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| Sec. | |
| [936. | Repealed.] ¹ |
| 937. | Residence and source rules involving possessions. |

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-141, div. U, title IV, § 401(d)(1)(C), Mar. 23, 2018, 132 Stat. 1206, which directed that the table of sections for subpart C of part III of subchapter N of this chapter be amended by striking out item 936, could not be executed because item 936 “Puerto Rico and possession tax credit” had been editorially supplied.

2004—Pub. L. 108-357, title VIII, § 908(c)(6), Oct. 22, 2004, 118 Stat. 1657, added item 937.

1986—Pub. L. 99-514, title XII, §§ 1272(d)(12), 1274(d), 1275(c)(8), Oct. 22, 1986, 100 Stat. 2595, 2598, 2599, substituted “Guam, American Samoa, or the Northern Mariana Islands” for “possessions of the United States” in item 931, added item 932, and struck out former item 932 “Citizens of possessions of the United States”, item 934A “Income tax rate on Virgin Islands source income” and item 935 “Coordination of United States and Guam individual income taxes”.

1983—Pub. L. 97-455, § 1(d)(1), Jan. 12, 1983, 96 Stat. 2498, added item 934A.

1972—Pub. L. 92-606, § 1(f)(5), Oct. 31, 1972, 86 Stat. 1497, added item 935.

1960—Pub. L. 86-779, § 4(a)(2), Sept. 14, 1960, 74 Stat. 999, added item 934.

§ 931. Income from sources within Guam, American Samoa, or the Northern Mariana Islands

(a) General rule

In the case of an individual who is a bona fide resident of a specified possession during the entire taxable year, gross income shall not include—

- (1) income derived from sources within any specified possession, and
- (2) income effectively connected with the conduct of a trade or business by such individual within any specified possession.

(b) Deductions, etc. allocable to excluded amounts not allowable

An individual shall not be allowed—

- (1) as a deduction from gross income any deductions (other than the deduction under section 151, relating to personal exemptions), or
- (2) any credit,

properly allocable or chargeable against amounts excluded from gross income under this section.

(c) Specified possession

For purposes of this section, the term “specified possession” means Guam, American Samoa, and the Northern Mariana Islands.

(d) Employees of the United States

Amounts paid for services performed as an employee of the United States (or any agency thereof) shall be treated as not described in paragraph (1) or (2) of subsection (a).

(Aug. 16, 1954, ch. 736, 68A Stat. 291; Pub. L. 89-809, title I, § 107(a), Nov. 13, 1966, 80 Stat. 1571; Pub. L. 92-178, title V, § 502(d), Dec. 10, 1971, 85 Stat. 550; Pub. L. 92-606, § 1(f)(1), Oct. 31, 1972, 86 Stat. 1497; Pub. L. 94-455, title X, § 1051(c), title

XIX, §§ 1901(a)(117), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1645, 1784, 1834; Pub. L. 95-30, title I, § 101(d)(12), May 23, 1977, 91 Stat. 134; Pub. L. 98-369, div. A, title VII, § 711(c)(2)(A)(iv), July 18, 1984, 98 Stat. 945; Pub. L. 99-514, title XII, § 1272(a), Oct. 22, 1986, 100 Stat. 2593; Pub. L. 108-357, title VIII, § 908(c)(1), Oct. 22, 2004, 118 Stat. 1656.)

Editorial Notes

AMENDMENTS

2004—Subsec. (d). Pub. L. 108-357 amended heading and text of subsec. (d) generally, substituting provisions relating to employees of the United States for provisions consisting of pars. (1) to (3) relating to special rules concerning employees of the United States, determination of source of income, and determination of residency.

1986—Pub. L. 99-514 amended section generally, substituting provisions relating to income from sources within Guam, American Samoa, or the Northern Mariana Islands, for former provisions relating to income from sources within possessions of the United States, which had declared in: subsec. (a), general rule as to gross income, including requirements relating to 3-year period and trade or business; subsec. (b), rule as to amounts received in United States; subsec. (c), definition of “possession of the United States”; subsec. (d), general rule allowing deductions only to extent connected with income from sources within United States, and specific exceptions to limitations of general rule; subsec. (e), deduction for personal exemption; subsec. (f), allowance of deductions and credits; subsec. (g), foreign tax credit; subsec. (h), provisions relating to employees of United States.

1984—Subsec. (d)(2)(B). Pub. L. 98-369 substituted “for losses” for “, for losses of property not connected with the trade or business if arising from certain casualties or theft,”.

1977—Subsec. (d)(3). Pub. L. 95-30 struck out par. (3) which made a cross reference to section 142(b)(2) for disallowance of the standard deduction.

1976—Subsec. (a). Pub. L. 94-455, § 1051(c)(1), struck out all references to domestic corporations and made subsection applicable only to individual citizens.

Subsec. (c). Pub. L. 94-455, § 1051(c)(2), substituted “Commonwealth of Puerto Rico, the Virgin Islands of the United States, or Guam” for “Virgin Islands of the United States, and such term when used with respect to citizens of the United States does not include Puerto Rico or Guam” after “does not include the”.

Subsec. (d)(1). Pub. L. 94-455, §§ 1051(c)(3), 1906(b)(13)(A), substituted “a citizen of the United States” for “persons” after “in the case of” and struck out “or his delegate” after “Secretary”.

Subsec. (f). Pub. L. 94-455, §§ 1051(c)(3), 1906(b)(13)(A), substituted “A citizen of the United States” for “Persons” after “Allowance of deductions and credits” and struck out in two places “or his delegate” after “Secretary”.

Subsecs. (h), (i). Pub. L. 94-455, § 1901(a)(117), redesignated subsec. (i) as (h). Former subsec. (h), relating to the status of a citizen of the United States who has been interned by the enemy, was struck out.

1972—Subsec. (c). Pub. L. 92-606 substituted “Puerto Rico or Guam” for “Puerto Rico”.

1971—Subsec. (a). Pub. L. 92-178 provided for non-application of section in the case of a corporation for a taxable year for which it is a DISC or in which it owns at any time stock in a DISC or former DISC.

1966—Subsec. (d). Pub. L. 89-809 made applicable to United States citizens and domestic corporations engaged in trade or business in possessions, who qualify for the special tax treatment of income qualifying for the exclusion relating to income from United States possessions, provisions which allow deductions to non-resident aliens or foreign corporations engaged in trade

¹ See 2018 Amendment note below.

or business in the United States by allowing deductions only where they are allocable to income effectively connected with the trade or business in the United States and by spelling out the exceptions allowing deductions whether or not connected with income from sources within the United States in the case of losses not connected with the trade or business but incurred in transactions entered into for profit, casualty losses, and charitable contributions.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years ending after Oct. 22, 2004, see section 908(d)(1) of Pub. L. 108-357, set out as an Effective Date note under section 937 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XII, §1277, Oct. 22, 1986, 100 Stat. 2600, as amended by Pub. L. 100-647, title I, §1012(z), Nov. 10, 1988, 102 Stat. 3530, provided that:

“(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle [subtitle G (§§1271–1277) of title XII of Pub. L. 99-514, enacting section 932 of this title, amending this section and sections 28, 32, 48, 63, 153, 246, 338, 864, 876, 881, 933, 934, 936, 957, 1402, 1442, 3401, 6091, 7651, 7654, and 7655 of this title, repealing sections 932, 934A, and 935 of this title, and enacting provisions set out as notes under this section and section 932 of this title] shall apply to taxable years beginning after December 31, 1986.

“(b) SPECIAL RULE FOR GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS.—The amendments made by this subtitle shall apply with respect to Guam, American Samoa, or the Northern Mariana Islands (and to residents thereof and corporations created or organized therein) only if (and so long as) an implementing agreement under section 1271 [set out below] is in effect between the United States and such possession.

“(c) SPECIAL RULES FOR THE VIRGIN ISLANDS.—

“(1) IN GENERAL.—The amendments made by section 1275(c) [amending sections 28, 48, 338, 864, and 934 of this title and repealing section 934A of this title] shall apply with respect to the Virgin Islands (and residents thereof and corporations created or organized therein) only if (and so long as) an implementing agreement is in effect between the United States and the Virgin Islands with respect to the establishment of rules under which the evasion or avoidance of United States income tax shall not be permitted or facilitated by such possession. Any such implementing agreement shall be executed on behalf of the United States by the Secretary of the Treasury, after consultation with the Secretary of the Interior.

“(2) SECTION 1275(b).—

“(A) IN GENERAL.—The amendment made by section 1275(b) [amending section 7651 of this title] shall apply with respect to—

“(i) any taxable year beginning after December 31, 1986, and

“(ii) any pre-1987 open year.

“(B) SPECIAL RULES.—In the case of any pre-1987 open year—

“(i) the amendment made by section 1275(b) shall not apply to income from sources in the Virgin Islands or income effectively connected with the conduct of a trade or business in the Virgin Islands, and

“(ii) the taxpayer shall be allowed a credit—

“(I) against any additional tax imposed by subtitle A of the Internal Revenue Code of 1954 [now 1986] (by reason of the amendment made by section 1275(b)) on income not described in clause (i),

“(II) for any tax paid to the Virgin Islands before the date of the enactment of this Act [Oct. 22, 1986] and attributable to such income.

For purposes of clause (ii)(II), any tax paid before January 1, 1987, pursuant to a process in effect before August 16, 1986, shall be treated as paid before the date of the enactment of this Act.

“(C) PRE-1987 OPEN YEAR.—For purposes of this paragraph, the term ‘pre-1987 open year’ means any taxable year beginning before January 1, 1987, if on the date of the enactment of this Act [Oct. 22, 1986] the assessment of a deficiency of income tax for such taxable year is not barred by any law or rule of law.

“(D) EXCEPTION.—In the case of any pre-1987 open year, the amendment made by section 1275(b) shall not apply to any domestic corporation if—

“(i) during the fiscal year which ended May 31, 1986, such corporation was actively engaged directly or through a subsidiary in the conduct of a trade or business in the Virgin Islands and such trade or business consists of business related to marine activities, and

“(ii) such corporation was incorporated on March 31, 1983, in Delaware.

“(E) EXCEPTION FOR CERTAIN TRANSACTIONS.—

“(i) IN GENERAL.—In the case of any pre-1987 open year, the amendment made by section 1275(b) shall not apply to any income derived from transactions described in clause (ii) by 1 or more corporations which were formed in Delaware on or about March 6, 1981, and which have owned 1 or more office buildings in St. Thomas, United States Virgin Islands, for at least 5 years before the date of the enactment of this Act [Oct. 22, 1986].

“(ii) DESCRIPTION OF TRANSACTIONS.—The transactions described in this clause are—

“(I) the redemptions of limited partnership interests for cash and property described in an agreement (as amended) dated March 12, 1981,

“(II) the subsequent disposition of the properties distributed in such redemptions, and

“(III) interest earned before January 1, 1987, on bank deposits of proceeds received from such redemptions to the extent such deposits are located in the United States Virgin Islands.

“(iii) LIMITATION.—The aggregate reduction in tax by reason of this subparagraph shall not exceed \$8,312,000. If the taxes which would be payable as the result of the application of the amendment made by section 1275(b) to pre-1987 open years exceeds the limitation of the preceding sentence, such excess shall be treated as attributable to income received in taxable years in reverse chronological order.

“(d) REPORT ON IMPLEMENTING AGREEMENTS.—If, during the 1-year period beginning on the date of the enactment of this Act [Oct. 22, 1986], any implementing agreement described in subsection (b) or (c) is not executed, the Secretary of the Treasury or his delegate shall report to the Committee on Finance of the United States Senate, the Committee on Ways and Means, and the Committee on Interior and Insular Affairs [now Committee on Natural Resources] of the House of Representatives with respect to—

“(1) the status of such negotiations, and

“(2) the reason why such agreement has not been executed.

“(e) TREATMENT OF CERTAIN UNITED STATES PERSONS.—Except as otherwise provided in regulations prescribed by the Secretary of the Treasury or his delegate, if a United States person becomes a resident of Guam, American Samoa, or the Northern Mariana Islands, the rules of section 877(c) of the Internal Revenue Code of 1954 [now 1986] shall apply to such person during the 10-year period beginning when such person became such a resident. Notwithstanding subsection (b), the preceding sentence shall apply to dispositions after December 31, 1985, in taxable years ending after such date.

“(f) EXEMPTION FROM WITHHOLDING.—Notwithstanding subsection (b), the modification of section 884

of the Internal Revenue Code of 1986 by reason of the amendment to section 881 of such Code by section 1273(b)(1) of this Act 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 beginning after Dec. 31, 1983, see section 711(c)(2)(A)(v) of Pub. L. 98-369, set out as a note under section 165 of this title.

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

Amendment by section 1051(c) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1975, with certain exceptions, see section 1051(i) of Pub. L. 94-455, set out as a note under section 27 of this title.

Amendment by section 1901(a)(117) 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 1972 AMENDMENT

Pub. L. 92-606, § 2, Oct. 31, 1972, 86 Stat. 1497, provided in part that: “The amendments made by section 1 [enacting sections 935 and 6688 of this title, amending this section, sections 932, 7654, and 7701 of this title, and section 1421i of Title 48, Territories and Insular Possessions, and enacting provisions set out as notes under sections 881 and 1442 of this title] (other than section 1(e)) [amending sections 881 and 1442 of this title] shall apply with respect to taxable years beginning after December 31, 1972.”

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-178 applicable with respect to taxable years ending after Dec. 31, 1971, except that a corporation may not be a DISC for any taxable year beginning before Jan. 1, 1972, see section 507 of Pub. L. 92-178, set out as an Effective Date note under section 991 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89-809, title I, §107(b), Nov. 13, 1966, 80 Stat. 1571, provided that: “The amendment made by this section [amending this section] shall apply with respect to taxable years beginning after December 31, 1966.”

AUTHORITY OF GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS TO ENACT REVENUE LAWS

Pub. L. 99-514, title XII, §1271, Oct. 22, 1986, 100 Stat. 2591, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), nothing in the laws of the United States shall prevent Guam, American Samoa, or the Northern Mariana Islands from enacting tax laws (which shall apply in lieu of the mirror system) with respect to income—

“(1) from sources within, or effectively connected with the conduct of a trade or business within, any such possession, or

“(2) received or accrued by any resident of such possession.

“(b) AGREEMENTS TO ALLEVIATE CERTAIN PROBLEMS RELATING TO TAX ADMINISTRATION.—Subsection (a) shall apply to Guam, American Samoa, or the Northern Mariana Islands only if (and so long as) an implementing agreement is in effect between the United States and such possession with respect to—

“(1) the elimination of double taxation involving taxation by such possession and taxation by the United States,

“(2) the establishment of rules under which the evasion or avoidance of United States income tax shall not be permitted or facilitated by such possession,

“(3) the exchange of information between such possession and the United States for purposes of tax administration, and

“(4) the resolution of other problems arising in connection with the administration of the tax laws of such possession or the United States.

Any such implementing agreement shall be executed on behalf of the United States by the Secretary of the Treasury after consultation with the Secretary of the Interior.

“(c) REVENUES NOT TO DECREASE.—The total amount of the revenue received by any possession referred to in subsection (a) pursuant to its tax laws during the implementation year and each of the 4 fiscal years thereafter shall not be less than the revenue (adjusted for inflation) which was received by such possession pursuant to tax laws for its last fiscal year before the implementation year.

“(d) NONDISCRIMINATORY TREATMENT REQUIRED.—Nothing in any tax law of a possession referred to in subsection (a) may discriminate against any United States person or any resident (corporate or otherwise) of any other possession.

“(e) ENFORCEMENT.—

“(1) IN GENERAL.—If the Secretary of the Treasury (after consultation with the Secretary of the Interior) determines that any possession has failed to comply with subsection (c) or (d), the Secretary of the Treasury shall so notify the Governor of such possession in writing. If such possession does not comply with subsection (c) or (d) (as the case may be) within 90 days of such notification, the Secretary of the Treasury shall notify the Congress of such non-compliance. Unless the Congress by law provides otherwise, the mirror system of taxation shall be reinstated in such possession and shall be in full force and effect for taxable years beginning after such notification to the Congress.

“(2) SPECIAL RULE FOR REVENUE REQUIREMENTS.—If the failure to comply with subsection (c) is for good cause and does not jeopardize the fiscal integrity of the possession, the Secretary may waive the requirements of subsection (c) for such period as he determines appropriate.

“(f) DEFINITIONS AND SPECIAL RULES.—

“(1) IMPLEMENTATION YEAR.—For purposes of this section, the term ‘implementation year’ means the 1st fiscal year of the possession in which the tax laws authorized by subsection (a) take effect.

“(2) MIRROR SYSTEM.—For purposes of this section, the mirror system of taxation consists of the provisions of law (in effect on the day before the date of the enactment of this Act [Oct. 22, 1986]) which make the provisions of the income tax laws of the United States (as in effect from time to time) in effect in a possession of the United States.

“(3) SPECIAL RULE FOR NORTHERN MARIANA ISLANDS.—Notwithstanding the provisions of the last clause of section 601(a) of Public Law 94-241 [48 U.S.C. 1801 note], the Commonwealth of the Northern Mariana Islands may elect to continue its mirror system of taxation without regard to whether Guam enacts tax laws under the authority provided in subsection (a).”

§ 932. Coordination of United States and Virgin Islands income taxes

(a) Treatment of United States residents

(1) Application of subsection

This subsection shall apply to an individual for the taxable year if—

(A) such individual—

(i) is a citizen or resident of the United States (other than a bona fide resident of the Virgin Islands during the entire taxable year), and

(ii) has income derived from sources within the Virgin Islands, or effectively