

“(2) EXISTING CONTRACTS.—In the case of operations which constitute participation in or cooperation with an international boycott and which are carried out in accordance with the terms of a binding contract entered into before September 2, 1976, the amendments made by this part (other than by section 1065) apply to such participation or cooperation after December 31, 1977.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 999 of this title.

SUBPART B—EARNED INCOME OF CITIZENS OR RESIDENTS OF UNITED STATES

Sec.	
911.	Citizens or residents of the United States living abroad.
912.	Exemption for certain allowances.
[913.	Repealed.]

AMENDMENTS

1981—Pub. L. 97-34, title I, §§111(b)(1), 112(b)(1), Aug. 13, 1981, 95 Stat. 194, 195, substituted “Citizens or residents of the United States living abroad” for “Income earned by individuals in certain camps or from charitable services” in item 911 and struck out item 913 “Deduction for certain expenses of living abroad”.

1980—Pub. L. 96-595, §4(c)(2), Dec. 24, 1980, 94 Stat. 3467, inserted “or from charitable services” after “camps” in item 911.

1978—Pub. L. 95-615, §§202(g)(2), (3), 203(c), formerly §§202(f)(2), (3), 203(c), Nov. 8, 1978, 92 Stat. 3100, 3106, renumbered Pub. L. 96-222, title I, §108(a)(1)(A), Apr. 1, 1980, 94 Stat. 223, inserted in subpart heading “or Residents” after “Citizens”, substituted in item 911 “Income earned by individuals in certain camps” for “Earned income from sources without the United States”, and added item 913.

§ 911. Citizens or residents of the United States living abroad

(a) Exclusion from gross income

At the election of a qualified individual (made separately with respect to paragraphs (1) and (2)), there shall be excluded from the gross income of such individual, and exempt from taxation under this subtitle, for any taxable year—

- (1) the foreign earned income of such individual, and
- (2) the housing cost amount of such individual.

(b) Foreign earned income

(1) Definition

For purposes of this section—

(A) In general

The term “foreign earned income” with respect to any individual means the amount received by such individual from sources within a foreign country or countries which constitute earned income attributable to services performed by such individual during the period described in subparagraph (A) or (B) of subsection (d)(1), whichever is applicable.

(B) Certain amounts not included in foreign earned income

The foreign earned income for an individual shall not include amounts—

- (i) received as a pension or annuity,
- (ii) paid by the United States or an agency thereof to an employee of the United States or an agency thereof,

- (iii) included in gross income by reason of section 402(b) (relating to taxability of beneficiary of nonexempt trust) or section 403(c) (relating to taxability of beneficiary under a nonqualified annuity), or

- (iv) received after the close of the taxable year following the taxable year in which the services to which the amounts are attributable are performed.

(2) Limitation on foreign earned income

(A) In general

The foreign earned income of an individual which may be excluded under subsection (a)(1) for any taxable year shall not exceed the amount of foreign earned income computed on a daily basis at an annual rate equal to the exclusion amount for the calendar year in which such taxable year begins.

(B) Attribution to year in which services are performed

For purposes of applying subparagraph (A), amounts received shall be considered received in the taxable year in which the services to which the amounts are attributable are performed.

(C) Treatment of community income

In applying subparagraph (A) with respect to amounts received from services performed by a husband or wife which are community income under community property laws applicable to such income, the aggregate amount which may be excludable from the gross income of such husband and wife under subsection (a)(1) for any taxable year shall equal the amount which would be so excludable if such amounts did not constitute community income.

(D) Exclusion amount

(i) In general

The exclusion amount for any calendar year is the exclusion amount determined in accordance with the following table (as adjusted by clause (ii)):

For calendar year—	The exclusion amount is—
1998	\$72,000
1999	74,000
2000	76,000
2001	78,000
2002 and thereafter	80,000.

(ii) Inflation adjustment

In the case of any taxable year beginning in a calendar year after 2007, the \$80,000 amount in clause (i) shall be increased by an amount equal to the product of—

- (I) such dollar amount, and
- (II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting “2006” for “1992” in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of \$100, such increase shall be rounded to the next lowest multiple of \$100.

(c) Housing cost amount

For purposes of this section—

(1) In general

The term “housing cost amount” means an amount equal to the excess of—

(A) the housing expenses of an individual for the taxable year, over

(B) an amount equal to the product of—

(i) 16 percent of the salary (computed on a daily basis) 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, multiplied by

(ii) the number of days of such taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1).

(2) Housing expenses**(A) In general**

The term “housing expenses” means the reasonable expenses paid or incurred during the taxable year by or on behalf of an individual for housing for the individual (and, if they reside with him, for his spouse and dependents) in a foreign country. The term—

(i) includes expenses attributable to the housing (such as utilities and insurance), but

(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).

Housing expenses shall not be treated as reasonable to the extent such expenses are lavish or extravagant under the circumstances.

(B) Second foreign household**(i) In general**

Except as provided in clause (ii), only housing expenses incurred with respect to that abode which bears the closest relationship to the tax home of the individual shall be taken into account under paragraph (1).

(ii) Separate household for spouse and dependents

If an individual maintains a separate abode outside the United States for his spouse and dependents and they do not reside with him because of living conditions which are dangerous, unhealthful, or otherwise adverse, then—

(I) the words “if they reside with him” in subparagraph (A) shall be disregarded, and

(II) the housing expenses incurred with respect to such abode shall be taken into account under paragraph (1).

(3) Special rules where housing expenses not provided by employer**(A) In general**

To the extent the housing cost amount of any individual for any taxable year is not attributable to employer provided amounts, such amount shall be treated as a deduction allowable in computing adjusted gross income to the extent of the limitation of subparagraph (B).

(B) Limitation

For purposes of subparagraph (A), the limitation of this subparagraph is the excess of—

(i) the foreign earned income of the individual for the taxable year, over

(ii) the amount of such income excluded from gross income under subsection (a) for the taxable year.

(C) 1-year carryover of housing amounts not allowed by reason of subparagraph (B)**(i) In general**

The amount not allowable as a deduction for any taxable year under subparagraph (A) by reason of the limitation of subparagraph (B) shall be treated as a deduction allowable in computing adjusted gross income for the succeeding taxable year (and only for the succeeding taxable year) to the extent of the limitation of clause (ii) for such succeeding taxable year.

(ii) Limitation

For purposes of clause (i), the limitation of this clause for any taxable year is the excess of—

(I) the limitation of subparagraph (B) for such taxable year, over

(II) amounts treated as a deduction under subparagraph (A) for such taxable year.

(D) Employer provided amounts

For purposes of this paragraph, the term “employer provided amounts” means any amount paid or incurred on behalf of the individual by the individual’s employer which is foreign earned income included in the individual’s gross income for the taxable year (without regard to this section).

(E) Foreign earned income

For purposes of this paragraph, an individual’s foreign earned income for any taxable year shall be determined without regard to the limitation of subparagraph (A) of subsection (b)(2).

(d) Definitions and special rules

For purposes of this section—

(1) Qualified individual

The term “qualified individual” means an individual whose tax home is in a foreign country and who is—

(A) a citizen of the United States and 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

(B) a citizen or resident of the United States and who, during any period of 12 consecutive months, is present in a foreign country or countries during at least 330 full days in such period.

(2) Earned income**(A) In general**

The term “earned income” means wages, salaries, or professional fees, and other

amounts received as compensation for personal services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered.

(B) Taxpayer engaged in trade or business

In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income-producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of his share of the net profits of such trade or business, shall be considered as earned income.

(3) 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.

(4) Waiver of period of stay in foreign country

Notwithstanding paragraph (1), an individual who—

(A) is a bona fide resident of, or is present in, a foreign country for any period,

(B) leaves such foreign country after August 31, 1978—

(i) during any period during which the Secretary determines, after consultation with the Secretary of State or his delegate, that individuals were required to leave such foreign country because of war, civil unrest, or similar adverse conditions in such foreign country which precluded the normal conduct of business by such individuals, and

(ii) before meeting the requirements of such paragraph (1), and

(C) establishes to the satisfaction of the Secretary that such individual could reasonably have been expected to have met such requirements but for the conditions referred to in clause (i) of subparagraph (B),

shall be treated as a qualified individual with respect to the period described in subparagraph (A) during which he was a bona fide resident of, or was present in, the foreign country, and in applying subsections (b)(2)(A) and (c)(1)(B)(ii) with respect to such individual, only the days within such period shall be taken into account.

(5) Test of bona fide residence

If—

(A) an individual who has earned income from sources within a foreign country submits a statement to the authorities of that country that he is not a resident of that country, and

(B) such individual is held not subject as a resident of that country to the income tax of

that country by its authorities with respect to such earnings,

then such individual shall not be considered a bona fide resident of that country for purposes of paragraph (1)(A).

(6) Denial of double benefits

No deduction or exclusion from gross income under this subtitle or credit against the tax imposed by this chapter (including any credit or deduction for the amount of taxes paid or accrued to a foreign country or possession of the United States) shall be allowed to the extent such deduction, exclusion, or credit is properly allocable to or chargeable against amounts excluded from gross income under subsection (a).

(7) Aggregate benefit cannot exceed foreign earned income

The sum of the amount excluded under subsection (a) and the amount deducted under subsection (c)(3)(A) for the taxable year shall not exceed the individual’s foreign earned income for such year.

(8) Limitation on income earned in restricted country

(A) In general

If travel (or any transaction in connection with such travel) with respect to any foreign country is subject to the regulations described in subparagraph (B) during any period—

(i) the term “foreign earned income” shall not include any income from sources within such country attributable to services performed during such period,

(ii) the term “housing expenses” shall not include any expenses allocable to such period for housing in such country or for housing of the spouse or dependents of the taxpayer in another country while the taxpayer is present in such country, and

(iii) an individual shall not be treated as a bona fide resident of, or as present in, a foreign country for any day during which such individual was present in such country during such period.

(B) Regulations

For purposes of this paragraph, regulations are described in this subparagraph if such regulations—

(i) have been adopted pursuant to the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.), or the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), and

(ii) include provisions generally prohibiting citizens and residents of the United States from engaging in transactions related to travel to, from, or within a foreign country.

(C) Exception

Subparagraph (A) shall not apply to any individual during any period in which such individual’s activities are not in violation of the regulations described in subparagraph (B).

(9) 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—

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

(B) for married individuals filing separate returns.

(e) Election

(1) In general

An election under subsection (a) shall apply to the taxable year for which made and to all subsequent taxable years unless revoked under paragraph (2).

(2) Revocation

A taxpayer may revoke an election made under paragraph (1) for any taxable year after the taxable year for which such election was made. Except with the consent of the Secretary, any taxpayer who makes such a revocation for any taxable year may not make another election under this section for any subsequent taxable year before the 6th taxable year after the taxable year for which such revocation was made.

(f) Cross references

For administrative and penal provisions relating to the exclusions provided for in this section, see sections 6001, 6011, 6012(c), and the other provisions of subtitle F.

(Aug. 16, 1954, ch. 736, 68A Stat. 289; Pub. L. 85-866, title I, § 72(b), Sept. 2, 1958, 72 Stat. 1660; Pub. L. 87-834, § 11(a), Oct. 16, 1962, 76 Stat. 1003; Pub. L. 88-272, title II, § 237(a), Feb. 26, 1964, 78 Stat. 128; Pub. L. 89-809, title I, § 105(e)(3), Nov. 13, 1966, 80 Stat. 1567; Pub. L. 94-455, title X, § 1011(a), (b), title XIX, §§ 1901(a)(115), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1610, 1784, 1834; Pub. L. 95-30, title I, § 102(b)(12), May 23, 1977, 91 Stat. 138; Pub. L. 95-600, title IV, § 401(b)(4), title VII, §§ 701(u)(10)(A), 703(e), Nov. 6, 1978, 92 Stat. 2867, 2917, 2939; Pub. L. 95-615, title II, § 202(a)-(e), (g)(1), formerly § 202(a)-(f)(1), Nov. 8, 1978, 92 Stat. 3098-3100, renumbered § 202(a)-(e), (g)(1), and amended Pub. L. 96-222, title I, §§ 107(a)(3)(B), 108(a)(1)(A), (C), (D), Apr. 1, 1980, 94 Stat. 223, 224; Pub. L. 96-595, § 4(a)-(c)(1), Dec. 24, 1980, 94 Stat. 3466, 3467; Pub. L. 97-34, title I, § 111(a), Aug. 13, 1981, 95 Stat. 190; Pub. L. 97-448, title I, § 101(c), Jan. 12, 1983, 96 Stat. 2366; Pub. L. 98-369, div. A, title I, § 17, July 18, 1984, 98 Stat. 505; Pub. L. 99-514, title XII, § 1233(a), (b), Oct. 22, 1986, 100 Stat. 2564; Pub. L. 105-34, title XI, § 1172(a), Aug. 5, 1997, 111 Stat. 988.)

REFERENCES IN TEXT

The Trading With the Enemy Act, referred to in subsec. (d)(8)(B)(i), is act Oct. 6, 1917, ch. 106, 40 Stat. 411, as amended, which is classified to sections 1 to 6, 7 to 39, and 41 to 44 of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see Tables.

The International Emergency Economic Powers Act, referred to in subsec. (d)(8)(B)(i), is Pub. L. 95-223, title II, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§ 1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

AMENDMENTS

1997—Subsec. (b)(2)(A). Pub. L. 105-34, § 1172(a)(1), substituted “equal to the exclusion amount for the cal-

endar year in which such taxable year begins” for “of \$70,000”.

Subsec. (b)(2)(D). Pub. L. 105-34, § 1172(a)(2), added subpar. (D).

1986—Subsec. (b)(2)(A). Pub. L. 99-514, § 1233(a), in amending subpar. (A) generally, substituted “an annual rate of \$70,000” for “the annual rate set forth in the following table for each day of the taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1):

“In the case of taxable years beginning in:	The annual rate is:
1983, 1984, 1985, 1986, or 1987	\$80,000
1988	85,000
1989	90,000
1990 and thereafter	95,000.”

Subsec. (d)(8), (9). Pub. L. 99-514, § 1233(b), added par. (8) and redesignated former par. (8) as (9).

1984—Subsec. (b)(2)(A). Pub. L. 98-369 amended table by striking out item which set the annual rate at \$75,000 for taxable years beginning in 1982, substituted item setting the annual rate at \$80,000 for taxable years beginning in 1983, 1984, 1985, 1986, or 1987 for items which had set annual rates of \$80,000 for taxable years beginning in 1983, \$85,000 for taxable years beginning in 1984, \$90,000 for taxable years beginning in 1985, and \$95,000 for taxable years beginning in 1986 and thereafter, and added items setting annual rates of \$85,000 for taxable years beginning in 1988, \$90,000 for taxable years beginning in 1989, and \$95,000 for taxable years beginning in 1990 and thereafter.

1983—Subsec. (c)(3)(B)(ii). Pub. L. 97-448, § 101(c)(2), substituted “subsection (a)” for “subsection (a)(1)”.

Subsec. (d)(7), (8). Pub. L. 97-448, § 101(c)(1), added par. (7) and redesignated former par. (7) as (8).

1981—Pub. L. 97-34 amended section generally, modifying the eligibility standards of existing law, replacing the existing system of deduction for excess living costs with an exclusion of a portion of foreign earned income, and providing for an individual's election to exclude a portion of his income or to deduct an amount for housing, based on his housing expenses.

1980—Pub. L. 96-595 § 4(c)(1), inserted “or from charitable services” after “camps” in section catchline.

Subsec. (a). Pub. L. 96-595, § 4(a), inserted “or who performs qualified charitable services in a lesser developed country,” after “hardship area”.

Pub. L. 96-222, § 108(a)(1)(C), (D), substituted “a foreign country or” for “qualified foreign” in par. (2) and, in provisions following par. (2), substituted “his gross income any deduction,” for “his gross income” and “other than the deduction allowed by section 217” for “other than the deductions allowed by sections 217”.

Subsec. (c)(1)(A). Pub. L. 96-595, § 4(b)(1), substituted “Dollar limitations” for “In general” in heading, redesignated existing provisions as cl. (i), and in cl. (i) as so redesignated, inserted “Camp residents—In the case of an individual who resides in a camp located in a hardship area” before “the amount excluded”, and added cls. (ii) and (iii).

Subsec. (c)(1)(D), (E). Pub. L. 96-595, § 4(b)(2), added subpars. (D) and (E).

1978—Pub. L. 95-615, § 202(f)(1), substituted “Income earned by individuals in certain camps” for “Earned income from sources without the United States” in section catchline.

Subsec. (a). Pub. L. 95-615, § 202(a), in introductory provisions inserted reference to an individual described in section 913(a) who, because of his employment, resides in a camp located in a hardship area, in par. (1) substituted reference to amounts received from sources within a foreign country or countries for reference to amounts received from sources without the United States, in par. (2) substituted reference to amounts received from sources within qualified foreign countries for reference to amounts received from sources without the United States, and in provisions following par. (2) struck out “any deductions (other than those allowed

by section 151, relating to personal exemptions),” after “deduction from his gross income” and inserted “, other than the deductions allowed by sections 217 (relating to moving expenses)” after “subsection”.

Pub. L. 95-600, § 701(u)(10)(A), inserted provisions setting forth formula for determining amount of reduction of taxes, and struck out provisions relating to the credit against taxes.

Subsec. (c)(1)(A). Pub. L. 95-615, § 202(b), substituted “The amount excluded” for “Except as provided in subparagraphs (B) and (C), the amount excluded” and “an annual rate of \$20,000 for days during which he resides in a camp” for “an annual rate of \$15,000”.

Subsec. (c)(1)(B). Pub. L. 95-615, § 202(b), substituted provisions relating to conditions upon which an individual will be considered to reside in a camp because of his employment for provisions which related to the amount excluded from the gross income of an individual performing qualified charitable services.

Subsec. (c)(1)(C). Pub. L. 95-615, § 202(b), substituted provisions relating to definition of “hardship area” for provisions which related to the amount excluded from the gross income of an individual performing both qualified charitable services and other services.

Subsec. (c)(1)(D). Pub. L. 95-615, § 202(b), struck out subpar. (D) which defined “qualified charitable services”.

Subsec. (c)(7). Pub. L. 95-615, § 202(c), added par. (7).

Pub. L. 95-600, § 703(e), redesignated former par. (8) as (7). Such par. (8) was subsequently repealed by section 202(e) of Pub. L. 95-615 without taking into account the redesignation of par. (8) as (7) by Pub. L. 95-600. See 1978 Amendment note for subsec. (c)(8) below.

Subsec. (c)(8). Pub. L. 95-615, § 202(e), struck out par. (8) which related to the nonexclusion under subsec. (a) of any amount attributable to services performed in a foreign country or countries if such amount was received outside of the foreign country or countries where such services were performed and if one of the purposes was the avoidance of any tax imposed by such foreign country or countries on such amount.

Subsec. (d). Pub. L. 95-615, § 202(d)(1), redesignated subsec. (e) as (d), inserted “for the taxable year” after “section apply”, and struck out provision that an election was applicable to the taxable year for which made and to all subsequent taxable years. Former subsec. (d), which related to the computation of tax imposed by section 1 or section 1201 if an individual earned income which was excluded from gross income under subsec. (a) and which defined “net taxable income” and “net excluded earned income”, was struck out.

Subsec. (d)(1). Pub. L. 95-600, § 401(b)(4), struck out provisions respecting applicability of section 1201 of this title.

Subsecs. (e), (f). Pub. L. 95-615, § 202(d)(1), (2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

1977—Subsec. (d)(1)(B). Pub. L. 95-30 substituted “on the sum of (i) the amount of net excluded earned income, and (ii) the zero bracket amount” for “on the amount of net excluded earned income”.

1976—Subsec. (a). Pub. L. 94-455, §§ 1011(b)(1), 1906(b)(13)(A), struck out “or his delegate” after “Secretary” in par. (1), and in provisions following par. (2), inserted “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 deductions or credit is” after “personal exemptions”.

Subsec. (b). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (c)(1). Pub. L. 94-455, § 1011(a), reduced the amount excludable from individual’s gross income from \$20,000 to \$15,000 and \$20,000 for employees of charitable organizations, added special rule to be applied to income from charitable sources and other sources combined, inserted definition of “qualified charitable services”, and struck out provisions relating to \$25,000 exclusion for individual who has been a bona fide resident in a foreign country for an uninterrupted period of 3 years.

Subsec. (c)(7). Pub. L. 94-455, § 1901(a)(115), struck out par. (7) relating to certain noncash remuneration from sources outside the United States.

Subsec. (c)(8). Pub. L. 94-455, § 1011(b)(2), added par. (8).

Subsecs. (d) to (f). Pub. L. 94-455, § 1011(b)(3), added subsecs. (d) and (e) and redesignated former subsec. (d) as (f).

1966—Subsec. (d). Pub. L. 89-809 designated existing text as par. (1) and added par. (2).

1964—Subsec. (c)(1)(B). Pub. L. 88-272 substituted “\$25,000” for “\$35,000”.

1962—Subsec. (a). Pub. L. 87-834 substituted “which constitute earned income attributable to services performed during such uninterrupted period” for “if such amounts constitute earned income (as defined in subsection (b)) attributable to such period” in par. (1), and “which constitute earned income attributable to services performed during such 18-month period” for “if such amounts constitute earned income (as defined in subsection (b)) attributable to such period” in par. (2), inserted provisions in pars. (1) and (2) requiring the amount excluded under such paragraphs to be computed by applying the special rules contained in subsec. (c), and eliminated provisions from par. (2) which limited the amount excluded under such paragraph to not more than \$20,000 if the 18-month period includes the entire taxable year, and to not more than an amount which bears the same ratio to \$20,000 as the number of days in the part of the taxable year within the 18-month period bears to the total number of days in such year if the 18-month period does not include the entire taxable year.

Subsecs. (c) and (d). Pub. L. 87-834 added subsec. (c) and redesignated former subsec. (c) as (d).

1958—Subsec. (c). Pub. L. 85-866 added subsec. (c).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1172(b) of Pub. L. 105-34 provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 1997.”

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1233(c) of Pub. L. 99-514 provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1986.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years ending after Dec. 31, 1983, see section 18(a) of Pub. L. 98-369, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 115 of subtitle B (§§ 111-115) of title I of Pub. L. 97-34 provided that: “The amendments made by this subtitle [amending this section and sections 37, 43, 62, 63, 105, 119, 410, 879, 1034, 1302, 1303, 1304, 1402, 3401, 6012, and 6091 of this title and repealing section 913 of this title] (other than section 114 [amending section 208 of Pub. L. 95-615, set out below]) shall apply with respect to taxable years beginning after December 31, 1981.”

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 4(d) of Pub. L. 96-595 provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1978.”

Amendment by section 107(a)(3)(B) of Pub. L. 96-222 effective, except as otherwise provided, as if it had been

included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

Amendment by section 108(a)(1)(A), (C), (D) of Pub. L. 96-222 effective as if included in the Foreign Earned Income Act of 1978, Pub. L. 95-615, see section 108(a)(2)(A) of Pub. L. 96-222, set out as a note under section 3 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 401(b)(4) of Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 401(c) of Pub. L. 95-600, set out as a note under section 1201 of this title.

Section 701(u)(10)(B) of Pub. L. 95-600, as amended by Pub. L. 96-222, title I, §107(a)(1)(B), Apr. 1, 1980, 94 Stat. 222, provided that: "The amendment made by subparagraph (A) [amending this section] shall apply to taxable years beginning in calendar year 1978 but only in the case of taxpayers who make an election under section 209(c) of the Foreign Earned Income Act of 1978 [section 209(c) of Pub. L. 95-615, set out below]."

Amendment by section 703(e) of Pub. L. 95-600 effective on Oct. 4, 1976, see section 703(r) of Pub. L. 95-600, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT; ELECTION OF PRIOR LAW

Section 209 of Pub. L. 95-615 provided that:

"(a) GENERAL RULE.—Except as provided in subsections (b) and (c), the amendments made by this title [see section 201(a) of Pub. L. 95-615, set out as a Short Title of 1978 Amendment note under section 1 of this title] shall apply to taxable years beginning after December 31, 1977.

"(b) WAGE WITHHOLDING.—The amendment made by section 207(a) [amending section 3401 of this title] shall apply to remuneration paid after the date of the enactment of this Act. [Nov. 8, 1978].

"(c) ELECTION OF PRIOR LAW.—

"(1) A taxpayer may elect not to have the amendments made by this title [see section 201(a) of Pub. L. 95-615, set out as a Short Title of 1978 Amendment note under section 1 of 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."

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1011(d) of Pub. L. 94-455, as amended by Pub. L. 95-30, title III, §302, May 23, 1977, 91 Stat. 152; Pub. L. 95-615, §4(a), Nov. 8, 1978, 92 Stat. 3097, provided that: "The amendments made by this section [amending this section and section 36 of this title] shall apply to taxable years beginning after December 31, 1977."

Amendment by section 1901(a)(115) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 237(b) of Pub. L. 88-272 provided that: "The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1964."

EFFECTIVE DATE OF 1962 AMENDMENT

Section 11(c)(1) of Pub. L. 87-834 provided that: "The amendment made by subsection (a) [amending this sec-

tion] shall apply to taxable years ending after September 4, 1962, but only with respect to amounts—

"(A) received after March 12, 1962, which are attributable to services performed after December 31, 1962, or

"(B) received after December 31, 1962, which are attributable to services performed on or before December 31, 1962, unless on March 12, 1962, there existed a right (whether forfeitable or nonforfeitable) to receive such amounts."

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 applicable to taxable years beginning after Dec. 31, 1957, see section 72(c) of Pub. L. 85-866 set out as a note under section 6012 of this title.

REPEALS

Section 703(e) of Pub. L. 95-600, cited as a credit to this section, was repealed by Pub. L. 96-222, title I, §107(a)(3)(B), Apr. 1, 1980, 94 Stat. 223. See 1978 Amendment note for subsec. (c)(7) of this section set out above.

TREATMENT OF CERTAIN PERSONS IN PANAMA

Section 1232(a) of Pub. L. 99-514 provided that: "Nothing in the Panama Canal Treaty (or in any agreement implementing such Treaty) shall be construed as exempting (in whole or in part) any citizen or resident of the United States from any tax under the Internal Revenue Code of 1954 or 1986. The preceding sentence shall apply to all taxable years whether beginning before, on, or after the date of the enactment of this Act [Oct. 22, 1986] (or in the case of any tax not imposed with respect to a taxable year, to taxable events after the date of enactment of this Act.)"

TAXABLE YEARS BEGINNING IN 1977 OR 1978; INDIVIDUALS WHO LEAVE FOREIGN COUNTRY AFTER AUGUST 31, 1978

Rules similar to the rules of section 913(j)(4) of this title to apply for the purposes of applying this section for taxable years beginning in 1977 or 1978 in the case of an individual who leaves a foreign country after Aug. 31, 1978, see section 1(b) of Pub. L. 96-608, set out as an Effective Date of 1980 Amendment note under section 913 of this title.

INDIVIDUALS FOR WHOM UNUSED ZERO BRACKET AMOUNT COMPUTATION IS PROVIDED FOR TAXABLE YEARS BEGINNING IN 1977

Section 4(b) of Pub. L. 95-615, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "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 1986 [formerly I.R.C. 1954], and

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

REPORTS TO CONGRESSIONAL COMMITTEES; INFORMATION FROM FEDERAL AGENCIES

Section 208 of Pub. L. 95-615, as amended by Pub. L. 97-34, title I, §114, Aug. 13, 1981, 95 Stat. 195; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101-508, title XI, §11833, Nov. 5, 1990, 104 Stat. 1388-560, provided that:

"(a) GENERAL RULE.—As soon as practicable after December 31, 1993, and as soon as practicable after the close of each fifth 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 on the operation and effects of sections 911 and

912 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].

“(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 keep such records and furnish to the Secretary of the Treasury such information as he determines to be necessary to carry out his responsibility under subsection (a).”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 23, 24, 25A, 32, 59, 66, 72, 79, 86, 105, 135, 137, 219, 221, 403, 410, 414, 415, 469, 505, 530, 865, 879, 988, 1400C, 1402, 3401, 4980B, 6012, 6091, 7701 of this title; title 22 section 3310; title 29 section 1322; title 42 sections 411, 604.

§ 912. Exemption for certain allowances

The following items shall not be included in gross income, and shall be exempt from taxation under this subtitle:

(1) Foreign areas allowances

In the case of civilian officers and employees of the Government of the United States, amounts received as allowances or otherwise (but not amounts received as post differentials) under—

(A) chapter 9 of title I of the Foreign Service Act of 1980,

(B) section 4 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C., sec. 403e),

(C) title II of the Overseas Differentials and Allowances Act, or

(D) subsection (e) or (f) of the first section of the Administrative Expenses Act of 1946, as amended, or section 22 of such Act.

(2) Cost-of-living allowances

In the case of civilian officers or employees of the Government of the United States stationed outside the continental United States (other than Alaska), amounts (other than amounts received under title II of the Overseas Differentials and Allowances Act) received as cost-of-living allowances in accordance with regulations approved by the President (or in the case of judicial officers or employees of the United States, in accordance with rules similar to such regulations).

(3) Peace Corps allowances

In the case of an individual who is a volunteer or volunteer leader within the meaning of the Peace Corps Act and members of his family, amounts received as allowances under section 5 or 6 of the Peace Corps Act other than amounts received as—

(A) termination payments under section 5(c) or section 6(1) of such Act,

(B) leave allowances,

(C) if such individual is a volunteer leader training in the United States, allowances to members of his family, and

(D) such portion of living allowances as the President may determine under the Peace Corps Act as constituting basic compensation.

(Aug. 16, 1954, ch. 736, 68A Stat. 290; Pub. L. 86-707, title V, §523(a), Sept. 6, 1960, 74 Stat. 802; Pub. L. 87-293, title II, §201(a), Sept. 22, 1961, 75 Stat. 625; Pub. L. 96-465, title II, §2206(e)(3), Oct.

17, 1980, 94 Stat. 2163; Pub. L. 100-647, title VI, §6137(a), Nov. 10, 1988, 102 Stat. 3723.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in par. (1)(A), is Pub. L. 96-465, Oct. 17, 1980, 94 Stat. 2071, as amended. Chapter 9 of title I of the Foreign Service Act of 1980 is classified generally to subchapter IX (§4081 et seq.) of chapter 52 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

Title II of the Overseas Differentials and Allowances Act, referred to in pars. (1)(C) and (2), was title II of Pub. L. 86-707, Sept. 6, 1960, 74 Stat. 793, which was repealed and reenacted as sections 5922 to 5925 of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

Sections 1(e) and (f) and 22 of the Administrative Expenses Act of 1946, referred to in par. (1)(D), were repealed and the provisions thereof reenacted as sections 5726(b), 5727(b) to (e), and 5913 of Title 5, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

The Peace Corps Act, referred to in par. (3), is Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§2501 et seq.) of Title 22, Foreign Relations and Intercourse. Sections 5 and 6 of that act are classified to sections 2504 and 2505 of Title 22. For complete classification of this act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

AMENDMENTS

1988—Par. (2). Pub. L. 100-647 inserted “(or in the case of judicial officers or employees of the United States, in accordance with rules similar to such regulations)” after “President”.

1980—Par. (1)(A). Pub. L. 96-465 substituted reference to chapter 9 of title I of the Foreign Service Act of 1980 for reference to title IX of the Foreign Service Act of 1946.

1961—Par. (3). Pub. L. 87-293 added par. (3).

1960—Pub. L. 86-707 exempted foreign areas allowances received under section 4 of the Central Intelligence Agency Act of 1949, title II of the Overseas Differentials and Allowances Act, subsection (e) or (f) of the first section of the Administrative Expenses Act of 1946, or section 22 of such Act, provided that amounts received as post differentials shall not be exempt and in provisions relating to cost-of-living allowances excluded Alaska from term “continental United States” and amounts received under title II of the Overseas Differentials and Allowances Act.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 6137(b) of Pub. L. 100-647 provided that: “The amendment made by subsection (a) [amending this section] shall apply to allowances received after October 12, 1987, in taxable years ending after such date.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96-465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1961 AMENDMENTS

Section 201(d) of Pub. L. 87-293 provided that: “The amendments made by subsections (a) and (b) of this section [amending this section and section 1303 of this title] shall apply with respect to taxable years ending after March 1, 1961. The amendment made by subsection (c) [amending section 3401 of this title] shall apply with respect to remuneration paid after the date of the enactment of this Act [Sept. 22, 1961].”

[Section 201(d) of Pub. L. 87-293 was repealed by Pub. L. 89-572, §5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments contained in such

provisions, see sections 5(b) of Pub. L. 89-572, set out as a note under former section 2515 of Title 22, Foreign Relations and Intercourse.]

EFFECTIVE DATE OF 1960 AMENDMENT

Section 523(b) of Pub. L. 86-707, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "Paragraphs (1) and (2) of section 912 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as amended by subsection (a) of this section, shall apply only with respect to amounts received on or after the date of the enactment of this Act [Sept. 6, 1960] in taxable years ending on or after such date."

REPEALS; AMENDMENTS AND APPLICATION OF AMENDMENTS UNAFFECTED

Section 201(a) of Pub. L. 87-293, cited as a credit to this section, was repealed by Pub. L. 89-572, §5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments to this section contained in such provisions, and continuation in full force and effect until modified by appropriate authority of all determinations, authorization, regulations, orders, contracts, agreements, and other actions issued undertaken, or entered into under authority of the repealed provisions, see section 5(b) of Pub. L. 89-572, set out as a note under former section 2515 of Title 22, Foreign Relations and Intercourse.

DELEGATION OF FUNCTIONS

Function of determining the portion of living allowances constituting basic compensation for Peace Corps volunteers or volunteer leaders under par. (3) of this section delegated by President to Director of Peace Corps to be performed in consultation with the Secretary of the Treasury, see section 1-104 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, set out as a note under section 2501 of Title 22, Foreign Relations and Intercourse.

Authority of President under par. (2) of this section delegated to Secretary of Defense with respect to military departments, and to Secretary of the Treasury with respect to Coast Guard, concerning civilian employees of nonappropriated fund instrumentalities of the armed forces, see section 201 of Ex. Ord. No. 11137, Jan. 7, 1964, set out as a note under section 5921 of Title 5, Government Organization and Employees.

TREATMENT OF EMPLOYEES OF PANAMA CANAL COMMISSION AND DEPARTMENT OF DEFENSE

Pub. L. 99-514, title XII, §1232(b), Oct. 22, 1986, 100 Stat. 2564, provided that: "Employees of the Panama Canal Commission and civilian employees of the Defense Department of the United States stationed in Panama may exclude from gross income allowances which are comparable to the allowances excludable under section 912(1) of the Internal Revenue Code of 1986 by employees of the State Department of the United States stationed in Panama. The preceding sentence shall apply to taxable years beginning after December 31, 1986."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6011 of this title; title 22 section 3310.

[§913. Repealed. Pub. L. 97-34, title I, §112(a), Aug. 13, 1981, 95 Stat. 194]

Section, added Pub. L. 95-615, title II, §203(a), Nov. 8, 1978, 92 Stat. 3100; amended Pub. L. 96-222, title I, §108(a)(1)(B), (F), Apr. 1, 1980, 94 Stat. 223, 225; Pub. L. 96-608, §1(a), Dec. 28, 1980, 94 Stat. 3550, related to a deduction for certain expenses of living abroad.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to taxable years beginning after Dec. 31, 1981, see section 115 of Pub. L.

97-34, set out as an Effective Date of 1981 Amendment note under section 911 of this title.

SUBPART C—TAXATION OF FOREIGN SALES CORPORATIONS

Sec.	
921.	Exempt foreign trade income excluded from gross income.
922.	FSC defined.
923.	Exempt foreign trade income.
924.	Foreign trading gross receipts.
925.	Transfer pricing rules.
926.	Distributions to shareholders.
927.	Other definitions and special rules.

§921. Exempt foreign trade income excluded from gross income

(a) Exclusion

Exempt foreign trade income of a FSC shall be treated as foreign source income which is not effectively connected with the conduct of a trade or business within the United States.

(b) Proportionate allocation of deductions to exempt foreign trade income

Any deductions of the FSC properly apportioned and allocated to the foreign trade income derived by a FSC from any transaction shall be allocated between—

- (1) the exempt foreign trade income derived from such transaction, and
- (2) the foreign trade income (other than exempt foreign trade income) derived from such transaction, on a proportionate basis.

(c) Denial of credits

Notwithstanding any other provision of this chapter, no credit (other than a credit allowable under section 27(a), 33, or 34) shall be allowed under this chapter to any FSC.

(d) Foreign trade income, investment income, and carrying charges treated as effectively connected with United States business

For purposes of this chapter—

- (1) all foreign trade income of a FSC other than—
 - (A) exempt foreign trade income, and
 - (B) section 923(a)(2) non-exempt income,
- (2) all interest, dividends, royalties, and other investment income received or accrued by a FSC, and
- (3) all carrying charges received or accrued by a FSC,

shall be treated as income effectively connected with a trade or business conducted through a permanent establishment of such corporation within the United States. Income described in paragraph (1) shall be treated as derived from sources within the United States.

(Added Pub. L. 98-369, div. A, title VIII, §801(a), July 18, 1984, 98 Stat. 985.)

PRIOR PROVISIONS

A prior section 921, acts Aug. 16, 1954, ch. 736, 68A Stat. 290; Oct. 4, 1976, Pub. L. 94-455, title XIX, §1901(a)(116), 90 Stat. 1784, defined Western Hemisphere trade corporation, prior to repeal by Pub. L. 94-455, title X, §1052(b), Oct. 4, 1976, 90 Stat. 1648, effective with respect to taxable years beginning after Dec. 31, 1979.

EFFECTIVE DATE

Section 805(a) of title VIII of div. A of Pub. L. 98-369, as amended by Pub. L. 99-514, §2, title XVIII, §1876(i),