

§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