

(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	
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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

§ 1.934-1

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

Plus credit allowed under section 901(a)	10	
		300
(ii) Multiply by taxable income from sources without the U.S.	800	
		240,000
(iii) Divide by total taxable income	1,000	
		240
(iv) Subtract credit allowed under section 901(a)	10	
		230

Example 2. Corporation Y, which satisfies the requirements of section 934(b), incurs an income tax liability to the Virgin Islands for taxable year 1963 of \$140, as follows:

Taxable income from sources within the U.S.	(\$300 net loss)	
Taxable income from sources without the U.S.	800	
Total taxable income		\$500
Credit allowed under section 901(a)		10
Tax liability incurred to the Virgin Islands		140
The income tax liability incurred to the Virgin Islands attributable to income derived from sources without the United States is 140, computed as follows:		
(i) Tax liability incurred to the Virgin Islands	140	
Plus credit allowed under section 901(a)	10	
		150
(ii) Multiply by taxable income from sources without the U.S.	800	
		120,000
(iii) Divide by total taxable income	500	
		240
(iv) Subtract credit allowed under section 901(a)	10	
		230

Since the \$230 derived from the computation is in excess of the actual tax liability incurred, the income tax liability incurred to the Virgin Islands attributable to income derived from sources without the United States is limited to \$140, the actual liability incurred.

(5) *Special computation rule for certain domestic corporations.* For purposes of section 934(b) and this paragraph, tax liability incurred to the Virgin Islands by a domestic corporation which is required to file an income tax return with the United States 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 the actual income tax liability incurred to the Virgin Islands for such year.

(6) *Source of income.* For purposes of section 934(b) and this paragraph, the income of a Virgin Islands corporation, and the sources from which the income of such corporation is derived, shall be determined as if such corporation were a domestic corporation. However, all amounts received by a corporation within the United States, whether derived from sources within or without the United States, shall be considered as being derived from sources within the United States. In determining the sources from which the income of a domestic or Virgin Islands corporation is derived, the principles of part 1 (section 861 and following), subchapter N, chapter 1 of the Code, and the regulations thereunder shall apply.

(c) *Exception for certain residents of the Virgin Islands—(1) General rule.* Section 934(c) provides another exception to the application of section 934(a). Under this exception, section 934(a) does not apply with respect to the tax liability incurred by an individual citizen of the United States to the Virgin Islands for any taxable year to the extent that such tax liability is attributable to income derived from sources within the Virgin Islands, if such individual is a bona fide resident of the Virgin Islands during the entire taxable year and if he supplies the information required under section 934(d).

(2) *Definition—bona fide resident and United States citizen.* In determining whether a United States citizen is a bona fide resident of the Virgin Islands, the principles of §§ 1.871-2, 1.871-3, 1.871-4, and 1.871-5, relating to the determination of residence and nonresidence in the United States, shall apply. Once a bona fide residence in the Virgin Islands is established by an individual, temporary absence therefrom will not necessarily deprive such individual of his status as a bona fide resident of the Virgin Islands. For purposes of section 934(c), a citizen of the United States includes any individual who is a citizen of the United States by reason of being a citizen of any possession of the United States.

(3) *Computation rule.* For purposes of section 934(c) and this paragraph, tax

liability incurred to the Virgin Islands for the taxable year attributable to income derived from sources within the Virgin Islands 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 within the Virgin Islands;
- (iii) Divide by total taxable income. Tax liability incurred to the Virgin Islands attributable to income derived from sources within the Virgin Islands, 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. A, an individual who satisfies the requirements of section 934(c), incurs an income tax liability to the Virgin Islands for taxable year 1963 of \$380, as follows:

Taxable income from sources within the Virgin Islands	\$1,200	
Taxable income from sources without the Virgin Islands	800	
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Total taxable income		\$2,000
Credit allowed under section 901(a)		20
Tax liability incurred to the Virgin Islands		380
The income tax liability incurred to the Virgin Islands attributable to income derived from sources within the Virgin Islands is \$240, computed as follows:		
(i) Tax liability incurred to the Virgin Islands	380	
Plus credit allowed under section 901(a)	20	
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(ii) Multiply by taxable income from sources within the Virgin Islands	1,200	
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(iii) Divide by total taxable income		480,000
		\$2,000
		<hr/>
		240

Example 2. B, an individual who satisfies the requirements of section 934(c), incurs an income tax liability to the Virgin Islands for taxable year 1963 of \$100, as follows:

Taxable income from sources within the Virgin Islands	\$800	
Taxable income from sources without the Virgin Islands	(200 net loss)	
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Total taxable income		\$600
Credit allowed under section 901(a)		20
Tax liability incurred to the Virgin Islands		100

The income tax liability incurred to the Virgin Islands attributable to income derived from sources within the Virgin Islands is \$100, computed as follows:

(i) Tax liability incurred to the Virgin Islands	100	
Plus credit allowed under section 901(a)	20	
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(ii) Multiply by taxable income from sources within the Virgin Islands	800	
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(iii) Divide by total taxable income	600	
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		120
		96,000
		<hr/>
		160

Since the \$160 derived from the computation is in excess of the actual tax liability incurred, the income tax liability incurred to the Virgin Islands attributable to income derived from sources within the Virgin Islands is limited to \$100, the actual liability incurred.

(5) *Source of income.* For purposes of section 934(c) and this paragraph, in determining taxable income from sources within and without the Virgin Islands the principles of part 1 (section 861 and following), subchapter N, chapter 1 of the Code, and the regulations thereunder shall apply, except that—

(i) Any deductions for personal exemptions allowable under section 151 shall be deducted in computing taxable income from sources within the Virgin Islands but shall not be deducted in computing taxable income from sources without the Virgin Islands;

(ii) Amounts received for services performed as an employee of the United States or any agency thereof shall not be considered as income derived from sources within the Virgin Islands;

(iii) Gain or loss from the sale or exchange of any security (as defined in section 165(g)(2)) shall not be treated as derived from sources within the Virgin Islands.

(6) *Definition—“taxable income” on a joint return.* In the case of a husband and wife making a joint return, the term “taxable income”, as used in this paragraph, means the combined taxable income of both spouses.

(d) *Information required.* Section 934(d) provides that the exceptions in section 934 (b) and (c) shall apply only in the case of persons who supply such information as the Secretary or his delegate

may by regulations prescribe for purposes of determining the applicability of such exceptions. The following portions of this paragraph, together with paragraphs (e) and (f) of this section, prescribe the information which must be filed. Any person seeking to come within an exception must provide the following information:

(1) The name and address of such person;

(2) If such person is one of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests within the meaning of section 482 and the regulations thereunder—

(i) The name and address of each such organization, trade, or business;

(ii) The relationship which each such organization, trade, or business bears to the other organizations, trades, or businesses in such group;

(iii) The nature of the activity or activities conducted by each such organization, trade, or business.

(3) Any person seeking to come within an exception must make available for inspection by the Director of International Operations such records, and underlying contracts and documents, as are necessary to determine the applicability of section 934(b) or (c).

(e) *Information required—corporations.* Corporations seeking to come within the exception provided in section 934(b) shall, in addition to the information required by paragraph (d) of this section, submit the following information with respect to each taxable year:

(1) The date and place of incorporation;

(2) The name and address of any shareholder of record owning at any time during the taxable year 5 percent or more of the voting stock of any class or 5 percent or more of the value of any class of outstanding stock, and the nature and amount of the stock owned;

(3) For the 3-year period immediately preceding the close of the corporation's taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable)—

(i) The total amount of its gross income;

(ii) The amount of such gross income derived from the active conduct of a trade or business within the Virgin Islands;

(iii) The amount of such gross income from sources within (a) the Virgin Islands, (b) the United States (including therein and specifically itemizing all amounts received within the United States), and (c) all other countries as a group;

(iv) The ratio which gross income derived from sources within the Virgin Islands bears to total gross income;

(v) The ratio which gross income derived from the active conduct of a trade or business within the Virgin Islands bears to total gross income.

(f) *Information required—individuals.* Individuals seeking to come within the exception provided in section 934(c) shall, in addition to the information required by paragraph (d) of this section, submit the following information with respect to each taxable year:

(1) The date on which such individual became a bona fide resident of the Virgin Islands;

(2) If such individual maintains a place of abode for himself or his family in the United States or elsewhere outside the Virgin Islands, the location of such place of abode and the purpose for which such place is maintained;

(3) The beginning and the ending dates of each period of absence from the Virgin Islands during such taxable year;

(4) The amount of gross income for such taxable year from sources within the Virgin Islands, excluding—

(i) The amount of gain or loss from the sale or exchange of any security, as defined in section 165(g)(2);

(ii) The amount of gross income received for services performed as an employee of the United States or any agency thereof.

(5) Any amounts excluded from gross income from sources within the Virgin Islands under subparagraph (4)(i) and (ii) of this paragraph.

(g) *Time and place for filing statement.* The statement, in duplicate, providing the information required under section 934(d) and paragraphs (d), (e), and (f) of

this section shall be attached to the income tax return filed with the Government of the Virgin Islands for the taxable year with respect to which an exception is claimed under section 934 (b) or (c). If an exception is claimed with respect to any taxable year for which the time prescribed by law for filing the return expires prior to 30 days from the publication of these regulations, the required statement must be filed in duplicate on or before 90 days from the publication of these regulations. The return and statement must be available for examination by the Director of International Operations.

(h) *Effective date.* The provisions of this section shall apply to taxable years beginning after December 31, 1959.

[T.D. 6629, 27 FR 12791, Dec. 28, 1962]

§ 1.935-1 Coordination of U.S. and Guam individual income taxes.

(a) *Application of section—(1) Scope.* Section 935 and this section set forth the special rules relating to the filing of income tax returns, income tax liabilities, and estimated income tax of individuals described in subparagraph (2) of this paragraph. For additional rules relating to the collection of income tax at source on the wages of certain individuals, the furnishing of certain information with the returns of certain individuals, and the covering over to the treasury of Guam of net collections of income taxes imposed on certain individuals, see section 7654 and § 301.7654-1 of this chapter (Regulations on Procedure and Administration).

(2) *Individuals covered.* This section shall apply for a taxable year to any individual who—

- (i) Is a resident of Guam, whether or not he is a citizen of the United States,
- (ii) Is a citizen of Guam but not otherwise a citizen of the United States,
- (iii) Has income derived from Guam for the taxable year and is a citizen or resident of the United States, or
- (iv) Files a joint return for the taxable year with any individual described in subdivision (i), (ii), or (iii) of this subparagraph.

(3) *Determination of residence and citizenship.* For purposes of this section, determinations of residence and citizenship for a taxable year shall be

made (except as provided to the contrary in paragraphs (d)(1) and (2) of this section) as of the close of the taxable year. A citizen of the United States is any individual who is a citizen within the meaning of paragraph (c) of § 1.1-1, except that the term does not include an individual who is a citizen of Guam but not otherwise a citizen of the United States. An individual who is a citizen of Guam but not otherwise a citizen of the United States is any individual who has become a citizen of the United States by birth or naturalization in Guam. Whether an individual is a resident of Guam or a resident of the United States shall generally be determined by applying to the facts and circumstances in each case the principles of §§ 1.871-2 through 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. However, for special rules for determining the residence for tax purposes of individuals under military or naval orders, see section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940, 50 App. U.S.C. 574. The residence of an individual, and, therefore, the jurisdiction with which he is required to file an income tax return under paragraph (b) of this section, may change from year to year.

(b) *Filing requirement—(1) Tax jurisdiction.* An individual described in paragraph (a)(2) of this section shall file his return of income tax for the taxable year—

(i) With the United States if he is a resident of the United States, whether or not he is a citizen of the United States,

(ii) With Guam if he is a resident of Guam, whether or not he is a citizen of Guam, or

(iii) If neither subdivision (i) nor (ii) of this subparagraph applies,

(A) With Guam if he is a citizen of Guam but not otherwise a citizen of the United States, as defined in paragraph (a)(3) of this section, or

(B) With the United States if he is a citizen of the United States, as defined in paragraph (a)(3) of this section. Thus, for example, if a U.S. citizen employed by the United States in Guam becomes a resident of Guam for the taxable year, he must file his return of