

consecutive taxable years, as provided in Q&A 16 of this section.

Q-16. Under what circumstances is the FSC or small FSC election terminated for continued failure to be a FSC?

A-16. If a corporation that has elected to be treated as a FSC or a small FSC does not qualify under section 922 to be treated as a FSC or small FSC for each of 5 consecutive taxable years, such election terminates and will not be effective for any taxable year after such fifth taxable year. Such termination will be effective automatically without notice to such corporation or to the Internal Revenue Service.

[T.D. 8127, 52 FR 6475, Mar. 3, 1987]

POSSESSIONS OF THE UNITED STATES

§ 1.931-1 Citizens of the United States and domestic corporations deriving income from sources within a certain possession of the United States.

(a) *Definitions.* (1) As used in section 931 and this section, the term “possession of the United States” includes American Samoa, Guam, Johnston Island, Midway Islands, the Panama Canal Zone, Puerto Rico, and Wake Island. However, the term does not include (i) the Virgin Islands and (ii), when used with respect to citizens of the United States, the term does not include Puerto Rico or, in the case of taxable years beginning after December 31, 1972, Guam.

(2) As used in section 931 and this section, the term “United States” includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(b) *General rule—(1) Qualifications.* In the case of a citizen of the United States or a domestic corporation satisfying the following conditions, gross income means only gross income from sources within the United States—

(i) If 80 percent or more of the gross income of such citizen or domestic corporation (computed without the benefit of section 931) 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 a possession of the United States, and

(ii) If 50 percent or more of the gross income of such citizen or domestic corporation (computed without the benefit of section 931) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States. In the case of a citizen, the trade or business may be conducted on his own account or as an employee or agent of another. The salary or other compensation paid by the United States to the members of its civil, military, or naval personnel for services rendered within a possession of the United States represents income derived from the active conduct of a trade or business within a possession of the United States. The salary or other compensation paid for services performed by a citizen of the United States as an employee of the United States or any agency thereof shall, for the purposes of section 931 and this section, be deemed to be derived from sources within the United States. Dividends received by a citizen from a corporation whose income was derived from the active conduct of a business within a possession of the United States, does not represent income derived from the active conduct of a trade or business within the possession of the United States even though such citizen was actively engaged in the management of such corporation. For a determination of income from sources within the United States, see part I (section 861 and following), subchapter N, chapter 1 of the Code, and section 931(i), and the regulations thereunder.

(2) *Relationship of sections 931 and 911.* A citizen of the United States who cannot meet the 80-percent and the 50-percent requirements of section 931 but who receives earned income from sources within a possession of the United States, is not deprived of the benefits of the provisions of section 911 (relating to the exemption of earned income from sources outside the United States), provided he meets the requirements thereof. In such a case none of the provisions of section 931 is applicable in determining the citizen’s tax liability. For what constitutes earned income, see section 911(b).

(3) *Meaning of “gross income” on joint return.* In the case of a husband and

wife making a joint return, the term "gross income," as used in this section, means the combined gross income of the spouses.

(4) *Returns.* A citizen entitled to the benefits of section 931 is required to file with his individual return Form 1040 the schedule on Form 1040E. If a citizen entitled to the benefits of section 931 has no income from sources within the United States and does not receive within the United States any income derived from sources without the United States he is not required to file a return or the schedule on Form 1040E.

(5) *Illustration of the operation of section 931.* This section may be illustrated by the following example:

Example. On July 1, 1954, A, who is a citizen of the United States, went to a possession of the United States and established a business there which he actively conducted during the remainder of that year. His gross income from the business during such period was \$20,000. In addition, he made a profit of \$12,000 from the sale during the latter part of 1954 of some real estate located in such possession and not connected with his trade or business. In the first six months of 1954 he also derived \$8,000 gross income from rental property located in the United States. He derived a like amount of gross income from such property during the last six months of 1954. On these facts, A may exclude the \$32,000 derived from sources within the possession of the United States, since he qualified under section 931 with respect to that amount. The period of July 1, 1954, through December 31, 1954, constitutes the applicable part of the 3-year period immediately preceding the close of the taxable year (the calendar year 1954), and for that period, 80 percent of A's gross income was derived from sources within a possession of the United States (\$32,000, or 80 percent of \$40,000) and 50 percent or more of A's gross income was derived from the active conduct of a trade or business within a possession of the United States (\$20,000, or 50 percent of \$40,000). A is required to report on his return for 1954 only the gross income derived by him from sources within the United States (\$16,000 from the rental property located in the United States).

(c) *Amounts received in the United States.* Notwithstanding the provisions of section 931(a), there shall be included in the gross income of citizens and domestic corporations therein specified all amounts, whether derived from sources within or without the United States, which are received by

such citizens or corporations within the United States. From the amounts so included in gross income there shall be deducted only the expenses properly apportioned or allocated thereto. For instance, if in the example set forth in paragraph (b)(5) of this section, the taxpayer during the latter part of 1954 returned to the United States for a few weeks and while there received the proceeds resulting from the sale of the real estate located in the possession, the profits derived from such transaction should be reported in gross income. Such receipt in the United States, however, would not deprive the taxpayer of the benefits of section 931 with respect to other items of gross income excluded by that section.

(d) *Deductions—(1) Individuals.* In the case of a citizen entitled to the benefits of section 931, the deductions allowed in computing taxable income, except the standard deduction and a deduction for one personal exemption (see sections 142(b)(2) and 931(e), respectively), are allowed only if and to the extent that they are connected with income from sources within the United States. The provisions of section 873 and the regulations thereunder, relating to the allowance to nonresident alien individuals, who at any time within the taxable year were engaged in trade or business within the United States, of the deductions provided in section 165(c)(2) and (3) for losses not connected with the trade or business, are applicable in the case of citizens entitled to the benefits of section 931. The provisions of section 873 (c) and the regulations thereunder pertaining to the allowance to such nonresident alien individuals of deductions for contributions provided in section 170 are also applied in the case of such citizens.

(2) *Corporations.* Corporations entitled to the benefits of section 931 are allowed the same deductions from their gross income arising from sources within the United States as are allowed to domestic corporations to the extent that such deductions are connected with such gross income, except that the so-called charitable contribution deduction provided by section 170 to corporations is allowed whether or not connected with income from sources

within the United States. The proper apportionment and allocation of the deductions with respect to sources within and without the United States shall be determined as provided in part I (section 861 and following), subchapter N, chapter 1 of the Code, and the regulations thereunder.

(e) *Deduction for personal exemption.* A citizen of the United States entitled to the benefits of section 931 is allowed a deduction for only one exemption under section 151.

(f) *Allowance of deductions and credits.* Unless a citizen of the United States or a domestic corporation entitled to the benefits of section 931 shall file or cause to be filed with the district director a true and accurate return of total income from all sources within the United States, in the manner prescribed in subtitle F of the Code, the tax shall be collected on the basis of the gross income (not the taxable income) from sources within the United States. If such citizen or corporation fails to file a necessary income tax return, the Commissioner will cause a return to be made, including therein all income from sources within the United States and allowing no deductions or credits (except credit for tax withheld at source).

(g) *Foreign tax credit.* Persons entitled to the benefits of section 931 are not allowed the credits provided for in section 901 (relating to credits for taxes of foreign countries and possessions).

(h) *Internees.* If a citizen of the United States—

(1) Was interned by the enemy while serving as an employee within a possession of the United States; and

(2) Was confined in any place not within a possession of the United States, then

(i) Such place of confinement shall be considered as within a possession of the United States for the purposes of section 931; and

(ii) Section 931 (b) shall not apply to any compensation received within the United States by such citizen attributable to the period of time during which such citizen was interned by the enemy.

(i) *Employees of the United States.* For the purposes of section 931, amounts paid for services performed by a citizen

of the United States as an employee of the United States or any agency thereof shall be deemed to be derived from sources within the United States.

(j) *Nonapplication to a DISC or shareholder thereof.* Section 931 does not apply to a corporation for a taxable year (1) for which it qualifies (or is treated) as a DISC or (2) during which it owns directly or indirectly at any time stock in a corporation which, at such time, is (or is treated as) a DISC or former DISC. (See section 992(a)(1) and (3), respectively, for the definitions of the terms “DISC” and “former DISC”.) For example, assume X Corporation and Y Corporation have the same taxable years. On the first day of its taxable year, X owns and sells all of the stock in Y, Y on such day owns and sells all of the stock in Z Corporation, and Z qualifies as a DISC as of such day. Section 931 will not apply to X and Y for their taxable years. Section 931 will likewise not apply to Z for the taxable year for which it qualifies as a DISC.

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

[T.D. 6500, 25 FR 11910, Nov. 26, 1960, as amended by T.D. 7283, 38 FR 20825, Aug. 3, 1973; T.D. 7385, 40 FR 50260, Oct. 29, 1975]

§ 1.932-1 Status of citizens of U.S. possessions.

(a) *General rule—(1) Definition and treatment.* A citizen of a possession of the United States (except Puerto Rico and, for taxable years beginning after December 31, 1972, Guam), who is not otherwise a citizen or resident of the United States, including only the States and the District of Columbia, is treated for the purpose of the taxes imposed by subtitle A of the Code (relating to income taxes) as if he were a nonresident alien individual. However, for purposes of the tax imposed on self-employment income by chapter 2 of the Code, the term “possession of the United States” as used in section 932 and the preceding sentence does not include American Samoa, Guam, or the Virgin Islands. See section 1402(a)(9). See subpart A (section 871 and following), part II, subchapter N, chapter 1 of the Code, and the regulations