at the time that a withholding agent, absent any exceptions, would otherwise be required to withhold under sections 1441 and 1442 with respect to such interest.

(h) Definitions. For purposes of this section, the terms U.S. person and foreign person have the meaning set forth in §1.1441–1(c)(2), the term beneficial owner has the meaning set forth in §1.1441–1(c)(6), the term withholding agent has the meaning set forth in §1.1441–7(a); the term payee has the meaning set forth in §1.1441–1(b)(2); and the term payment has the meaning set forth in §1.1441–2(e).

(i) Effective date—(1) In general. This section shall apply to payments of interest made after December 31, 2000. The rules of paragraph (g) apply to interest paid after April 12, 2007. Taxpayers may choose to apply the rules of paragraph (g) to interest paid in any taxable year not closed by the period of limitations as of April 12, 2007, provided they do so consistently for all relevant partnerships during such years.

(2) Transition rule. For purposes of this section, the validity of a Form W–8 that was valid on January 1, 1998, under the regulations in effect prior to January 1, 2001 (see 26 CFR parts 1 and 35a, revised April 1, 1999) and expired, or will expire, at any time during 1998, is extended until December 31, 1998. The validity of a Form W–8 that is valid on or after January 1, 1999 remains valid until its validity expires under the regulations in effect prior to January 1, 2001 (see 26 CFR parts 1 and 35a, revised April 1, 1999) but in no event will such a form remain valid after December 31, 2000. The rules in this paragraph (2), however, do not apply to extend the validity period of a Form W–8 that expired solely by reason of changes in the circumstances of the person whose name is on the certificate. Notwithstanding the first three sentences of this paragraph (h)(2), a withholding agent or payor may choose to not take advantage of the transition rule in this paragraph (h)(2) with respect to one or more withholding certificates valid under the regulations in effect prior to January 1, 2001 (see 26 CFR parts 1 and 35a, revised April 1, 1999) and, therefore, may choose to obtain withholding certificates conforming to the requirements described in this section (new withholding certificates). For purposes of this section, a new withholding certificate is deemed to satisfy the documentation requirement under the regulations in effect prior to January 1, 2001 (see 26 CFR parts 1 and 35a, revised April 1, 1999). Further, a new withholding certificate remains valid for the period specified in §1.1441–1(e)(4)(ii), regardless of when the certificate is obtained.


§1.872–1 Gross income of nonresident alien individuals.

(a) In general—(1) Inclusions. The gross income of a nonresident alien individual for any taxable year includes only (i) the gross income which is derived from sources within the United States and which is effectively connected for the taxable year with the conduct of a trade or business in the United States and which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual and (ii) the gross income, irrespective of whether such income is derived from sources within or without the United States, which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual. For the determination of the sources of income, see sections 861 through 863 and the regulations thereunder. For the determination of whether income from sources within or without the United States is effectively connected for the taxable year with the conduct of a trade or business in the United States, see sections 864(c) and 871 (c) and (d), §§1.864–3 through 1.864–7, and §§1.871–9 and 1.871–10. For special rules for determining the income of an alien individual who changes his residence during the taxable year, see §1.871–13.

(2) Exchange transactions. Even though a nonresident alien individual who effects certain transactions in the United States in stocks, securities, or commodities during the taxable year may not, by reason of section 864(b)(2) and paragraph (c) or (d) of §1.864–2, be engaged in trade or business in the
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Exclusions from gross income of nonresident alien individuals.

(a) Earnings of foreign ships or aircraft—(1) Basic rule. So much of the income from sources within the United States of a nonresident alien individual as consists of earnings derived from the operation of a ship or ships documented, or of aircraft registered, under the laws of a foreign country which grants an equivalent exemption to citizens of the United States nonresident in that foreign country and to corporations organized in the United States shall not be included in gross income.

(2) Equivalent exemption—(i) Ships. A foreign country which either imposes no income tax, or, in imposing an income tax, exempts from taxation so much of the income of a citizen of the U.S. nonresident in that foreign country and of a corporation organized in the United States as consists of earnings derived from the operation of a ship or ships documented under the laws of that country shall not be included in gross income.

(ii) Aircraft. A foreign country which either imposes no income tax, or, in imposing an income tax, exempts from taxation so much of the income of a citizen of the U.S. nonresident in that foreign country and of a corporation organized in the United States as consists of earnings derived from the operation of aircraft registered under the laws of that country shall not be included in gross income.

(e) Alien resident of Puerto Rico. This section shall not apply in the case of a nonresident alien individual who is a bona fide resident of Puerto Rico during the entire taxable year. See section 876 and § 1.876–1.

(f) Effective date. This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.872–1 (Revised as of January 1, 1971).