, at such time and in such manner as the Secretary may prescribe, notice of such position.

(Added Pub. L. 108-357, title VIII, §908(a), Oct. 22, 2004, 118 Stat. 1655.)

#### REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (c)(2), is the date of enactment of Pub. L. 108-357, which was approved Oct. 22, 2004.

#### EFFECTIVE DATE

Pub. L. 108-357, title VIII, §908(d), Oct. 22, 2004, 118 Stat. 1657, provided that:

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [enacting this section and amending sections 931, 932, 934, 935, 957, and 6688 of this title] shall apply to taxable years ending after the date of the enactment of this Act [Oct. 22, 2004].

“(2) 183-DAY RULE.—Section 937(a)(1) of the Internal Revenue Code of 1986 (as added by this section) shall apply to taxable years beginning after the date of the enactment of this Act.

“(3) SOURCING.—Section 937(b)(2) of such Code (as so added) shall apply to income earned after the date of the enactment of this Act.”

#### [SUBPART E—REPEALED]

### [§§ 941 to 943. Repealed. Pub. L. 108-357, title I, § 101(b)(1), Oct. 22, 2004, 118 Stat. 1423]

Section 941, added Pub. L. 106-519, §3(b), Nov. 15, 2000, 114 Stat. 2424, related to qualifying foreign trade income.

A prior section 941, acts Aug. 16, 1954, ch. 736, 68A Stat. 293; Oct. 4, 1976, Pub. L. 94-455, title X, §1053(a), title XIX, §1906(b)(1)(A), 90 Stat. 1648, 1834, set forth provisions authorizing special deduction for China Trade Act corporations, prior to repeal by Pub. L. 94-455, title X, §1053(c), (e), Oct. 4, 1976, 90 Stat. 1649, effective with respect to taxable years beginning after Dec. 31, 1977.

Section 942, added Pub. L. 106-519, §3(b), Nov. 15, 2000, 114 Stat. 2426, defined “foreign trading gross receipts” and set forth economic process requirements.

A prior section 942, act Aug. 16, 1954, ch. 736, 68A Stat. 294, disallowed foreign tax credit authorized by section