

§ 1.933-1

the United States as a nonresident alien individual for purposes of section 2 (b)(3)(A) or (d), relating to definitions and special rules; section 4(d)(1), relating to taxpayers not eligible to use the optional tax tables; section 37(h), relating to denial of retirement income credit; section 116(d), relating to taxpayers ineligible for dividend exclusion; section 142(b)(1), relating to taxpayers ineligible for standard deduction; section 152(b)(3), relating to definition of "dependent"; section 402(a)(4), relating to distributions by the United States to nonresident aliens; section 545(d), relating to certain foreign corporations; section 565(e), relating to certain consent dividends; section 861(a)(1), relating to interest from sources within the United States; sections 871 to 877, relating to nonresident alien individuals; section 1303(b), relating to individuals not eligible for income averaging; section 1371(a)(3), relating to definition of small business corporation; section 1402(b), relating to definition of "self-employment income"; section 1441, relating to withholding of tax on nonresident aliens; section 3401(a), relating to definition of wages; section 6013(a)(1), relating to inability to make a joint return; section 6015 (b) and (i), relating to declaration of estimated income tax by nonresident alien individuals; section 6017, relating to self-employment tax returns; section 6042(b)(2), relating to returns regarding payments of dividends; section 6049(b)(2), relating to returns regarding payments of interest; section 6072 (c), relating to time for filing returns of nonresident alien individuals; section 6091(b), relating to place for filing returns of nonresident aliens; and section 6096(a), relating to designation of tax payments to Presidential Election Campaign Fund. For other rules applicable to citizens of Puerto Rico, see §§1.1-1(b) and 1.933-1. For other rules applicable to citizens of Guam, see §§1.1-1(b) and 1.935-1 of this chapter (Income Tax Regulations) and

26 CFR Ch. I (4-1-04 Edition)

§ 301.7654-1 of this chapter (Regulations on Procedure and Administration).

(Secs. 7805 (68A Stat. 917; 26 U.S.C. 7805) and 7654(e) (86 Stat. 1496; 26 U.S.C. 7654 (e)) of the Internal Revenue Code of 1954)

[T.D. 6500, 25 FR 11910, Nov. 26, 1960, as amended by T.D. 7385, 40 FR 50260, Oct. 29, 1975]

§ 1.933-1 Exclusion of certain income from sources within Puerto Rico.

(a) *General rule.* An individual (whether a United States citizen or an alien), who is a bona fide resident of Puerto Rico during the entire taxable year, shall exclude from his gross income the income derived from sources within Puerto Rico, except amounts received for services performed as an employee of the United States or any agency thereof. Whether the individual is a bona fide resident of Puerto Rico shall be determined in general by applying to the facts and circumstances in each case the principles of §§1.871-2, 1.871-3, 1.871-4, and 1.871-5, relating to what constitutes residence or nonresidence, as the case may be in the United States in the case of an alien individual. Once bona fide residence in Puerto Rico has been established, temporary absence therefrom in the United States or elsewhere on vacation or business trips will not necessarily deprive an individual of his status as a bona fide resident of Puerto Rico. An individual taking up residence in Puerto Rico during the course of the taxable year is not entitled for such year to the exclusion provided in section 933.

(b) *Taxable year of change of residence from Puerto Rico.* A citizen of the United States who changes his residence from Puerto Rico after having been a bona fide resident thereof for a period of at least two years immediately preceding the date of such change in residence shall exclude from his gross income the income derived from sources within Puerto Rico which is attributable to that part of such period of Puerto Rican residence which preceded the date of such change in residence, except amounts received for services performed as an employee of the United States or any agency thereof.

(c) *Deductions.* In any case in which any amount otherwise constituting gross income is excluded from gross income under the provisions of section 933, there shall not be allowed as a deduction from gross income any items of expenses or losses or other deductions (except the deduction under section 151, relating to personal exemptions) properly allocable to, or chargeable against, the amounts so excluded from gross income.

§ 1.934-1 Limitation on reduction in income tax liability incurred to the Virgin Islands.

(a) *General rule.* Section 934(a) provides that tax liability incurred to the Virgin Islands shall not be reduced or remitted in any way, directly or indirectly, whether by grant, subsidy, or other similar payment, by any law enacted in the Virgin Islands, except to the extent provided in section 934 (b) or (c). For purposes of the preceding sentence, the term "tax liability" means the liability incurred to the Virgin Islands pursuant to subtitle A of the Code, as made applicable in the Virgin Islands by the Act of July 12, 1921 (48 U.S.C. 1397), or pursuant to section 28(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1642).

(b) *Exception for certain domestic and Virgin Islands corporations—(1) General rule.* Section 934(b) provides an exception to the application of section 934(a). Under this exception, section 934(a) does not apply with respect to tax liability incurred to the Virgin Islands by a domestic or Virgin Islands corporation for any taxable year (or for such part of such year as may be applicable) to the extent that such tax liability is attributable to income derived from sources without the United States, if such corporation satisfies the conditions provided in section 934(b)(1) and (2), and if the information required by section 934(d) is supplied. These conditions are enumerated in the remainder of this paragraph, and the information requirement is set forth in paragraph (d) of this section.

(2) *Conditions to be satisfied for exception.* A domestic or Virgin Islands corporation satisfies the conditions of section 934(b)(1) and (2) if—

(i) Eighty percent or more of the gross income of such corporation for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within the Virgin Islands; and

(ii) Fifty percent or more of the gross income of such corporation for such period (or such part thereof) was derived from the active conduct of a trade or business within the Virgin Islands.

(3) *Computation rule.* Except as provided in subparagraph (5) of this paragraph, tax liability incurred to the Virgin Islands by a domestic or Virgin Islands corporation for the taxable year (or such part of such year as may be applicable) attributable to income derived from sources without the United States shall be computed as follows:

(i) Add to the income tax liability incurred to the Virgin Islands any credit against the tax allowed under section 901(a);

(ii) Multiply by taxable income from sources without the United States for the applicable period;

(iii) Divide by total taxable income for the period;

(iv) Subtract any credit against the tax allowed under section 901(a). Tax liability incurred to the Virgin Islands attributable to income derived from sources without the United States, as computed in this subparagraph, however, shall not exceed the total amount of income tax liability actually incurred.

(4) *Examples.* The rule of the preceding subparagraph may be illustrated by the following examples:

Example 1. Corporation X, which satisfies the requirements of section 934(b), incurs an income tax liability to the Virgin Islands for taxable year 1963 of \$290, as follows:

Taxable income from sources within the U.S	\$200	
Taxable income from sources without the U.S	800	
Total taxable income		\$1,000
Credit allowed under section 901(a)		10
Tax liability incurred to the Virgin Islands		290
The income tax liability incurred to the Virgin Islands attributable to income derived from sources without the United States is \$230, computed as follows:		
(i) Tax liability incurred to the Virgin Islands		290