

pre-1967 income tax provisions to residents of a foreign country which imposes a more burdensome income tax than the United States, and for the adjustment of the income tax of a national or resident of a foreign country which imposes a discriminatory income tax on the income of citizens of the United States or domestic corporations, see section 896.

(6) *Citizens of certain U.S. possessions.* For rules for treating as nonresident alien individuals certain citizens of possessions of the United States who are not otherwise citizens of the United States, see section 932 and § 1.932-1.

(7) *Conduit financing arrangements.* For rules regarding conduit financing arrangements, see §§ 1.881-3 and 1.881-4.

(c) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.871-1 and 1.871-7(a) (Revised as of January 1, 1971).

[T.D. 7332, 39 FR 44218, Dec. 23, 1974, as amended by T.D. 7670, 45 FR 6928, Jan. 31, 1980; T.D. 8611, 60 FR 41004, Aug. 11, 1995]

§ 1.871-2 Determining residence of alien individuals.

(a) *General.* The term *nonresident alien individual* means an individual whose residence is not within the United States, and who is not a citizen of the United States. The term includes a nonresident alien fiduciary. For such purpose the term fiduciary shall have the meaning assigned to it by section 7701(a)(6) and the regulations in part 301 of this chapter (Regulations on Procedure and Administration). For presumption as to an alien's nonresidence, see paragraph (b) of § 1.871-4.

(b) *Residence defined.* An alien actually present in the United States who is not a mere transient or sojourner is a resident of the United States for purposes of the income tax. Whether he is a transient is determined by his intentions with regard to the length and nature of his stay. A mere floating intention, indefinite as to time, to return to another country is not sufficient to constitute him a transient. If he lives in the United States and has no definite intention as to his stay, he is a resident. One who comes to the United

States for a definite purpose which in its nature may be promptly accomplished is a transient; but, if his purpose is of such a nature that an extended stay may be necessary for its accomplishment, and to that end the alien makes his home temporarily in the United States, he becomes a resident, though it may be his intention at all times to return to his domicile abroad when the purpose for which he came has been consummated or abandoned. An alien whose stay in the United States is limited to a definite period by the immigration laws is not a resident of the United States within the meaning of this section, in the absence of exceptional circumstances.

(c) *Application and effective dates.* Unless the context indicates otherwise, §§ 1.871-2 through 1.871-5 apply to determine the residence of aliens for taxable years beginning before January 1, 1985. To determine the residence of aliens for taxable years beginning after December 31, 1984, see section 7701(b) and §§ 301.7701(b)-1 through 301.7701(b)-9 of this chapter. However, for purposes of determining whether an individual is a qualified individual under section 911(d)(1)(A), the rules of §§ 1.871-2 and 1.871-5 shall continue to apply for taxable years beginning after December 31, 1984. For purposes of determining whether an individual is a resident of the United States for estate and gift tax purposes, see § 20.0-1(b) (1) and (2) and § 25.2501-1(b) of this chapter, respectively.

[T.D. 6500, 25 FR 11910, Nov. 26, 1960; 25 FR 14021, Dec. 31, 1960, as amended by T.D. 8411, 57 FR 15241, Apr. 27, 1992]

§ 1.871-3 Residence of alien seamen.

In order to determine whether an alien seaman is a resident of the United States for purposes of the income tax, it is necessary to decide whether the presumption of nonresidence (as prescribed by paragraph (b) of § 1.871-4) is overcome by facts showing that he has established a residence in the United States. Residence may be established on a vessel regularly engaged in coastwise trade, but the mere fact that a sailor makes his home on a vessel which is flying the United States flag and is engaged in foreign trade is not sufficient to establish residence in