§ 1.871–3

purpose the term fiduciary shall have
the meaning assigned to it by section
7701(a)(6) and the regulations in part
301 of this chapter (Regulations on Pro-
cedure and Administration). For pre-
sumption as to an alien’s nonresidence,
see paragraph (b) of § 1.871–4.

(b) Residence defined. An alien actu-
ally present in the United States who
is not a mere transient or sojourner is
a resident of the United States for pur-
pouses of the income tax. Whether he is
a transient is determined by his inten-
tions with regard to the length and na-
ture of his stay. A mere floating inten-
tion, indefinite as to time, to return to
another country is not sufficient to
constitute him a transient. If he lives
in the United States and has no defi-
nite intention as to his stay, he is a
resident. One who comes to the United
States for a definite purpose which in
its nature may be promptly accom-
plished is a transient; but, if his pur-
pose is of such a nature that an ex-
tended stay may be necessary for its
accomplishment, and to that end the
alien makes his home temporarily in
the United States, he becomes a resi-
dent. An alien seaman may acquire an actual resi-
dence in the United States within the
rules laid down in § 1.871–4, although
the nature of his calling requires him
to be absent for a long period from the
place where his residence is estab-
lished. An alien seaman may acquire such a residence at a sailors’ boarding
house or hotel, but such a claim should
be carefully scrutinized in order to
make sure that such residence is bona
fide. The filing of Form 1078 or taking
out first citizenship papers is proof of
residence in the United States from the
time the form is filed or the papers
taken out, unless rebutted by other
evidence showing an intention to be a
transient.

§ 1.871–4

Proof of residence of aliens.

(a) Rules of evidence. The following
rules of evidence shall govern in deter-
mining whether or not an alien within
the United States has acquired resi-
dence therein for purposes of the in-
come tax.

(b) Nonresidence presumed. An alien by
reason of his alienage, is presumed to
be a nonresident alien.

(c) Presumption rebutted—(1) Departing
alien. In the case of an alien who pre-
sents himself for determination of tax
liability before departure from the
United States, the presumption as to