

Public Law 95-615
95th Congress

An Act

To change the tax treatment of income earned abroad by United States citizens and residents, and for other purposes.

Nov. 8, 1978
 [H.R. 9251]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tax Treatment Extension Act of 1977".

Tax Treatment
 Extension Act of
 1977.

26 USC 1 note.

SEC. 2. COMMUTING EXPENSES.

With respect to transportation costs paid or incurred after December 31, 1976, and before April 30, 1978, the application of sections 62, 162, and 262 and of chapters 21, 23, and 24 of the Internal Revenue Code of 1954 to transportation expenses in traveling between a taxpayer's residence and place of work shall be determined—

26 USC 62 note.

(1) without regard to Revenue Ruling 76-453 (and without regard to any other regulation, ruling, or decision reaching the same result as, or a result similar to, the result set forth in such Revenue Ruling); and

26 USC 62, 162,
 262, 3101, 3303,
 3401.

(2) with full regard to the rules in effect before Revenue Ruling 76-453.

SEC. 3. FRINGE BENEFITS.

No regulations shall be issued in final form on or after October 1, 1977, and before July 1, 1978, providing for the inclusion of any fringe benefit in gross income by reason of section 61 of the Internal Revenue Code of 1954.

26 USC 61 note.

26 USC 61.

SEC. 4. CHANGES IN TREATMENT OF INCOME EARNED ABROAD.

(a) IN GENERAL.—Subsection (d) of section 1011 of the Tax Reform Act of 1976 is amended by striking out "December 31, 1976" and inserting in lieu thereof "December 31, 1977".

26 USC 911 note.

(b) TRANSITIONAL RULE.—If for any taxable year beginning in 1977—

(1) an individual is entitled to the benefits of section 911 of the Internal Revenue Code of 1954, and

26 USC 911.

(2) such individual chooses to take to any extent the benefits of section 901 of such Code.

26 USC 901.

then such individual shall be treated for such taxable year as an individual for whom an unused zero bracket amount computation is provided by section 63(e) of such Code.

26 USC 63.

SEC. 5. SALARY REDUCTION PENSION PLANS, CASH AND DEFERRED PROFIT-SHARING PLANS, AND CAFETERIA PLANS.

Section 2006 of the Employee Retirement Income Security Act of 1974 is amended—

26 USC 401 note.

(1) by striking out "January 1, 1978" each place it appears and inserting in lieu thereof "January 1, 1980", and

(2) by striking out "December 31, 1977" in subsection (d) and inserting in lieu thereof "December 31, 1979".

SEC. 6. APPLICATION OF SECTION 117 TO CERTAIN EDUCATION PROGRAMS FOR MEMBERS OF THE UNIFORMED SERVICES.

26 USC 117 note.

Subsection (c) of section 4 of the Act entitled "An Act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes", approved October 26, 1974 (Public Law 93-483), is amended to read as follows:

"(c) **EFFECTIVE DATE.**—The provisions of this section shall apply with respect to amounts received during calendar years 1973, 1974, and 1975, and, in the case of a member of a uniformed service receiving training after 1975 and before 1979 in programs described in subsection (a), with respect to amounts received after 1975 and before 1983."

SEC. 7. EXTENSION OF 5-YEAR AMORTIZATION FOR LOW-INCOME HOUSING.

26 USC 167.

(a) **IN GENERAL.**—Subsection (k) of section 167 of the Internal Revenue Code of 1954 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1978" each place it appears and inserting in lieu thereof "January 1, 1979".

26 USC 167 note.

(b) **TECHNICAL AMENDMENT.**—Subsection (b) of section 203 of the Tax Reform Act of 1976 is amended by striking out "and before January 1, 1978, and expenditures made pursuant to a binding contract entered into before January 1, 1978".

26 USC 382,
383.

SEC. 8. RULES FOR CARRYOVERS WHERE LOSS CORPORATIONS ARE ACQUIRED (SECTIONS 382 AND 383 OF THE INTERNAL REVENUE CODE OF 1954).

26 USC 382 note,
383 note.

Paragraphs (2) and (3) of section 806(g) of the Tax Reform Act of 1976 (relating to effective dates for the amendments to sections 382 and 383 of the Code) are amended by striking out "1978" each place it appears and inserting in lieu thereof "1980".

SEC. 201. SHORT TITLE, ETC.

Foreign Earned
Income Act of
1978.

(a) **SHORT TITLE.**—This Act may be cited as the "Foreign Earned Income Act of 1978".

26 USC 1 note.

(b) **AMENDMENTS OF 1954 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1.

SEC. 202. INCOME EARNED BY INDIVIDUALS IN CERTAIN CAMPS.

26 USC 911.

(a) **SECTION 911 EXCLUSION.**—Subsection (a) of section 911 (relating to earned income from sources without the United States) is amended to read as follows:

Post, p. 3100.

"(a) **GENERAL RULE.**—In the case of an individual described in section 913(a) who, because of his employment, resides in a camp located in a hardship area, the following items shall not be included in gross income and shall be exempt from taxation under this subtitle:

"(1) **BONA FIDE RESIDENT OF FOREIGN COUNTRY.**—If such individual is described in section 913(a)(1), amounts received from sources within a foreign country or countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during the period of bona fide residence. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

"(2) PRESENCE IN FOREIGN COUNTRY FOR 17 MONTHS.—If such individual is described in section 913(a)(2), amounts received from sources within qualified foreign countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during the 18-month period. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

An individual shall not be allowed as a deduction from his gross income or as a credit against the tax imposed by this chapter any credit for the amount of taxes paid or accrued to a foreign country or possession of the United States, to the extent that such deduction or credit is properly allocable to or chargeable against amounts excluded from gross income under this subsection, other than the deductions allowed by sections 217 (relating to moving expenses)".

26 USC 217.

(b) LIMITATIONS ON AMOUNT OF EXCLUSION.—Paragraph (1) of section 911(c) (relating to special rules) is amended to read as follows:

26 USC 911.

"(1) LIMITATIONS ON AMOUNT OF EXCLUSION.—

"(A) IN GENERAL.—The amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of \$20,000 for days during which he resides in a camp.

"(B) CAMP.—For purposes of this section, an individual shall not be considered to reside in a camp because of his employment unless the camp constitutes substandard lodging which is—

"(i) provided by or on behalf of the employer for the convenience of the employer because the place at which such individual renders services is in a remote area where satisfactory housing is not available on the open market,

"(ii) located, as near as practicable, in the vicinity of the place at which such individual renders services, and

"(iii) furnished in a common area (or enclave) which is not available to the public and which normally accommodates 10 or more employees.

"(C) HARDSHIP AREA.—For purposes of this section, the term 'hardship area' has the same meaning as in section 913(h)".

Post, p. 3100.

(c) BUSINESS PREMISES OF THE EMPLOYER.—Subsection (c) of section 911 (relating to special rules) is amended by inserting after paragraph (6) the following new paragraph:

26 USC 911.

"(7) BUSINESS PREMISES OF THE EMPLOYER.—In the case of an individual residing in a camp who elects the exclusion provided in this section for a taxable year, the camp shall be considered to be part of the business premises of the employer for purposes of section 119 for such taxable year."

26 USC 119.

(d) SECTION NOT TO APPLY.—

(1) IN GENERAL.—Section 911 is amended by striking out subsections (d) and (e) and inserting in lieu thereof the following new subsection:

"(d) SECTION NOT TO APPLY.—An individual entitled to the benefits of this section for a taxable year may elect, in such manner and at such time as shall be prescribed by the Secretary, not to have the provisions of this section apply for the taxable year."

26 USC 911.

(2) **CONFORMING AMENDMENT.**—Subsection (f) of section 911 (relating to cross references) is redesignated as subsection (e).
 (e) **REMOVAL OF REQUIREMENT AS TO PLACE OF RECEIPT.**—Paragraph (8) of section 911(c) (relating to requirement as to place of receipt) is hereby repealed.

(f) **CLERICAL AMENDMENTS.**—

(1) The section heading for section 911 is amended to read as follows:

“SEC. 911. INCOME EARNED BY INDIVIDUALS IN CERTAIN CAMPS.”

(2) The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 911 and inserting in lieu thereof the following:

“Sec. 911. Income earned by individuals in certain camps.”

26 USC 911.

(3) The heading of subpart B of part III of subchapter N of chapter 1 is amended by striking out “Citizens” and inserting in lieu thereof “Citizens or Residents”.

26 USC 901.

(4) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out “citizens” in the item relating to subpart B and inserting in lieu thereof “citizens or residents”.

26 USC 43,
1302, 1304,
1402, 6012,
6091.

(5) Sections 43(c)(1)(B), 1302(b)(2)(A)(i), 1304(b)(1), 1402(a)(8), 6012(c), and 6091(b)(1)(B)(iii) are each amended by striking out “relating to earned income from sources without the United States” and inserting in lieu thereof “relating to income earned by employees in certain camps”.

SEC. 203. DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.

26 USC 911.

(a) **ALLOWANCE OF DEDUCTION.**—Subpart B of part III of subchapter N of chapter 1 (relating to earned income of citizens and residents of United States) is amended by adding at the end thereof the following new section:

26 USC 913.

“SEC. 913. DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.

“(a) **ALLOWANCE OF DEDUCTION.**—In the case of an individual who is—

“(1) **BONA FIDE RESIDENT OF FOREIGN COUNTRY.**—A citizen of the United States and who establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or

“(2) **PRESENCE IN FOREIGN COUNTRY FOR 17 MONTHS.**—A citizen or resident of the United States and who during any period of 18 consecutive months is present in a foreign country or countries during at least 510 full days in such period,
 there shall be allowed as a deduction for such taxable year or for any taxable year which contains part of such period, the sum of the amounts set forth in subsection (b).

“(b) **AMOUNTS.**—The amounts referred to in this subsection are:

“(1) The qualified cost-of-living differential.

“(2) The qualified housing expenses.

“(3) The qualified schooling expenses.

“(4) The qualified home leave travel expenses.

“(5) The qualified hardship area deduction.

“(c) **DEDUCTION NOT TO EXCEED NET FOREIGN SOURCE EARNED INCOME.**—

“(1) **IN GENERAL.**—The deduction allowed by subsection (a) to any individual for the taxable year shall not exceed—

“(A) such individual's earned income from sources outside the United States for the portion of the taxable year in

which such individual's tax home is in a foreign country, reduced by

“(B) the sum of—

“(i) any earned income referred to in subparagraph (A) which is excluded from gross income under section 119, and

26 USC 119.

“(ii) the allocable deductions.

“(2) **ALLOCABLE DEDUCTIONS DEFINED.**—For purposes of paragraph (1) (B) (ii), the term ‘allocable deductions’ means the deductions properly allocable to or chargeable against the earned income referred to in paragraph (1) (A), other than the deduction allowed by this section.

“(d) **QUALIFIED COST-OF-LIVING DIFFERENTIAL.**—

“(1) **IN GENERAL.**—For purposes of this section, the term ‘qualified cost-of-living differential’ means a reasonable amount determined under tables (or under another method) prescribed by the Secretary establishing the amount (if any) by which the general cost of living in the foreign place in which the individual's tax home is located exceeds the general cost of living for the metropolitan area in the continental United States (excluding Alaska) having the highest general cost of living. The tables (or other methods) so prescribed shall be revised at least once during each calendar year.

“(2) **SPECIAL RULES.**—For purposes of paragraph (1)—

“(A) **COMPUTATION ON DAILY BASIS.**—The differential shall be computed on a daily basis for the period during which the individual's tax home is in a foreign country.

“(B) **DIFFERENTIAL TO BE BASED ON DAILY LIVING EXPENSES.**—An individual's cost-of-living differential shall be determined by reference to reasonable daily living expenses (excluding housing and schooling expenses).

“(C) **BASIS OF COMPARISON.**—The differential prescribed for any foreign place—

“(i) shall vary depending on the composition of the family (spouse and dependents) residing with the individual (or at a qualified second household), and

“(ii) shall reflect the costs of living of a family whose income is equal to the salary of an employee of the United States who is compensated at a rate equal to the annual rate paid for step 1 of grade GS-14.

5 USC 5332 note.

“(D) **STATE DEPARTMENT'S INDEX MAY BE TAKEN INTO ACCOUNT.**—The Secretary, in determining the qualified cost-of-living differential for any foreign place, may take into account the Department of State's Local Index of Living Costs Abroad as it relates to such place.

“(E) **NO DIFFERENTIAL FOR PERIODS DURING WHICH INDIVIDUAL IS ELIGIBLE UNDER SECTION 119.**—Except as provided in subsection (i) (1) (A) (ii) an individual shall not be entitled to any qualified cost-of-living differential for any period for which such individual's meals and lodging are excluded from gross income under section 119.

“(e) **QUALIFIED HOUSING EXPENSES.**—

“(1) **IN GENERAL.**—For purposes of this section, the term ‘qualified housing expenses’ means the excess of—

“(A) the individual's housing expenses, over

“(B) the individual's base housing amount.

“(2) HOUSING EXPENSES.—

“(A) IN GENERAL.—For purposes of paragraph (1), the term ‘housing expenses’ means the reasonable expenses paid or incurred during the taxable year by or on behalf of the individual for housing for the individual (and, if they reside with him, for his spouse and dependents) in a foreign country. Such term—

“(i) except as provided in clause (ii), includes expenses attributable to the housing (such as utilities and insurance), and

“(ii) does not include interest and taxes of the kind deductible under section 163 or 164 or any amount allowable as a deduction under section 216(a).

“(B) PORTION WHICH IS LAVISH OR EXTRAVAGANT NOT ALLOWED.—For purposes of subparagraph (A), housing expenses shall not be treated as reasonable to the extent such expenses are lavish or extravagant under the circumstances.

“(3) BASE HOUSING AMOUNT.—For purposes of paragraph (1)—

“(A) IN GENERAL.—The term ‘base housing amount’ means 20 percent of the excess of—

“(i) the individual’s earned income (reduced by the deductions properly allocable to or chargeable against such earned income (other than the deduction allowed by this section)), over

“(ii) the sum of—

“(I) the housing expenses taken into account under paragraph (1)(A) of this subsection,

“(II) the qualified cost-of-living differential,

“(III) the qualified school expenses,

“(IV) the qualified home leave travel expenses, and

“(V) the qualified hardship area deduction.

“(B) BASE HOUSING AMOUNT TO BE ZERO IN CERTAIN CASES.—

If, because of adverse living conditions, the individual maintains a household for his spouse and dependents at a foreign place other than his tax home which is in addition to the household he maintains as his tax home, and if his tax home is in a hardship area as defined in subsection (h), the base housing amount for the household maintained at his tax home shall be zero.

“(4) PERIODS TAKEN INTO ACCOUNT.—

“(A) IN GENERAL.—The expenses taken into account under this subsection shall be only those which are attributable to housing during periods for which—

“(i) the individual’s tax home is in a foreign country, and

“(ii) except as provided in subsection (i) (1) (B) (iii), the value of the individual’s housing is not excluded under section 119.

“(B) DETERMINATION OF BASE HOUSING AMOUNT.—The base housing amount shall be determined for the periods referred to in subparagraph (A) (as modified by subsection (i) (1) (B) (iii)).

“(5) ONLY ONE HOUSE PER PERIOD.—If, but for this paragraph, housing expenses for any individual would be taken into account under paragraph (2) of subsection (b) with respect to more than

26 USC 163,
164, 216.

26 USC 119.

one abode for any period, only housing expenses with respect to that abode which bears the closest relationship to the individual's tax home shall be taken into account under such paragraph (2) for such period.

“(f) QUALIFIED SCHOOLING EXPENSES.—

“(1) IN GENERAL.—For purposes of this section, the term ‘qualified schooling expenses’ means the reasonable schooling expenses paid or incurred by or on behalf of the individual during the taxable year for the education of each dependent of the individual at the elementary or secondary level. For purposes of the preceding sentence, the elementary or secondary level means education which is the equivalent of education from the kindergarten through the 12th grade in a United States-type school.

“(2) EXPENSES INCLUDED.—For purposes of paragraph (1), the term ‘schooling expenses’ means the cost of tuition, fees, books, and local transportation and of other expenses required by the school. Except as provided in paragraph (3), such term does not include expenses of room and board or expenses of transportation other than local transportation.

“(3) ROOM, BOARD, AND TRAVEL ALLOWED IN CERTAIN CASES.—If an adequate United States-type school is not available within a reasonable commuting distance of the individual's tax home, the expenses of room and board of the dependent and the expenses of the transportation of the dependent each school year between such tax home and the location of the school shall be treated as schooling expenses.

“(4) DETERMINATION OF REASONABLE EXPENSES.—If—

“(A) there is an adequate United States-type school available within a reasonable commuting distance of the individual's tax home, and

“(B) the dependent attends a school other than the school referred to in subparagraph (A),

then the amount taken into account under paragraph (2) shall not exceed the aggregate amount which would be charged for the period by the school referred to in subparagraph (A).

“(5) PERIOD TAKEN INTO ACCOUNT.—An amount shall be taken into account as a qualified schooling expense only if it is attributable to education for a period during which the individual's tax home is in a foreign country.

“(g) QUALIFIED HOME LEAVE TRAVEL EXPENSES.—

“(1) IN GENERAL.—For purposes of this section, the term ‘qualified home leave travel expenses’ means the reasonable amounts paid or incurred by or on behalf of an individual for the transportation of such individual, his spouse, and each dependent from the location of the individual's tax home outside the United States to—

“(A) the individual's present (or, if none, most recent) principal residence in the United States, or

“(B) if subparagraph (A) does not apply to the individual, the nearest port of entry in the continental United States (excluding Alaska)

and return.

“(2) ONE TRIP PER 12-MONTH PERIOD ABROAD.—Amounts may be taken into account under paragraph (4) of subsection (b) only with respect to one round trip per person for each continuous period of 12 months for which the individual's tax home is in a foreign country.

“(h) QUALIFIED HARDSHIP AREA DEDUCTION.—

“(1) IN GENERAL.—For purposes of this section, the term ‘qualified hardship area deduction’ means an amount computed on a daily basis at an annual rate of \$5,000 for days during which the individual’s tax home is in a hardship area.

“(2) HARDSHIP AREA DEFINED.—For purposes of this section, the term ‘hardship area’ means any foreign place designated by the Secretary of State as a hardship post where extraordinarily difficult living conditions, notably unhealthful conditions, or excessive physical hardships exist and for which a post differential of 15 percent or more—

“(A) is provided under section 5925 of title 5, United States Code, or

“(B) would be so provided if officers and employees of the Government of the United States were present at that place.

“(i) SPECIAL RULES WHERE INDIVIDUAL MAINTAINS SEPARATE HOUSEHOLD FOR SPOUSE AND DEPENDENTS BECAUSE OF ADVERSE LIVING CONDITIONS AT TAX HOME.—

“(1) IN GENERAL.—For any period during which an individual maintains a qualified second household—

“(A) QUALIFIED COST-OF-LIVING DIFFERENTIAL.—

“(i) ALLOWANCE DETERMINED BY REFERENCE TO LOCATION OF QUALIFIED SECOND HOUSEHOLD.—Paragraph (1) of subsection (d) shall be applied by substituting ‘the qualified second household’ for ‘the individual’s tax home’.

“(ii) DISREGARD OF SECTION 119 RULE.—Subparagraph (E) of subsection (d) (2) shall not apply with respect to the spouse and dependents.

“(B) QUALIFIED HOUSING EXPENSES.—

“(i) EXPENSES WITH RESPECT TO QUALIFIED SECOND HOUSEHOLD TAKEN INTO ACCOUNT.—For purposes of subsection (e), the expenses for housing of an individual’s spouse and dependents at the qualified second household shall be treated as housing expenses if they would meet the requirements of subsection (e) (2) if the individual resided at such household.

“(ii) SEPARATE APPLICATION OF SUBSECTION (e).—Subsection (e) shall be applied separately with respect to the housing expenses for the qualified second household; except that, in determining the base housing amount, the housing expenses (if any) of the individual for housing at his tax home shall also be taken into account under subsection (e) (3) (A) (ii).

“(iii) CERTAIN RULES NOT TO APPLY.—Paragraphs (4) (A) (ii) and (5) of subsection (e) shall not apply with respect to housing expenses for the qualified second household.

“(C) REQUIREMENT THAT SPOUSE AND DEPENDENTS RESIDE WITH INDIVIDUAL FOR PURPOSES OF SCHOOLING AND HOME LEAVE.—

“(i) IN GENERAL.—The requirement of subsection (j) (3) that the dependent or spouse of the individual (as the case may be) reside with the individual at his tax home shall be treated as met if such spouse or dependent resides at the qualified second household.

“(ii) **SUBSTITUTION OF HOUSEHOLD FOR TAX HOME.**—In any case where clause (i) applies, paragraphs (3) and (4) of subsection (f), and paragraph (1) of subsection (g), shall be applied with respect to amounts paid or incurred for the spouse or dependent by substituting the location of the qualified second household for the individual's tax home.

“(2) **DEFINITION OF QUALIFIED SECOND HOUSEHOLD.**—For purposes of this section, the term ‘qualified second household’ means any household maintained in a foreign country by an individual for the spouse and dependents of such individual at a place other than the tax home of such individual because of adverse living conditions at the individual's tax home.

“(j) **OTHER DEFINITIONS AND SPECIAL RULES.**—

“(1) **DEFINITIONS.**—For purposes of this section—

“(A) **EARNED INCOME.**—The term ‘earned income’ has the meaning given to such term by section 911(b) (determined with the rules set forth in paragraphs (2), (3), (4), and (5) of section 911(c)), except that such term does not include amounts paid by the United States or any agency thereof. 26 USC 911.

“(B) **TAX HOME.**—The term ‘tax home’ means, with respect to any individual, such individual's home for purposes of section 162(a) (2) (relating to traveling expenses while away from home). An individual shall not be treated as having a tax home in a foreign country for any period for which his abode is within the United States. 26 USC 162.

“(C) **RESIDENCE AT TAX HOME.**—A household or residence shall be treated as at the tax home of an individual if such household or residence is within a reasonable commuting distance of such tax home.

“(D) **ADVERSE LIVING CONDITIONS.**—The term ‘adverse living conditions’ means living conditions which are dangerous, unhealthful, or otherwise adverse.

“(E) **UNITED STATES.**—The term ‘United States’, when used in a geographical sense, includes the possessions of the United States and the areas set forth in paragraph (1) of section 638 and so much of paragraph (2) of section 638 as relates to the possessions of the United States. 26 USC 638.

“(2) **LIMITATION TO COACH OR ECONOMY FARE.**—The amount taken into account under this section for any transportation by air shall not exceed the lowest coach or economy rate at the time of such transportation charged by a commercial airline for such transportation during the calendar month in which such transportation is furnished. If there is no such coach or economy rate or if the individual is required to use first-class transportation because of a physical impairment, the preceding sentence shall be applied by substituting ‘first-class’ for ‘coach or economy’.

“(3) **REQUIREMENT THAT SPOUSE AND DEPENDENTS RESIDE WITH INDIVIDUAL FOR PURPOSES OF SCHOOLING AND HOME LEAVE.**—Except as provided in subsection (i) (1) (C) (i), amounts may be taken into account under subsection (f) with respect to any dependent of the individual, and under subsection (g) with respect to the individual's spouse or any dependent of the individual, only for the period that such spouse or dependent (as the case may be) resides with the individual at his tax home.

“(k) CERTAIN DOUBLE BENEFITS DISALLOWED.—An individual shall not be allowed—

26 USC 151. “(1) as a deduction (other than the deduction under section 151),

“(2) as an exclusion, or

26 USC 44A. “(3) as a credit under section 44A (relating to household and dependent care services),

any amount to the extent that such amount is taken into account under subsection (d), (e), (f), or (g).

26 USC 911. “(1) APPLICATION WITH SECTION 911.—An individual shall not be allowed the deduction allowed by subsection (a) for any taxable year with respect to which he elects the exclusion provided in section 911.

“(m) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing rules—

“(1) for cases where a husband and wife each have earned income from sources outside the United States, and

“(2) for married individuals filing separate returns.”

26 USC 62. (b) DEDUCTION ALLOWED IN DETERMINING ADJUSTED GROSS INCOME.—Section 62 (relating to definition of adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

“(14) DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.—The deduction allowed by section 913.”

Ante, p. 3100. (c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by adding at the end thereof the following:

“Sec. 913. Deduction for certain expenses of living abroad.”

SEC. 204. MOVING EXPENSES.

26 USC 217. (a) SPECIAL RULES FOR FOREIGN MOVES.—Section 217 (relating to moving expenses) is amended by redesignating subsection (h) as subsection (j) and by inserting after subsection (g) the following new subsections:

“(h) SPECIAL RULES FOR FOREIGN MOVES.—

“(1) INCREASE IN LIMITATIONS.—In the case of a foreign move—

“(A) subsection (b) (1) (D) shall be applied by substituting ‘90 consecutive days’ for ‘30 consecutive days’,

“(B) subsection (b) (3) (A) shall be applied by substituting ‘\$4,500’ for ‘\$1,500’ and by substituting ‘\$6,000’ for ‘\$3,000’, and

“(C) subsection (b) (3) (B) shall be applied as if the last sentence of such subsection read as follows: ‘In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting “\$2,250” for “\$4,500”, and by substituting “\$3,000” for “\$6,000”.’”

“(2) ALLOWANCE OF CERTAIN STORAGE FEES.—In the case of a foreign move, for purposes of this section, the moving expenses described in subsection (b) (1) (A) include the reasonable expenses—

“(A) of moving household goods and personal effects to and from storage, and

“(B) of storing such goods and effects for part or all of the period during which the new place of work continues to be the taxpayer’s principal place of work.

"(3) FOREIGN MOVE.—For purposes of this subsection, the term 'foreign move' means the commencement of work by the taxpayer at a new principal place of work located outside the United States.

"(4) UNITED STATES DEFINED.—For purposes of this subsection and subsection (i), the term 'United States' includes the possessions of the United States.

"(i) ALLOWANCE OF DEDUCTIONS IN CASE OF RETIREES OR DECEDENTS WHO WERE WORKING ABROAD.—

"(1) IN GENERAL.—In the case of any qualified retiree moving expenses or qualified survivor moving expenses—

"(A) this section (other than subsection (h)) shall be applied with respect to such expenses as if they were incurred in connection with the commencement of work by the taxpayer as an employee at a new principal place of work located within the United States, and

"(B) the limitations of subsection (c) (2) shall not apply.

"(2) QUALIFIED RETIREE MOVING EXPENSES.—For purposes of paragraph (1), the term 'qualified retiree moving expenses' means any moving expenses—

"(A) which are incurred by an individual whose former principal place of work and former residence were outside the United States, and

"(B) which are incurred for a move to a new residence in the United States in connection with the bona fide retirement of the individual.

"(3) QUALIFIED SURVIVOR MOVING EXPENSES.—For purposes of paragraph (1), the term 'qualified survivor moving expenses' means moving expenses—

"(A) which are paid or incurred by the spouse or any dependent of any decedent who (as of the time of his death) had a principal place of work outside the United States, and

"(B) which are incurred for a move which begins within 6 months after the death of such decedent and which is to a residence in the United States from a former residence outside the United States which (as of the time of the decedent's death) was the residence of such decedent and the individual paying or incurring the expense."

SEC. 205. MEALS OR LODGING FURNISHED TO EMPLOYEES UNDER CERTAIN CONDITIONS.

Section 119 (relating to meals or lodging furnished for the convenience of the employer) is amended— 26 USC 119.

(1) by striking out "furnished to him by his employer for the convenience of the employer" and inserting in lieu thereof "furnished to him, his spouse, or any of his dependents by or on behalf of his employer for the convenience of the employer", and

(2) by striking out "There shall" and inserting in lieu thereof "(a) MEALS AND LODGING FURNISHED TO EMPLOYEE, HIS SPOUSE, AND HIS DEPENDENTS, PURSUANT TO EMPLOYMENT.—There shall".

SEC. 206. SUSPENSION OF RUNNING OF THE PERIOD UNDER SECTION 1034 FOR PURCHASING A NEW PRINCIPAL RESIDENCE.

26 USC 1034.

Section 1034 (relating to sale or exchange of residence) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) INDIVIDUAL WHOSE TAX HOME IS OUTSIDE THE UNITED STATES.—The running of any period of time specified in subsection (a) or (c) (other than the 18 months referred to in subsection (c) (4)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) has a tax home (as defined in section 913(j) (1) (B)) outside the United States after the date of the sale of the old residence; except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence."

SEC. 207. MISCELLANEOUS AMENDMENTS.

26 USC 3401.

(a) WAGE WITHHOLDING.—Subsection (a) of section 3401 (defining wages) is amended by striking out the period at the end of paragraph (17) and inserting in lieu thereof "; or" and by adding at the end thereof the following new paragraph:

Ante, p. 3100.

"(18) to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 913 (relating to deduction for certain expenses of living abroad)."

26 USC 6091.

(b) PLACE FOR FILING RETURNS.—Clause (iii) of section 6091(b) (1) (B) (relating to place for filing tax returns) is amended by inserting "section 913 (relating to deduction for certain expenses of living abroad)," before "section 931".

26 USC 912.

26 USC 6011.

(c) AUTHORITY TO REQUIRE INFORMATION CONCERNING SECTION 912 ALLOWANCES.—Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) AUTHORITY TO REQUIRE INFORMATION CONCERNING SECTION 912 ALLOWANCES.—The Secretary may by regulations require any individual who receives allowances which are excluded from gross income under section 912 for any taxable year to include on his return of the taxes imposed by subtitle A for such taxable year such information with respect to the amount and type of such allowances as the Secretary determines to be appropriate."

SEC. 208. REPORTS BY SECRETARY.

Report to
congressional
committees.
26 USC 911 note.

(a) GENERAL RULE.—As soon as practicable after the close of the calendar year 1979 and after the close of each second calendar year thereafter, the Secretary of the Treasury shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate setting forth with respect to the preceding 2 calendar years—

26 USC 911,
912, 913.

(1) the number, country of residence, and other pertinent characteristics of persons claiming the benefits of sections 911, 912, and 913 of the Internal Revenue Code of 1954,

(2) the revenue cost and economic effects of the provisions of such sections 911, 912, and 913, and

(3) a detailed description of the manner in which the provisions of such sections 911, 912, and 913 have been administered during the preceding 2 calendar years.

(b) INFORMATION FROM FEDERAL AGENCIES.—Each agency of the Federal Government which pays allowances excludable from gross income under section 912 of such Code shall furnish to the Secretary of the Treasury such information as he determines to be necessary to carry out his responsibility under subsection (a).

SEC. 209. EFFECTIVE DATES.

26 USC 911 note.

(a) **GENERAL RULE.**—Except as provided in subsections (b) and (c) the amendments made by this title shall apply to taxable years beginning after December 31, 1977.

(b) **WAGE WITHHOLDING.**—The amendment made by section 207(a) shall apply to remuneration paid after the date of the enactment of this Act.

(c) **ELECTION OF PRIOR LAW.**—

(1) A taxpayer may elect not to have the amendments made by this title apply with respect to any taxable year beginning after December 31, 1977, and before January 1, 1979.

(2) An election under this subsection shall be filed with a taxpayer's timely filed return for the first taxable year beginning after December 31, 1977.

SEC. 210. APPLICATION OF TITLE I.

(a) **IN GENERAL.**—Title I of this Act (other than sections 4 and 5 thereof) shall cease to have effect on the day after the date of the enactment of this Act.

26 USC 61 note.

(b) **SPECIAL RULE FOR SECTION 5.**—Section 5 of this Act shall not apply with respect to any type of plan for any period for which rules for that type of plan are provided by the Revenue Act of 1978.

26 USC 401 note.

Ante, p. 2763.

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-697 (Comm. on Ways and Means) and No. 95-1798 (Comm. of Conference).

SENATE REPORT No. 95-746 (Comm. on Finance).

CONGRESSIONAL RECORD:

Vol. 123 (1977): Oct. 25, considered and passed House.

Vol. 124 (1978): May 11, considered and passed Senate, amended.

Sept. 25, House concurred in Senate amendment No. 3 with amendments, disagreed to other Senate amendments.

Sept. 28, Senate disagreed to House amendment.

Oct. 15, Senate agreed to conference report.

Oct. 15, House agreed to conference report.