

§ 1.638-2

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

is treated as being in foreign country X under section 638 and this section while making physical examinations on L Corporation's platform, provided that foreign country X exercise taxing jurisdiction as provided in paragraph (b) of this section. For purposes of chapters 1 and 2, amounts paid by L Corporation to C are treated as derived from sources within foreign country X.

Example 4. C, a nonresident alien individual employed as an engineer in a foreign country, designs equipment for use on oil drilling platforms affixed to the continental shelf of the United States and engaged in the exploitation of oil. Although C's activities in this respect are related to the exploitation of oil, C is not treated as being in the United States under section 638 and this section by reason of such activities.

Example 5. M Corporation, a domestic corporation, chartered a ship from N Corporation, also a domestic corporation, under a time charter under which N Corporation's personnel continued to navigate and manage the ship. M Corporation equipped the ship with special oil exploration equipment and furnished its personnel to operate the equipment. The ship then commenced to explore for oil in the foreign Continental Shelf of foreign country Y. Foreign country Y exercises taxing jurisdiction as provided in paragraph (b) of this section. The ship is treated as being within foreign country Y under section 638 and this section for the period it was engaged in the exploration for oil in such foreign Continental Shelf. Thus, the entire income derived during such period by N Corporation from the charter is income derived from sources within foreign country Y, since N Corporation had property and employees engaged in the exploration for oil in such foreign Continental Shelf.

Example 6. The facts are the same as in example 5 except that C, a citizen of the United States, was employed by N Corporation as a cook and was physically present on the ship. C's sole duties consisted of cooking meals for personnel aboard such ship. In such case, as C's activities are related to the exploration for oil, C is to be treated as being in foreign country Y under section 638 and this section for the period he was aboard such ship while it was engaged in activities relating to the exploration for oil in the foreign Continental Shelf referred to in example 5. For purposes

of chapters 1 and 24, C's compensation as a cook for such period is treated as derived from sources without the United States.

Example 7. Z Corporation, a foreign corporation, entered into a contract with Y Corporation, a United States corporation, to engage in exploratory oil drilling activities on a leasehold held by Y Corporation. Such leasehold was located in the Continental Shelf of the United States. Since Z Corporation is engaged in and has property and activities which are engaged in the exploration for oil, such property and activities are to be treated as being in the United States under section 638 and this section for the period such property and activities were engaged in or related to the exploration for oil in the Continental Shelf of the United States and were not in a foreign country. For purposes of chapters 1 and 3, amounts paid to Z Corporation pursuant to the contract are treated as derived from sources within the United States.

Example 8. M Corporation is a controlled foreign corporation (within the meaning of section 957(b)) for its entire taxable year beginning in 1972. During such taxable year, M Corporation issues a policy of insurance relating to fire damage to an offshore oil drilling platform, owned by N Corporation (a foreign corporation), which is attached to the Continental Shelf of the United States. The income attributable to the issuing of such policy would be taxed under subchapter L, chapter 1, subtitle A of the Code (as modified, for this purpose, by section 953(b) (1), (2), and (3)) if such income were the income of a domestic insurance corporation. Since N Corporation's oil drilling platform is located within the United States under section 638 and this section, M Corporation's income attributable to the issuing of the insurance in connection with such platform is income derived from the insurance of United States risks, within the meaning of section 953(a)(1)(A).

[T.D. 7277, 38 FR 12740, May 15, 1973]

§ 1.638-2 Effective date.

The specific requirements and limitations of § 1.638-1 apply on and after December 30, 1969.

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