Effective Date of 1974 Amendment

Effective Date of 1971 Amendment
Section 313(f) of Pub. L. 92–178, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments to section 871 and 881 of the Internal Revenue Code of 1966 (formerly I.R.C. 1964) made by this section shall apply with respect to taxable years beginning after December 31, 1966. The amendments to sections 1411 and 1442 of such Code made by this section shall apply with respect to payments occurring on or after April 1, 1972.”

Effective Date of 1966 Amendment
Section 168(n) of Pub. L. 89–809 provided that: “(1) The amendments made by this section (other than the amendments made by subsections (h), (i), and (k)) [amending this section and sections 116, 154, 872 to 874, 875, 892, 6015, and 7001 of this title, redesignating section 877 as 876, enacting section 1493 of this title, and repealing section 1493 of this title] shall apply with respect to taxable years beginning after December 31, 1966.

“(2) The amendments made by subsection (h) [amending section 1441 of this title] shall apply with respect to payments made in taxable years of recipients beginning after December 31, 1966.

“(3) The amendments made by subsection (i) [amending section 1461 of this title] shall apply with respect to payments occurring after December 31, 1966.

“(4) The amendments made by subsection (k) [amending section 3401 of this title] shall apply with respect to remuneration paid after December 31, 1966.”

Effective Date of 1964 Amendment
Amendment by section 113(b)(1) of Pub. L. 88–272 effective, except for purposes of section 21 of this title, with respect to taxable years beginning after Dec. 31, 1963, see section 131 of Pub. L. 88–272, set out as a note under section 1 of this title.

Amendment by section 201(d)(12) of Pub. L. 88–272 applicable with respect to dividends received after Dec. 31, 1964, in taxable years ending after such date, see section 201(e) of Pub. L. 88–272, set out as a note under section 37 of this title.

Effective Date of 1961 Amendment
Amendment by Pub. L. 87–256 applicable to taxable years beginning after Dec. 31, 1961, see section 110(h)(1) of Pub. L. 87–256, set out as a note under section 117 of this title.

Effective Date of 1960 Amendment
Amendment by Pub. L. 86–437 applicable only with respect to taxable years beginning after Dec. 31, 1959, see section 3 of Pub. L. 86–437, set out as a note under section 402 of this title.

Effective Date of 1958 Amendment
Section 40(c) of Pub. L. 85–866 provided that: “The amendment made by subsection (a) [amending this section] shall apply only with respect to taxable years ending after the date of the enactment of this Act [Sept. 2, 1958]. The amendments made by subsection (b) [amending section 1441 of this title] shall take effect on the day following the date of the enactment of this Act [Sept. 2, 1958].”

Section 41(c) of Pub. L. 85–866 provided that: “The amendments made by this section [amending this section and section 35 of this title] shall apply only with respect to taxable years beginning after December 31, 1957.”

Applicability of Certain Amendments by Pub. L. 99–514 in Relation to Treaty Obligations of United States
For nonapplication of amendments by sections 1211(b)(4), (5) and 1214(c)(1) of Pub. L. 99–514 to the extent application of such amendments would be contrary to any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100–647 be treated as if it had been included in the provision of Pub. L. 99–514 to which such amendment relates, see section 1012(aa)(3), (4) of Pub. L. 100–647, set out as a note under section 401 of this title.

Plan Amendments Not Required Until January 1, 1998
For provisions directing that if any amendments made by subtitle D (§§1401–1465) of title I of Pub. L. 104–188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning before or after Jan. 1, 1998, see section 1465 of Pub. L. 104–188, set out as a note under section 401 of this title.

Plan Amendments Not Required Until January 1, 1994
For provisions directing that if any amendments made by subtitle B (§§521–523) of title V of Pub. L. 102–318 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1994, see section 523 of Pub. L. 102–318, set out as a note under section 401 of this title.

Plan Amendments Not Required Until January 1, 1989
For provisions directing that if any amendments made by subtitle A or subtitle C of title XI (§§1101–1147 and 1171–1177) or title XVIII (§§1800–1899A) of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1149 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

§ 872. Gross income
(a) General rule
In the case of a nonresident alien individual, except where the context clearly indicates otherwise, gross income includes only—
1 gross income which is derived from sources within the United States and which is not effectively connected with the conduct of a trade or business within the United States, and
2 gross income which is effectively connected with the conduct of a trade or business within the United States.

(b) Exclusions
The following items shall not be included in gross income of a nonresident alien individual, and shall be exempt from taxation under this subtitle:
1 ships operated by certain nonresidents
Gross income derived by an individual resident of a foreign country from the international operation of a ship or ships if such foreign country grants an equivalent exemption to individual residents of the United States.
(2) Aircraft operated by certain nonresidents

Gross income derived by an individual resident of a foreign country from the international operation of aircraft if such foreign country grants an equivalent exemption to individual residents of the United States.

(3) Compensation of participants in certain exchange or training programs

Compensation paid by a foreign employer to a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), or (Q) of section 101(a)(15) of the Immigration and Nationality Act, as amended. For purposes of this paragraph, the term “foreign employer” means—

(A) a nonresident alien individual, foreign partnership, or foreign corporation, or

(B) an office or place of business maintained in a foreign country or in a possession of the United States by a domestic corporation, a domestic partnership, or an individual who is a citizen or resident of the United States.

(4) Certain bond income of residents of the Ryukyu Islands or the Trust Territory of the Pacific Islands

Income derived by a nonresident alien individual from a series E or series H United States savings bond, if such individual acquired such bond while a resident of the Ryukyu Islands or the Trust Territory of the Pacific Islands.

(5) Income derived from wagering transactions in certain parimutuel pools

Gross income derived by a nonresident alien individual from a legal wagering transaction initiated outside the United States in a parimutuel pool with respect to a live horse race or dog race in the United States.

(6) Certain rental income

Income to which paragraphs (1) and (2) apply shall include income which is derived from the rental on a full or bareboat basis of a ship or ships or aircraft, as the case may be.

(7) Application to different types of transportation

The Secretary may provide that this subsection be applied separately with respect to income from different types of transportation.

(8) Treatment of possessions

To the extent provided in regulations, a possession of the United States shall be treated as a foreign country for purposes of this subsection.

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**References in Text**

Section 101 of the Immigration and Nationality Act, referred to in subsec. (b)(3), is classified to section 1101 of Title 8, Aliens and Nationality.

**Amendments**

2004—Subsec. (b)(5) to (8). Pub. L. 108–357 added par. (5) and redesignated former pars. (5) to (7) as (6) to (8), respectively.

1994—Subsec. (b)(3). Pub. L. 103–296 substituted “(F), (J), or (Q)” for “(F) or (J)”.


1988—Subsec. (a). Pub. L. 100–647, § 1012(e)(2)(A), inserted “; except where the context clearly indicates otherwise” after “individual”.

Subsec. (b)(1), (2). Pub. L. 100–647, § 1012(e)(2)(B), (5), substituted “to individual residents of the United States” for “to citizens of the United States and to corporations organized in the United States” and “international operation” for “operation”.

1966—Subsec. (b)(1). Pub. L. 99–514, § 1212(c)(1), added par. (1) and struck out former par. (1), ships under foreign flag, which read as follows: “Earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States.”

Subsec. (b)(2). Pub. L. 99–514, § 1212(c)(1), added par. (2) and struck out former par. (2), aircraft of foreign registry, which read as follows: “Earnings derived from the operation of aircraft registered under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States.”

Subsec. (b)(5). Pub. L. 99–514, § 1212(c)(2), added pars. (5) and (6).

1961—Subsec. (a). Pub. L. 89–809, § 103(b)(1), limited the inclusion of gross income which is derived from sources within the United States to such income which is not effectively connected with the conduct of a trade or business within the United States and inserted provision including gross income without the limitation as to source which is effectively connected with the conduct of a trade or business within the United States.

Subsec. (b)(3)(B). Pub. L. 89–809, § 103(b)(2), substituted “by a domestic corporation, a domestic partnership, or an individual who is a citizen or resident of the United States” for “by a domestic corporation”.


**Effective Date of 2004 Amendment**


**Effective Date of 1994 Amendment**

Amendment by Pub. L. 103–296 effective with calendar quarter following Aug. 15, 1994, see section 320(c) of Pub. L. 103–296, set out as a note under section 871 of this title.

**Effective Date of 1989 Amendment**

Amendment by Pub. L. 101–239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, to which such amendment relates, see section 7817 of Pub. L. 101–239, set out as a note under section 1 of this title.

**Effective Date of 1988 Amendment**

Amendment by Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.
§ 873. Deductions

(a) General rule

In the case of a nonresident alien individual, the deductions shall be allowed only for purposes of section 871(b) and (except as provided by subsection (b)) only if and to the extent that they are connected with income which is effectively connected with the conduct of a trade or business within the United States; and the proper apportionment and allocation of the deductions for this purpose shall be determined as provided in regulations prescribed by the Secretary.

(b) Exceptions

The following deductions shall be allowed whether or not they are connected with income which is effectively connected with the conduct of a trade or business within the United States:

(1) Losses

The deduction allowed by section 165 for casualty or theft losses described in paragraph (2) or (3) of section 165(c) but only if the loss is of property located within the United States.

(2) Charitable contributions

The deduction for charitable contributions and gifts allowed by section 170.

(3) Personal exemption

The deduction for personal exemptions allowed by section 151, except that only one exemption shall be allowed under section 151 unless the taxpayer is a resident of a contiguous country or is a national of the United States.

(c) Cross reference

For rule that certain foreign taxes are not to be taken into account in determining deduction or credit, see section 906(b)(1).

Amendment by Pub. L. 89-809 applicable to taxable years beginning after Dec. 31, 1961, see section 110(h)(1) of Pub. L. 89-809, set out as a note under section 117 of this title.

Effective Date of 1966 Amendment

Amendment by Pub. L. 89-809 applicable with respect to taxable years beginning after Dec. 31, 1966, see section 1212(f) of Pub. L. 99-514, set out as a note under section 863 of this title.

Effective Date of 1961 Amendment

Amendment by Pub. L. 87-256 applicable to taxable years beginning after Dec. 31, 1961, see section 118(b)(1) of Pub. L. 87-256, set out as a note under section 117 of this title.

Termination of Trust Territory of the Pacific Islands

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

Applicability of Certain Amendments by Pub. L. 89-809 in Relation to Treaty Obligations of United States

For nonapplication of amendment by section 1212(c)(1), (2) of Pub. L. 89-809 to the extent application of such amendment would be contrary to any treaty obligation of the United States in effect on Oct. 22, 1966, with provision that for such purposes any amendment by title I of Pub. L. 100-647 be treated as if it had been included in the provision of Pub. L. 89-809 to which such amendment relates, see section 1012(aa)(3), (4) of Pub. L. 100-647, set out as a note under section 861 of this title.

§ 873. Deductions

(a) General rule

In the case of a nonresident alien individual, the deductions shall be allowed only for purposes of section 871(b) and (except as provided by subsection (b)) only if and to the extent that they are connected with income which is effectively connected with the conduct of a trade or business within the United States; and the proper apportionment and allocation of the deductions for this purpose shall be determined as provided in regulations prescribed by the Secretary.

(b) Exceptions

The following deductions shall be allowed whether or not they are connected with income which is effectively connected with the conduct of a trade or business within the United States:

(1) Losses

The deduction allowed by section 165 for casualty or theft losses described in paragraph (2) or (3) of section 165(c) but only if the loss is of property located within the United States.

(2) Charitable contributions

The deduction for charitable contributions and gifts allowed by section 170.

(3) Personal exemption

The deduction for personal exemptions allowed by section 151, except that only one exemption shall be allowed under section 151 unless the taxpayer is a resident of a contiguous country or is a national of the United States.

(c) Cross reference

For rule that certain foreign taxes are not to be taken into account in determining deduction or credit, see section 906(b)(1).