

IRM PROCEDURAL UPDATE

DATE: 05/06/2024

NUMBER: wi-21-0524-0609

SUBJECT: Updated Waiver of Time Requirement Chart Based on Rev. Proc. 2024-17

AFFECTED IRM(s)/SUBSECTION(s): 21.8.1

CHANGE(s):

IRM 21.8.1.3.3 - Updated waiver of time requirement chart based on Rev. Proc. 2024-17.

(1) IRC 911(d)(4) allows certain taxpayers who had to leave a foreign country because of war, civil unrest, or similar adverse conditions to waive the minimum time limitation requirements specified under either the bona fide residence or physical presence test.

(2) Taxpayers who qualify for the waiver must be able to show that they reasonably could have expected to meet the minimum time requirements if they had not been required to leave the country.

Note: Each year the IRS publishes a list of countries and dates that qualify for the waiver in the Internal Revenue Bulletin.

(3) Waiver of the minimal time limitation requirement is accomplished by:

- a. Submitting a statement with the return explaining that they expected to meet the applicable time requirements, but the conditions in the foreign country prevented them from the normal conduct of business and
- b. Entering "Claiming Waiver" in the top margin on page 1 of the Form 2555.

(4) **Burden of Proof:** when the documentation which would prove the taxpayer's intent to meet the physical presence time requirement is unavailable, the taxpayer must provide a statement with a complete explanation. If the taxpayer meets the waiver based on their statement, allow the election. To qualify for relief under IRC 911(d)(4), an individual must have established residency or have been physically present in the foreign country prior to the date listed in the annual waiver revenue procedure that the individual was required to leave.

(5) Individuals who establish residency, or are **first** physically present in the foreign country **after** the date that the Secretary prescribes, are **not** treated as qualified individuals under IRC 911.

(6) A Revenue Procedure is generally issued each year to list the countries and dates those countries are eligible for the IRC 911(d)(4) waiver. The latest additions are listed in the following table:

Note: If an individual left one of the countries listed in the revenue procedure on or after the specified departure date, they are treated as a qualified individual with respect to meeting IRC 911.

Country	Tax Year	Date of Departure - On or After
Democratic Republic of the Congo	2019	January 13, 2019
Haiti	2019	February 14, 2019
Iraq	2019	May 14, 2019
Sudan	2019	April 11, 2019
Venezuela	2019	January 24, 2019
Peoples Republic of China excluding Hong Kong and Macau	2019 and 2020 (through July 15, 2020)	December 1, 2019
Iraq	2020	March 25, 2020
Afghanistan	2021	April 27, 2021
Burma	2021	March 30, 2021
Chad	2021	April 17, 2021
Ethiopia	2021	November 5, 2021
Iraq	2021	January 19, 2021
Ethiopia	2022	January 3, 2022
Iraq	2022	January 14, 2022
Ukraine	2022	February 12, 2022
Belarus	2022	February 28, 2022
China	2022	April 11, 2022
Mali	2022	July 29, 2022
Belarus	2023	January 26, 2023
Haiti	2023	July 27, 2023
Iraq	2023	October 20, 2023
Niger	2023	August 2, 2023
Ukraine	2023	January 18, 2023

Note: Rev. Proc. 2020-27 announced eligibility for the waiver of time requirements to meet substantial presence is granted 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. For purposes of IRC 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, is 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 they would have met the requirements of IRC 911(d)(1) but for the COVID-19 Emergency. Individuals will be told in the 2020 Instructions for Form 2555, to write COVID-19 "Emergency Relief" in the top margin of page 1 of the 2020 Form 2555 when claiming the waiver in Rev. Proc. 2020-27.

(7) Taxpayers may claim the exception on their original return, or if an original return has been previously filed, taxpayers must file a Form 1040X with the correct Form 2555 for the year the exception is being claimed, within the normal 3- year statute of limitation period.

IRM 21.8.1.24.9 - Added paragraph 6 to provide a link to procedures for loose filed Forms W-9. Feedback number 16679.

(1) An individual or entity who must file an information return with the IRS must obtain a correct Taxpayer Identification Number (TIN) to report for example:

- Income paid to them
- Real estate transactions
- Mortgage interest they paid
- Acquisition or abandonment of secured property
- Cancellation of a debt
- Contributions they made to an IRA

(2) U.S. taxpayers including U.S. resident aliens use Form W-9 , Request for Taxpayer Identification Number and Certification to provide their correct TIN to an individual or entity, required to file an information return with the IRS, and in doing so:

- Certify that the TIN is correct (or to show that the taxpayer is waiting for a TIN)
- Certify that the taxpayer is not subject to backup withholding, or
- Claim exemption from backup withholding if the taxpayer is a U.S. exempt payee

(3) Foreign persons, or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead the use Form W-8, for Form 8233. For more information see Pub 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

(4) All Forms W-9 are submitted to the withholding agent/financial institution. The Form W-9 is not sent to the IRS.

(5) The withholding agent keeps the Form W-9. A withholding agent must keep each withholding certificate and other documentation for as long as may be relevant to the determination of the withholding agent's tax liability. For further information see Treas. Reg. 1.1441-1(e)(4)(iii) and 1.1446-1(c)(2)(vi). Case disposition procedures for loose filed Forms W-9 can be found in IRM 21.1.7-17, Forms - Routing Guide.

IRM 21.8.1 revised throughout to update organizational title from Wage and Investment to Taxpayer Services.