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to disallowance because, under paragraph (c)(2)(ii) of this section, the only taxes disallowed are those deemed to accrue on income earned and received after December 31, 1981, and excluded from gross income. The amount of E's taxes paid in 1982 that are attributable to 1981 is $50,909, or $70,000 × $120,000/$165,000. E elects to exclude foreign earned income for 1982. The amount of E's taxes paid to S in 1982 that accrue to 1982 foreign earned income, and are therefore subject to disallowance based on excluded income, is $19,091, or $70,000 × $45,000/$165,000.

(Sec. 911 (95 Stat. 194; 26 U.S.C. 911) and sec. 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954)

[T.D. 8006, 50 FR 2973, Jan. 23, 1985]

### § 1.911–7 Procedural rules.

(a) *Elections of a qualified individual*—(1) *In general.* In order to receive either exclusion provided by section 911(a), a qualified individual must elect, separately with respect to each exclusion, to exclude foreign earned income under section 911(a)(1) and the housing cost amount under section 911(a)(2). Any such elections may be made on Form 2555 or on a comparable form. Each election must be filed either with the income tax return, or with an amended return, for the first taxable year of the individual for which the election is to be effective. An election once made remains in effect for that year and all subsequent years unless revoked under paragraph (b) of this section. Each election shall contain information sufficient to determine whether the individual is a qualified individual as provided in §1.911–2. The statement shall include the following information:

(i) The individual's name, address, and social security number;

(ii) The name of the individual's employer;

(iii) Whether the individual claimed exclusions under section 911 for earlier years after 1981 and within the five preceding taxable years;

(iv) Whether the individual has revoked a previously made election and the taxable year for which such revocation was effective;

(v) The exclusion or exclusions the individual is electing;

(vi) The foreign country or countries in which the individual's tax home is located and the date when such tax home was established;

(vii) The status (either bona fide residence or physical presence) under which the individual claims the exclusion;

(viii) The individual's qualifying period of residence or presence;

(ix) The individual's foreign earned income for the taxable year including the fair market value of all noncash remuneration; and,

(x) If the individual elects to exclude the housing cost amount, the individual's housing expenses.

(2) *Requirement of a return*—(i) *In general.* In order to make a valid election under this paragraph (a), the election must be made:

(A) With an income tax return that is timely filed (including any extensions of time to file),

(B) With a later return filed within the period prescribed in section 6511(a) amending the foregoing timely filed income tax return,

(C) With an original income tax return that is filed within one year after the due date of the return (determined without regard to any extension of time to file); this one year period does not constitute an extension of time for any purpose—it is merely a period during which a valid election may be made on a late return, or

(D) With an income tax return filed after the period described in paragraphs (a)(2)(i)(A), (B), or (C) of this section provided—

(*1*) The taxpayer owes no federal income tax after taking into account the exclusion and files Form 1040 with Form 2555 or a comparable form attached either before or after the Internal Revenue Service discovers that the taxpayer failed to elect the exclusion; or

(*2*) The taxpayer owes federal income tax after taking into account the exclusion and files Form 1040 with Form 2555 or a comparable form attached before the Internal Revenue Service discovers that the taxpayer failed to elect the exclusion.

(*3*) A taxpayer filing an income tax return pursuant to paragraph (a)(2)(i)(D)(*1*) or (*2*) of this section must type or legibly print the following statement at the top of the first page of the Form 1040: ''Filed Pursuant to Section 1.911–7(a)(2)(i)(D).''

(ii) *Election for 1982 and 1983 taxable years.* Solely for purposes of paragraph (a)(2)(i)(A) of this section, an income tax return for any taxable year beginning before January 1, 1984, shall be considered timely filed if it is filed on or before July 23, 1985.

(3) *Housing cost amount deduction.* An individual does not have to make an election in order to claim the housing cost amount deduction. However, such individual must provide the Commissioner with information sufficient to determine the individual's correct amount of tax. Such information shall include the following: The individual's name, address, and social security number; the name of the individual's employer; the foreign country in which the individual's tax home was established; the status under which the individual claims the deduction; the individual's qualifying period of residence or presence; the individual's foreign earned income for the taxable year; and the individual's housing expenses.

(4) *Effect of immaterial error or omission.* An inadvertent error or omission of information required to be provided to make an election under this paragraph (a) shall not render the election invalid if the error or omission is not material in determining whether the individual is a qualified individual or whether the individual intends to make the election.

(b) *Revocation of election*—(1) *In general.* An individual may revoke any election made under paragraph (a) of this section for any taxable year. A revocation must be made separately with respect to each election. The individual may revoke an election for any taxable year, including the first taxable year for which an election was effective, by filing a statement that the individual is revoking one or more of the previously made elections. The statement must be filed with the income tax return, or with an amended return, for the first taxable year of the individual for which the revocation is to be effective. A revocation once made is effective for that year and all subsequent years. If an election is revoked for any taxable year, including the first taxable year for which the election was effective, the individual may not, without the consent of the Commissioner, again make the same election until the sixth taxable year following the taxable year for which the revocation was first effective. For example, a qualified individual makes an election to exclude foreign earned income under section 911(a)(1) and files it with his 1982 income tax return. The individual files 1983 and 1984 income tax returns on which he excludes his foreign earned income. Then, within 3 years after filing his 1982 income tax return, the individual files an amended 1982 income tax return with a statement revoking his election to exclude foreign earned income under section 911(a)(1). The revocation of the election is effective for taxable years 1982, 1983, and 1984. The individual may not elect to exclude income under section 911(a)(1) for any taxable year before 1988, unless he obtains consent to reelect under paragraph (b)(2) of this section.

(2) *Reelection before sixth taxable year after revocation.* If an individual revoked an election under paragraph (b)(1) of this section and within five taxable years the individual wishes to reelect the same exclusion, then the individual may apply for consent to the reelection. The application for consent shall be made by requesting a ruling from the Associate Chief Counsel (Technical), National Office, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224. In determining whether to consent to reelection the Associate Chief Counsel or his delegate shall consider any facts and circumstances that may be relevant to the determination. Relevant facts and circumstances may include the following: a period of United States residence, a move from one foreign country to another foreign country with differing tax rates, a substantial change in the tax laws of the foreign country of residence or physical presence, and a change of employer.

(c) *Returns and extensions*—(1) *In general.* Any return filed before completion of the period necessary to qualify an individual for any exclusion of deduction provided by section 911 shall be filed without regard to any exclusion or deduction provided by that section. A claim for a credit or refund of any

overpayment of tax may be filed, however, if the taxpayer subsequently qualifies for any exclusion or deduction under section 911. See section 6012(c) and §1.6012–1(a)(3), relating to returns to be filed and information to be furnished by individuals who qualify for any exclusion or deduction under section 911.

(d) *Declaration of estimated tax.* In estimating gross income for the purpose of determining whether a declaration of estimated tax must be made for any taxable year, an individual is not required to take into account income which the individual reasonably believes will be excluded from gross income under the provisions of section 911. In computing estimated tax, however, the individual must take into account, among other things, the denial of the foreign tax credit for foreign taxes allocable to the excluded income (see §1.911–6(c)).

(e) *Effective/applicability date.* This section applies to applications for extension of time to file returns filed after July 1, 2008.

(Sec. 911 (95 Stat. 194; 26 U.S.C. 911) and sec. 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954)

[T.D. 8006, 50 FR 2976, Jan. 23, 1985, as amended by T.D. 8480, 58 FR 34885, June 30, 1993; 73 FR 37365, July 1, 2008]

### §1.911–8 Former deduction for certain expenses of living abroad.

For rules relating to the deduction for certain expenses of living abroad applicable to taxable years beginning before January 1, 1982, see 26 CFR 1.913–1 through 1.913–13 as they appeared in the Code of Federal Regulations revised as of April 1, 1982.

(Sec. 911 (95 Stat. 194; 26 U.S.C. 911) and sec. 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954)

[T.D. 8006, 50 FR 2977, Jan. 23, 1985]

EARNED INCOME OF CITIZENS OF UNITED STATES

### §1.912–1 Exclusion of certain cost-of-living allowances.

(a) Amounts received by Government civilian personnel stationed outside the continental United States as cost-of-living allowances in accordance with regulations approved by the President are, by the provisions of section 912(1), excluded from gross income. Such allowances shall be considered as retaining their characteristics under section 912(1) notwithstanding any combination thereof with any other allowance. For example, the cost-of-living portion of a ''living and quarters allowance'' would be excluded from gross income whether or not any other portion of such allowance is excluded from gross income.

(b) For purposes of section 912(1), the term ''continental United States'' includes only the 48 States existing on February 25, 1944 (the date of the enactment of the Revenue Act of 1943 (58 Stat. 21)) and the District of Columbia.

### §1.912–2 Exclusion of certain allowances of Foreign Service personnel.

Gross income does not include amounts received by personnel of the Foreign Service of the United States as allowances or otherwise under the provisions of chapter 9 of title I of the Foreign Service Act of 1980 or the provisions of section 28 of the State Department Basic Authorities Act (formerly section 914 of title IX of the Foreign Service Act of 1946).

[T.D. 8256, 54 FR 28620, July 6, 1989]

### §1.921–1T Temporary regulations providing transition rules for DISCs and FSCs.

(a) *Termination of a DISC*—(1) *At end of 1984.*

*Q–1:* What is the effect of the termination on December 31, 1984, of a DISC's taxable year?

*A–1:* Without regard to the annual accounting period of the DISC, the last taxable year of each DISC beginning during 1984 shall be deemed to close on December 31, 1984. The corporation's DISC election also shall be deemed revoked at the close of business on December 31, 1984. (A DISC that does not elect to be an interest charge DISC as of January 1, 1985, in addition to a corporation described in section 992(a)(3), shall be referred to as a ''former DISC''.) A corporation which wishes to be treated as a FSC, a small FSC, or an interest charge DISC must make an election as provided under paragraph (b) (Q & A #1) of this section.