

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 1.911-2: Qualified Individuals (Also: Part I, §§911; 1.911-2.)

Rev. Proc. 2020-27

SECTION 1. PURPOSE

The COVID-19 virus has caused a global health emergency (the COVID-19 Emergency) that has prompted the Department of the Treasury and the Internal Revenue Service (IRS) to provide a waiver of the time requirements of section 911(d)(1) of the Internal Revenue Code. As described in this revenue procedure, the waiver applies to any individual who reasonably expected to meet the eligibility requirements of section 911(d)(1) during 2019 or 2020, but failed to do so because the individual departed a foreign country on or after a specified date as described in section 3 of this revenue procedure.

SECTION 2. BACKGROUND

.01 Section 911(a) allows a “qualified individual,” as defined in section 911(d)(1), to elect to exclude from gross income the individual's foreign earned income and the housing cost amount.

.02 Section 911(d)(1) defines the term “qualified individual” as an individual whose tax home is in a foreign country and who is (A) a citizen of the United States and establishes to the satisfaction of the Secretary that the individual has been a *bona fide* resident of a foreign country or countries for an uninterrupted period that includes an entire taxable year, or (B) a citizen or resident of the United States who, during any period of 12 consecutive months, is present in a foreign country or countries during at least 330 full days.

.03 In addition, section 911(d)(4) provides that an individual will be treated as a qualified individual with respect to a period in which the individual was a *bona fide* resident of, or was present in, a foreign country if the individual left the country during a period for which the Secretary of the Treasury, after consultation with the Secretary of State, determines that individuals were required to leave because of war, civil unrest, or similar adverse conditions that precluded the normal conduct of business. An individual must establish that but for those conditions the individual could reasonably have been expected to meet the eligibility requirements.

.04 The IRS has previously listed countries for 2019 for which the eligibility requirements of section 911(d)(1) are waived under section 911(d)(4) because of war, civil unrest, or similar adverse conditions in those countries. See Rev. Proc. 2020-14, 2020-16 I.R.B. 661.

SECTION 3. APPLICATION

.01 For 2019 and 2020, the Secretary of the Treasury, after consultation with the Secretary of State, has determined that, for purposes of section 911(d)(4), the COVID-

19 Emergency is an adverse condition that precluded the normal conduct of business as follows:

- in the People's Republic of China, excluding the Special Administrative Regions of Hong Kong and Macau (China), as of December 1, 2019; and
- globally, as of February 1, 2020.

The period covered by this revenue procedure ends on July 15, 2020, unless an extension is announced by the Treasury Department and IRS. Thus, for purposes of section 911, an individual who left China on or after December 1, 2019, or another foreign country on or after February 1, 2020, but on or before July 15, 2020, will be treated as a qualified individual with respect to the period during which that individual was present in, or was a *bona fide* resident of, that foreign country if the individual establishes a reasonable expectation that he or she would have met the requirements of section 911(d)(1) but for the COVID-19 Emergency.

.02 To qualify for relief under section 911(d)(4), an individual must have established residency, or have been physically present, in the foreign country on or before the applicable date specified in section 3.01 of this revenue procedure.

Therefore, an individual who was first physically present or established residency in China after December 1, 2020, or another foreign country after February 1, 2020, would not be eligible to use this revenue procedure.

.03 Individuals seeking to qualify for the section 911 foreign earned income exclusion because they could reasonably have been expected to have been present in a foreign country for 330 days but for the COVID-19 Emergency and have met the other

requirements for qualification may use any 12-month period to meet the qualified individual requirement. For example, under this revenue procedure, an individual who arrived in China on September 1, 2019, and establishes that he or she reasonably expected to work in China until September 1, 2020, but departed China on January 10, 2020, due to the COVID-19 Emergency would be a qualified individual for the period from September 1 through December 31, 2019, and for the period from January 1 through January 9, 2020, assuming the individual has met the other requirements for qualification under section 911. As another example, under this revenue procedure, an individual who was present in the United Kingdom on January 1 through March 1, 2020, establishes that he or she reasonably expected to work in the United Kingdom for the entire calendar year, but departed the United Kingdom on March 2, 2020, due to the COVID-19 Emergency, and returns to the United Kingdom on August 25, 2020, for the remainder of the calendar year, would be a qualified individual for 2020 with respect to the period between January 1 through March 1, 2020, and August 25 through December 31, 2020, assuming the individual has met the other requirements for qualification under section 911.

SECTION 4. EFFECT ON OTHER DOCUMENTS

Previously issued revenue procedures under section 911(d)(4) remain in full force and effect. Rev. Proc. 2020-14, 2020-16 I.R.B. 661, is supplemented.

SECTION 5. INQUIRIES

A taxpayer who needs assistance on how to claim this exclusion, or on how to file an amended return, should consult the section under the heading **Foreign Earned**

Income Exclusion at <https://www.irs.gov/individuals/international-taxpayers/us-citizens-and-resident-aliens-abroad>; or consult the section under the heading **How to Get Tax**

Help at the same web address.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Kate Y. Hwa of the Office of Associate Chief Counsel (International). For further information regarding this revenue procedure, contact Kate Y. Hwa at (202) 317-5001 (not a toll-free number).