

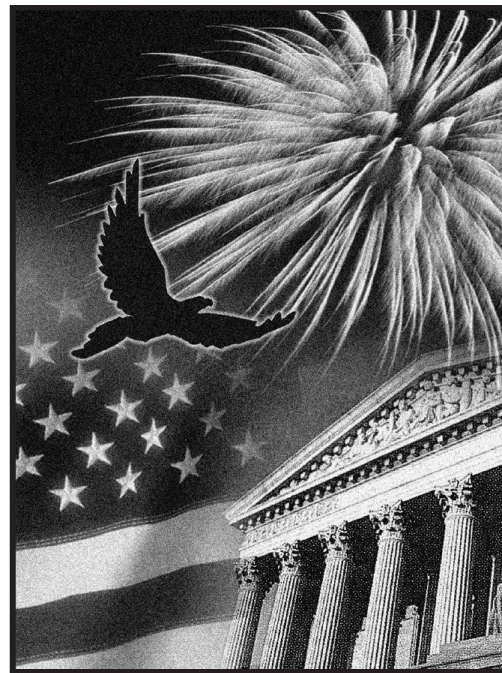
# Publication 570

## Tax Guide for Individuals With Income From U.S. Territories

(SEP, SIMPLE, and Qualified Plans)

For use in preparing **2023** Returns

Volume 1 of 3



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# Future Developments

For the latest information about developments related to Pub. 570, such as legislation enacted after it was published, go to [IRS.gov/Pub570](https://www.irs.gov/pub570).

# What's New

**U.S. Armed Forces in Puerto Rico and American Samoa.** Active duty members of the U.S. Armed Forces whose state of legal residence is American Samoa or Puerto Rico are U.S. Government employees. They are required to file both a U.S. income tax return and a territory tax return, as applicable. See *Active duty member of the U.S. Armed Forces* under *Special Rules for American Samoa* and *Special Rules for Puerto Rico*, later.

**U.S. Government employees in American Samoa.** The reporting requirements for U.S. Government employees who are not bona fide residents of American Samoa have been clarified. See *U.S. Government employees* under *Special Rules for American Samoa*, later.

**Due date of return.** File your tax return by April 15, 2024. If you live in Maine or Massachusetts, you have until April 17, 2024,

because of the Patriots' Day and Emancipation Day holidays.

**Standard deduction amount.** For 2023, the standard deduction amount has increased for all filers. See *Standard deduction amount*, later.

**Maximum income subject to social security tax.** For 2023, the maximum amount of self-employment income subject to social security tax is \$160,200. The amount will increase to \$168,600 for 2024.

**Optional methods to figure net earnings.** For 2023, the maximum income for using the optional methods is \$6,560. This amount will increase to \$6,920 for 2024.

# Reminders

**Additional child tax credit (ACTC) and bona fide residents of Puerto Rico.** Bona fide residents of Puerto Rico are no longer required to have three or more qualifying children to be eligible to claim the ACTC. Bona fide residents of Puerto Rico may be eligible to claim the ACTC if they have one or more qualifying children. See *Additional child tax credit (ACTC)*, later.

**For more information about the child tax credit (CTC).** For more information, see the Instructions for Form 1040-SS. If you are required to file Form 1040, see the Instructions for Form 1040 for more information about the CTC.

**Filing status name changed to qualifying surviving spouse.** The filing status qualifying widow(er) is now called qualifying surviving spouse. The rules for the filing status have not changed. The same rules that

applied for qualifying widow(er) apply to qualifying surviving spouse.

**Digital assets.** You will need to answer the question on page 1 of Form 1040-SS about whether you engaged in a transaction involving digital assets in 2023. Don't leave this field blank. The question must be answered by all taxpayers, not just taxpayers who engaged in a transaction involving digital assets.

**The COVID-19 related credit for qualified sick and family leave wages is limited to leave taken after March 31, 2020, and before October 1, 2021.** Generally, the credit for qualified sick and family leave wages, as enacted under the Families First Coronavirus Response Act (FFCRA) and amended and extended by the COVID-related Tax Relief Act of 2020, for leave taken after March 31, 2020, and before April 1, 2021, and the credit for qualified sick and family leave wages under sections 3131, 3132, and



3133 of the Internal Revenue Code, as enacted under the American Rescue Plan Act of 2021 (the ARP), for leave taken after March 31, 2021, and before October 1, 2021, have expired. However, employers that pay qualified sick and family leave wages in 2023 for leave taken after March 31, 2020, and before October 1, 2021, are eligible to claim a credit for qualified sick and family leave wages in 2023. For more information about the credit for qualified sick and family leave wages, go to [IRS.gov/PLC](https://www.irs.gov/plc).

**Disaster tax relief.** To find information on the most recent tax relief provisions for taxpayers affected by disaster situations, see [IRS.gov/Disaster](https://www.irs.gov/Disaster). See [Pub. 547](https://www.irs.gov/pub/irs-soi/19450101/pub547) for discussions on the special rules that apply to federally declared disaster areas.

**Automatic 60-day extension.** Certain taxpayers affected by federally declared disasters may be eligible for an automatic 60-day extension for filing returns, paying taxes,

and performing other tasks required by the IRS. For more information, see Pub. 547.

**Qualified opportunity zones (QOZs).** The Tax Cuts and Jobs Act (TCJA) amended the Internal Revenue Code to encourage investments in designated economically distressed communities by providing income tax benefits to taxpayers who invest new capital in businesses located within QOZs. There are QOZs located in the 50 states, the District of Columbia, American Samoa, the CNMI, Guam, Puerto Rico, and the USVI.

Bona fide residents of the CNMI, Guam, and the USVI will generally report qualifying investments on the income tax return they file with their territory tax agency, while residents of American Samoa and Puerto Rico will report qualifying investments on their U.S. income tax return. For additional information, see the QOZ FAQs at [IRS.gov/Newsroom/Opportunity-Zones-Frequently-AskedQuestions](https://www.irs.gov/Newsroom/Opportunity-Zones-Frequently-AskedQuestions). Taxpayers should also

consult with their territory tax agency for additional information.

**Taxpayer Advocate Service (TAS).** TAS is an independent organization within the IRS that helps taxpayers and protects taxpayer rights. The phone numbers for the local advocate for the territories are:

- American Samoa, the CNMI, and Guam: 808-466-6375 (in Hawaii);
- Puerto Rico and the USVI: 787-522-8600 for Spanish, and 787-522-8601 for English (in Puerto Rico).

For more information, see chapter 5.

**Self-employment tax.** Bona fide residents of a U.S. territory who have self-employment income must generally pay self-employment tax to the United States. Self-employment tax includes both social security and Medicare. Bona fide residents may be subject to U.S. self-employment tax even if they have no income tax filing obligation with the United

States. See *Self-Employment Tax* in chapter 4 for more information.

**Additional Medicare Tax.** You may be required to pay Additional Medicare Tax. Also, you may need to report Additional Medicare Tax withheld by your employer. For more information, see *Additional Medicare Tax* under *Special Rules for Completing Your U.S. Tax Return* in chapter 4.

**Net Investment Income Tax (NIIT).** The NIIT imposes a 3.8% tax on the lesser of an individual's net investment income or the excess of the individual's modified adjusted gross income over a specified threshold amount. Bona fide residents of Puerto Rico and American Samoa who have a federal income tax return filing obligation may be liable for the NIIT if the taxpayer's modified adjusted gross income from non-territory sources exceeds a specified threshold amount. Also, bona fide residents must take into account any additional tax liability

associated with the NIIT when calculating their estimated tax payments.

The NIIT does not apply to any individual who is a nonresident alien with respect to the United States. For more information, see *Net Investment Income Tax* under *Bona Fide Resident of American Samoa* and *Bona Fide Resident of Puerto Rico* in chapter 3.

Because bona fide residents of the CNMI, Guam, and the U.S. Virgin Islands generally do not have a federal income tax return filing obligation, the NIIT generally does not directly apply to them. These residents should contact their local territorial tax department for guidance on the possible mirrored application of the NIIT in these jurisdictions.

### **Individual taxpayer identification**

**numbers (ITINs) for aliens.** If you are a nonresident or resident alien and you do not have and are not eligible to get a social security number (SSN), you must apply for an ITIN. For details on how to do so, see [Form](#)

[W-7](#) and the [Instructions for Form W-7](#). Allow 7 weeks for the IRS to notify you of your ITIN application status (9 to 11 weeks if submitted during peak processing periods (January 15 through April 30) or if you are filing from overseas). If you already have an ITIN, enter it wherever your SSN is requested on your tax return. For more information, go to [IRS.gov/ITIN](https://www.irs.gov/ITIN).



*An ITIN is for tax use only. It does not entitle you to social security benefits or change your employment or immigration status under U.S. law.*

**Expired ITIN.** If your ITIN wasn't included on at least one federal tax return for the last 3 consecutive tax years, it will expire on December 31 of the third consecutive year and must be renewed before being used again on a federal tax return. Affected taxpayers who expect to file a tax return in 2024 must submit a renewal application. For more

information on how to renew an ITIN, go to [IRS.gov/ITIN](https://www.irs.gov/ITIN).

**Electronic filing.** You can *e-file* Form 1040-SS. For general information about electronic filing, visit [IRS.gov/efile](https://www.irs.gov/efile).

**Earned income credit (EIC).** Generally, if you are a bona fide resident of a U.S. territory, you cannot claim the EIC on your U.S. tax return. However, certain U.S. territories may allow bona fide residents to claim the EIC on their territory tax return.

To claim the EIC on your U.S. tax return, your home (and your spouse's if filing a joint return) must have been in the United States for more than half the year. If you have a child, the child must have lived with you in the United States for more than half the year. For this purpose, the United States includes only the 50 states and the District of Columbia. Special rules apply to military personnel stationed outside the United States.

For more information on this credit, see Pub. 596.



*If you claim the earned income tax credit (EITC) on your tax return, the IRS must hold your refund until at least mid-February—including the portion not associated with the EITC. To track your refund, go to [IRS.gov/Refunds](https://www.irs.gov/Refunds), or download the IRS2Go mobile app.*

## **Form 8938, Statement of Specified Foreign Financial**

**Assets.** If you have specified foreign financial assets in foreign jurisdictions valued above certain threshold dollar amounts, you may have to file Form 8938 when you file your U.S. income tax return with the IRS.

Even if you are required to file Form 8938, you may not have to report certain specified foreign financial assets on Form 8938. See *Bona Fide Resident of a U.S. Possession* in the Instructions for Form 8938 for more details.





*Because bona fide residents of the CNMI, Guam, and the USVI generally do not have a U.S. federal income tax return filing obligation, they generally are not required to file Form 8938 with the IRS. These residents should contact their local territorial tax department for guidance on the possible mirrored application of this reporting requirement with these jurisdictions.*

**Change of address.** If you change your mailing address, use Form 8822 to notify the IRS and U.S. territory tax administration, if appropriate. Mail Form 8822 to the IRS Service Center or U.S. territory tax administration address designated for your old address (see page 2 of Form 8822).

If you change your address before filing your tax return, write the new address in the appropriate boxes of your tax return when you file.

**Reporting a change of bona fide residence.** If you became or cease to be a

bona fide resident of a U.S. territory, you may need to file Form 8898, Statement for Individuals Who Begin or End Bona Fide Residence in a U.S. Possession. For additional information, see *Reporting a Change in Bona Fide Residence* in chapter 1.

**Photographs of missing children.** The IRS is a proud partner with the [National Center for Missing & Exploited Children® \(NCMEC\)](#). Photographs of missing children selected by the Center may appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 800-THE-LOST (800-843-5678) if you recognize a child.

# Introduction

This publication discusses how to treat income received from the following U.S. territories on your tax return(s).

- American Samoa.
- The Commonwealth of Puerto Rico (Puerto Rico).
- The Commonwealth of the Northern Mariana Islands (CNMI).
- Guam.
- The U.S. Virgin Islands (USVI).

Chapter 1 discusses the requirements for being considered a bona fide resident of the listed territories.

Chapter 2 gives the rules for determining if your income is from sources within, or effectively connected with a trade or business in, those territories.

Next, chapter 3 looks at the rules for filing tax returns when you receive income from any of these territories. You may have to file a U.S. tax return only, a territory tax return only, or both returns. Generally, this depends on whether you are a bona fide resident of the territory. In some cases, you may have to file a U.S. return, but will be able to exclude income earned in a territory from U.S. tax.

If you are not a bona fide resident of one of the territories listed earlier, or are otherwise required to file a U.S. income tax return, the information in chapter 4 will tell you how to file your U.S. tax return. This information also applies if you have income from U.S. insular areas other than the five territories listed earlier because that income will not qualify for any of the exclusions or other benefits discussed in chapter 3. These other U.S. insular areas include:

- Baker Island,
- Howland Island,

- Jarvis Island,
- Johnston Island,
- Kingman Reef,
- Midway Islands,
- Palmyra Atoll, and
- Wake Island.



Information for individuals living or working in U.S. territories is available at [IRS.gov/Individuals/International-Taxpayers/Individuals-Living-orWorking-in-US-Possessions](https://www.irs.gov/Individuals/International-Taxpayers/Individuals-Living-orWorking-in-US-Possessions).



If you need information on U.S. taxation, write to:

Internal Revenue Service

International Section

Philadelphia, PA 19255-0725

If you need additional information on your tax obligations in a U.S. territory, write to the tax department of that territory. Their addresses

are provided in chapter 3 under the individual headings for each territory.

**Comments and suggestions.** We welcome your comments about this publication and suggestions for future editions.

You can send us comments through [IRS.gov/FormComments](https://www.irs.gov/FormComments). Or, you can write to the Internal Revenue Service, Tax Forms and Publications, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224.

Although we can't respond individually to each comment received, we do appreciate your feedback and will consider your comments and suggestions as we revise our tax forms, instructions, and publications.

**Don't** send tax questions, tax returns, or payments to the above address.

***Getting answers to your tax questions.*** If you have a tax question not answered by this publication or the How To Get Tax Help section at the end of this publication, go to

the IRS Interactive Tax Assistant page at [IRS.gov/ Help/ITA](https://www.irs.gov/Help/ITA) where you can find topics by using the search feature or viewing the categories listed.

***Getting tax forms, instructions, and publications.*** Go to [IRS.gov/Forms](https://www.irs.gov/Forms) to download current and prior-year forms, instructions, and publications.

***Ordering tax forms, instructions, and publications.*** Go to [IRS.gov/OrderForms](https://www.irs.gov/OrderForms) to order current forms, instructions, and publications; call 800-829-3676 to order prior-year forms and instructions. The IRS will process your order for forms and publications as soon as possible. **Don't** resubmit requests you've already sent us. You can get forms and publications faster online.

To obtain tax forms required for your territory tax return, contact the tax office in your territory. See chapter 3 for more information.

## Useful Items

You may want to see:

### Publication

- ☐ **3** Armed Forces' Tax Guide
- ☐ **54** Tax Guide for U.S. Citizens and Resident Aliens Abroad
- ☐ **514** Foreign Tax Credit for Individuals
- ☐ **519** U.S. Tax Guide for Aliens

### Form (and Instructions)

- ☐ **1040-SS** U.S. Self-Employment Tax Return (Including the Additional Child Tax Credit for Bona Fide Residents of Puerto Rico)
- ☐ **1116** Foreign Tax Credit
- ☐ **4563** Exclusion of Income for Bona Fide Residents of American Samoa
- ☐ **4868** Application for Automatic Extension of Time To File U.S. Individual Income Tax Return



- **5074** Allocation of Individual Income Tax to Guam or the Commonwealth of the Northern Mariana Islands (CNMI)
- **8938** Statement of Specified Foreign Financial Assets
- **8689** Allocation of Individual Income Tax to the U.S. Virgin Islands
- **8898** Statement for Individuals Who Begin or End Bona Fide Residence in a U.S. Possession
- **8959** Additional Medicare Tax
- **8960** Net Investment Income Tax—Individuals, Estates, and Trusts

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# 1.

## **Bona Fide Residence**

In order to qualify for certain tax benefits (see chapter 3), you must be a bona fide resident of American Samoa, the CNMI, Guam, Puerto Rico, or the USVI for the tax year.

Generally, you are a bona fide resident of one of these territories (the relevant territory) if, during the tax year, you:

- Meet the presence test,
- Do not have a tax home outside the relevant territory, and
- Do not have a closer connection to the United States or to a foreign country than to the relevant territory.

### **Special rule for members of the U.S.**

**Armed Forces.** If you are a member of the U.S. Armed Forces who qualified as a bona

bona fide resident of the relevant territory in an earlier tax year, your absence from that territory during the current tax year in compliance with military orders will not affect your status as a bona fide resident. Likewise, being in a territory solely in compliance with military orders will not qualify you for bona fide residency. Also see the special income source rule for members of the U.S. Armed Forces in chapter 2, under Compensation for Labor or Personal Services.

**Special rule for civilian spouse of active duty member of the U.S. Armed Forces.** If you are the civilian spouse of an active duty service member, under the Military Spouses Residency Relief Act (MSRRA) you can choose to keep your prior residence or domicile for tax purposes (tax residence) when accompanying the service member spouse who is relocating under military orders to a new military duty station in one of the 50 states, the District of Columbia, or a U.S.

territory. Before relocating, you and your spouse must have the same tax residence.

If you are a civilian spouse and choose to keep your prior tax residence after such relocation, the source of income for services performed (for example, wages, salaries, tips, or self-employment) by you is considered to be (the jurisdiction of) the prior tax residence. As a result, the amount of income tax withholding (from Form(s) W-2) that you are able to claim on your federal return, as well as the need to file a state or U.S. territory return, may be affected.



*The spouse of the service member may elect to use the same residence for tax purposes as the service member regardless of the date on which the marriage of the spouse and service member occurred.*

For more information, see the following.

- Notice 2010-30, available at [IRS.gov/irb/ 2010-18 IRB#NOT-2010-30](http://IRS.gov/irb/2010-18_IRB#NOT-2010-30).
- Notice 2011-16, available at [IRS.gov/irb/ 2011-17 IRB#NOT-2011-16](http://IRS.gov/irb/2011-17_IRB#NOT-2011-16).
- Notice 2012-41, available at [IRS.gov/irb/ 2012-26 IRB#NOT-2012-41](http://IRS.gov/irb/2012-26_IRB#NOT-2012-41).

Also, you can consult with state, local, or U.S. territory tax authorities regarding your tax obligations under MSRRA.

# Presence Test

If you are a U.S. citizen or resident alien, you will satisfy the presence test for the tax year if you meet one of the following conditions.

1. You were present in the relevant territory for at least 183 days during the tax year.
2. You were present in the relevant territory for at least 549 days during the 3-year period that includes the current tax year and the 2 immediately preceding tax years. During each year of the 3-year period, you must be present in the relevant territory for at least 60 days.
3. You were present in the United States for no more than 90 days during the tax year.
4. You had earned income in the United States of no more than a total of

\$3,000 and were present for more days in the relevant territory than in the United States during the tax year. Earned income is pay for personal services performed, such as wages, salaries, or professional fees.

5. You had no significant connection to the United States during the tax year.

**Special rule for nonresident aliens.**

Conditions (1) through (5) above do not apply to nonresident aliens of the United States. Instead, nonresident aliens must meet the substantial presence test discussed in chapter 1 of Pub. 519. In that discussion, substitute the name of the territory for “United States” and “U.S.” wherever they appear. Disregard the discussion in that chapter about a *Closer Connection to a Foreign Country*.



# **Days of Presence in the United States or Relevant Territory**

Generally, you are treated as being present in the United States or in the relevant territory on any day that you are physically present in that location at any time during the day.

**Days of presence in a territory.** You are considered to be present in the relevant territory on any of the following days.

1. Any day you are physically present in that territory at any time during the day.
2. Any day you are outside of the relevant territory in order to receive, or to accompany any of the following family members to receive, qualifying medical treatment (see *Qualifying Medical Treatment*, later).
  - a. Your parent.
  - b. Your spouse.

- c. Your child or stepchild. This includes an adopted child or child lawfully placed with you for legal adoption. This also includes a foster child who is placed with you by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.
- 3. Any day you are outside the relevant territory because you leave or are unable to return to the relevant territory during any:
  - a. 14-day period within which a major disaster occurs in the relevant territory for which a Federal Emergency Management Agency (FEMA) notice of a federal declaration of a major disaster is issued in the Federal Register, or
  - b. Period for which a mandatory evacuation order is in effect for the

geographic area in the relevant territory in which your main home is located.

4. Any day (up to a total of 30 days) that you are outside the relevant territory and the United States for business or personal travel, but this rule:
  - a. Applies only if the number of days you are considered present in the relevant territory exceeds the number of days you are considered present in the United States (determined without regard to the rule in this section (4)), and
  - b. Does not apply for purposes of calculating the minimum 60 days of presence in the relevant territory that is required for the 549-day presence test (see *Presence Test*, earlier).

If, during a single day, you are physically present:

- In the United States and in the relevant territory, that day is considered a day of presence in the relevant territory; or
- In two territories, that day is considered a day of presence in the territory where your tax home is located (see *Tax Home*, later).

### **Days of presence in the United States.**

You are considered to be present in the United States on any day that you are physically present in the United States at any time during the day. However, do not count the following days as days of presence in the United States.

1. Any day you are temporarily present in the United States in order to receive, or to accompany a parent, spouse, or child who is receiving, qualifying

medical treatment. *Child* is defined in item 2c under Days of presence in a territory, earlier. Qualifying medical treatment is defined later.

2. Any day you are temporarily present in the United States because you leave or are unable to return to the relevant territory during any:
  - a. 14-day period within which a major disaster occurs in the relevant territory for which a Federal Emergency Management Agency (FEMA) notice of a federal declaration of a major disaster is issued in the Federal Register, or
  - b. Period for which a mandatory evacuation order is in effect for the geographic area in the relevant territory in which your main home is located.

3. Any day you are in the United States for less than 24 hours when you are traveling between two places outside the United States.
4. Any day you are temporarily present in the United States as a professional athlete to compete in a charitable sports event (defined later).
5. Any day you are temporarily in the United States as a student (defined later).
6. Any day you are in the United States serving as an elected representative of the relevant territory, or serving full time as an elected or appointed official or employee of the government of that territory (or any of its political subdivisions).

# **Qualifying Medical Treatment**

Such treatment is generally provided by (or under the supervision of) a physician for an illness, injury, impairment, or physical or mental condition. The treatment generally involves:

- Any period of inpatient care that requires an overnight stay in a hospital or hospice, and any period immediately before or after that inpatient care to the extent it is medically necessary; or
- Any temporary period of inpatient care in a residential medical care facility for medically necessary rehabilitation services.

With respect to each qualifying medical treatment, you must prepare (or obtain) and maintain documentation supporting your claim that such treatment meets the criteria to be considered days of presence in the

relevant territory. You must be able to produce this documentation within 30 days if requested by the IRS or tax administrator for the relevant territory.

You must keep the following documentation.

1. Records that provide:
  - a. The patient's name and relationship to you (if the medical treatment is provided to a person you accompany);
  - b. The name and address of the hospital, hospice, or residential medical care facility where the medical treatment was provided;
  - c. The name, address, and telephone number of the physician who provided the medical treatment;
  - d. The date(s) on which the medical treatment was provided; and



- e. Receipt(s) of payment for the medical treatment.
2. Signed certification by the providing or supervising physician that the medical treatment met the requirements for being qualified medical treatment, and setting forth:
- a. The patient's name,
  - b. A reasonably detailed description of the medical treatment provided by (or under the supervision of) the physician,
  - c. The dates on which the medical treatment was provided, and
  - d. The medical facts that support the physician's certification and determination that the treatment was medically necessary.

# **Charitable Sports Event**

A charitable sports event is one that meets all of the following conditions.

- The main purpose is to benefit a qualified charitable organization.
- The entire net proceeds go to charity.
- Volunteers perform substantially all the work.

In figuring the days of presence in the United States, you can exclude only the days on which you actually competed in the charitable sports event. You cannot exclude the days on which you were in the United States to practice for the event, to perform promotional or other activities related to the event, or to travel between events.

## **Student**

To qualify as a student, you must be, during some part of each of any 5 calendar months during the calendar year:

1. A full-time student at a school that has a regular teaching staff, course of study, and regularly enrolled body of students in attendance; or
2. A student taking a full-time, on-farm training course given by a school described in (1) above or by a state, county, or local government agency.

The 5 calendar months do not have to be consecutive.

**Full-time student.** A full-time student is a person who is enrolled for the number of hours or courses the school considers to be full-time attendance. However, school attendance exclusively at night is not considered full-time attendance.

**School.** The term “school” includes elementary schools, middle schools, junior and senior high schools, colleges, universities, and technical, trade, and mechanical schools. It does not include on-the-job training

courses, correspondence schools, and schools offering courses only through the Internet.

## **Significant Connection**

One way in which you can meet the presence test is to have no significant connection to the United States during the tax year. This section looks at the factors that determine if a significant connection exists.

You are treated as having a significant connection to the United States if you:

1. Have a permanent home in the United States;
2. Are currently registered to vote in any political subdivision of the United States; or
3. Have a spouse or child (see item 2c under *Days of presence in a territory*, earlier) who is under age 18 whose main home is in the United States, other than:

- a. A child who is in the United States because they are the child of divorced or legally separated parents and they are living with a custodial parent under a custodial decree or multiple support agreement, or
- b. A child who is in the United States as a student.

For the purpose of determining if you have a significant connection to the United States, the term “spouse” does not include a spouse from whom you are legally separated under a decree of divorce or separate maintenance.

**Permanent home.** A permanent home generally includes an accommodation such as a house, an apartment, or a furnished room that is either owned or rented by you or your spouse. The dwelling unit must be available at all times, continuously, not only for short stays.

***Exception for rental property.*** If you or your spouse own the dwelling unit and at any time during the tax year it is rented to someone else at fair rental value, it will be considered your permanent home only if you or your spouse use that property for personal purposes for more than the greater of:

- 14 days, or
- 10% of the number of days during that tax year that the property is rented to others at a fair rental value.

You are treated as using rental property for personal purposes on any day the property is not being rented to someone else at fair rental value for the entire day.

A day of personal use of a dwelling unit is also any day that the unit is used by any of the following persons.

- You or any other person who has an interest in it, unless you rent it to another owner as their main home

under a shared equity financing agreement.

- A member of your family or a member of the family of any other person who has an interest in it, unless the family member uses the dwelling unit as their main home and pays a fair rental price. Family includes only siblings, half-siblings, spouses, ancestors (parents, grandparents, etc.), and lineal descendants (children, grandchildren, etc.).
- Anyone under an arrangement that lets you use some other dwelling unit.
- Anyone at less than a fair rental price.

However, any day you spend working substantially full time repairing and maintaining (not improving) your property is not counted as a day of personal use.

Whether your property is used mainly for this

purpose is determined in light of all the facts and circumstances, such as:

- The amount of time you devote to repair and maintenance work,
- How often during the tax year you perform repair and maintenance work on this property, and
- The presence and activities of companions.

See Pub. 527 for more information about personal use of a dwelling unit.

***Example—no significant U.S. connection.***

You, a U.S. citizen, are a sales representative for a company based in Guam. You live with your spouse and young children in your house in Guam, where you are also registered to vote. Your business travel requires you to spend 120 days in the United States and another 120 days in foreign countries. When traveling on business, you generally stay at hotels but sometimes stay with your brother,



who lives in the United States. Your stays are always of short duration and you ask your brother's permission to stay with him. Your brother's house is not your permanent home, nor do you have any other accommodations in the United States that would be considered your permanent home. You satisfy the presence test because you have no significant connection to the United States.

***Example—significant U.S. connection but presence test met.*** Pat and Carter Brown live for part of the year in a condominium, which they own, in the CNMI. They also own a house in Maine where they live for 120 days every year to be near their grown children and grandchildren. The Browns are retired and their only income is from pension payments, dividends, interest, and social security benefits.

In 2023, Pat and Carter spent only 160 days in the CNMI because of an 85-day vacation to Europe and Asia and 120 days in the United

States. Although the Browns were present in the United States for more than 90 days and had a significant connection to the United States because of their permanent home there, they satisfied the presence test with respect to the CNMI because they had no earned income in the United States and were considered physically present in the CNMI for at least 183 days (160 days plus 30 days deemed present during their 85-day vacation to Europe and Asia for a total of 190 days).

# **Tax Home**

You will have met the tax home test if you did not have a tax home outside the relevant territory during any part of the tax year. Your tax home is generally determined under the principles of section 911(d)(3) and section 162(a)(2) (relating to traveling expenses while away from home).

Your tax home is your regular or main place of business, employment, or post of duty regardless of where you maintain your family home. If you do not have a regular or main place of business because of the nature of your work, then your tax home is the place where you regularly live. If you do not fit either of these categories, you are considered an itinerant and your tax home is wherever you work.

## **Exceptions**

There are some special rules regarding tax home that provide exceptions to the general rule stated above.

### **Students and Government Officials**

Disregard the following days when determining whether you have a tax home outside the relevant territory.

- Days you were temporarily in the United States as a student (see Student under Days of Presence in the United States or Relevant Territory, earlier).
- Days you were in the United States serving as an elected representative of the relevant territory, or serving full time as an elected or appointed official or employee of the government of that territory (or any of its political subdivisions).

## Seafarers

You will not be considered to have a tax home outside the relevant territory solely because you are employed on a ship or other seafaring vessel that is predominantly used in local and international waters. For this purpose, a vessel is considered to be predominantly used in local and international waters if, during the tax year, the total amount of time it is used in international waters and in the waters within 3 miles of the relevant territory exceeds the total amount of time it is used in the territorial waters of the United States, another territory, or any foreign country.

**Example.** In 2023, you, a U.S. citizen, were employed by a fishery and spent 250 days at sea on a fishing vessel. When not at sea, you lived with your spouse at a house you own in American Samoa. The fishing vessel on which you work departs and arrives at various ports in American Samoa, other territories, and foreign countries, but was in international or

American Samoa's local waters for 225 days. For purposes of determining bona fide residency of American Samoa, you will not be considered to have a tax home outside that territory solely because of your employment on board the fishing vessel.

## **Year of Move**

If you are moving to or from a territory during the year, you may still be able to meet the tax home test for that year. See *Special Rules in the Year of a Move*, later, in this chapter.

# Closer Connection

You will have met the closer connection test if, during any part of the tax year, you do not have a closer connection to the United States or a foreign country than to the relevant U.S. territory.

You will be considered to have a closer connection to a territory than to the United States or to a foreign country if you have maintained more significant contacts with the territories than with the United States or foreign country. In determining if you have maintained more significant contacts with the relevant territory, the facts and circumstances to be considered include, but are not limited to, the following.

- The location of your permanent home.
- The location of your family.
- The location of personal belongings, such as automobiles, furniture,

clothing, and jewelry owned by you and your family.

- The location of social, political, cultural, professional, or religious organizations with which you have a current relationship.
- The location where you conduct your routine personal banking activities.
- The location where you conduct business activities
- (other than those that go into determining your tax home).
- The location of the jurisdiction in which you hold a driver's license.
- The location of the jurisdiction in which you vote.
- The location of charitable organizations to which you contribute.



- The country of residence you designate on forms and documents.
- The types of official forms and documents you file, such as Form W-8BEN or Form W-9.

Your connections to the relevant territory will be compared to the total of your connections with the United States and foreign countries. Your answers to the questions on Form 8898, Part III, will help establish the jurisdiction to which you have a closer connection.

***Example—closer connection to the United States.*** You, a U.S. citizen, moved to Puerto Rico in 2023 to start an investment consulting and venture capital business. Your spouse and two teenage children remained in California to allow the children to complete high school. You traveled back to the United States regularly to see your spouse and children, to engage in business activities, and to take vacations. You had an apartment available for your full-time use in Puerto Rico,

but remained a joint owner of the residence in California where your spouse and children lived. You and your family had automobiles and personal belongings such as furniture, clothing, and jewelry located at both residences. Although you were a member of the Puerto Rico Chamber of Commerce, you also belonged to and had current relationships with social, political, cultural, and religious organizations in California. You received mail in California, including bank and brokerage statements and credit card bills. You conducted your personal banking activities in California. You held a California driver's license and were also registered to vote there. Based on all of the particular facts and circumstances pertaining to you, you were not a bona fide resident of Puerto Rico in 2023 because you had a closer connection to the United States than to Puerto Rico.

**Closer connection to another territory.**

Generally, territories are not treated as

foreign countries. Therefore, a closer connection to a territory other than the relevant territory will not be treated as a closer connection to a foreign country.

***Example—tax home and closer connection to territory.*** You, a U.S. citizen, are a permanent employee of a hotel in Guam, but work only during the tourist season. For the remainder of each year, you live with your spouse and children in the CNMI, where you have no outside employment. Most of your personal belongings, including your automobile, are located in the CNMI. You are registered to vote in, and have a driver's license issued by, the CNMI. You do your personal banking in the CNMI and routinely list your CNMI address as your permanent address on forms and documents. You satisfy the presence test with respect to both Guam and the CNMI. You satisfy the tax home test with respect to Guam, because your regular place of business

is in Guam. You satisfy the closer connection test with respect to both Guam and the CNMI because you do not have a closer connection to the United States or to any foreign country. You are considered a bona fide resident of Guam, the location of your tax home.

## **Exception for Year of Move**

If you are moving to or from a territory during the year, you may still be able to meet the closer connection test for that year. See *Special Rules in the Year of a Move* next.

# **Special Rules in the Year of a Move**

If you are moving to or from a territory during the year, you may still be able to meet the tax home and closer connection tests for that year.

## **Year of Moving to a Territory**

You will satisfy the tax home and closer connection tests in the tax year of changing your residence to the relevant territory if you meet all of the following.

- You have not been a bona fide resident of the relevant territory in any of the 3 tax years immediately preceding your move.
- In the year of the move, you do not have a tax home outside the relevant territory or a closer connection to the United States or a foreign country than

to the relevant territory during any of the last 183 days of the tax year.

- You are a bona fide resident of the relevant territory for each of the 3 tax years immediately following the tax year of your move.

**Example.** You, a U.S. citizen, file returns on a calendar year basis. You lived in the United States from January 2017 through May 2023. In June 2023, you moved to the USVI, purchased a house, and accepted a permanent job with a local employer. From July 1 through December 31, 2023 (more than 183 days), your principal place of business was in the USVI and, during that time, you did not have a closer connection to the United States or a foreign country than to the USVI.

If you are a bona fide resident of the USVI during all of 2024 through 2026, you will satisfy the tax home and closer connection tests for 2023. If you also satisfy the

presence test in 2023, you will be considered a bona fide resident of the USVI for the 2023 tax year.

## **Year of Moving From a Territory**

In the year you cease to be a bona fide resident of American Samoa, the CNMI, Guam, or the USVI, you will satisfy the tax home and closer connection tests with respect to the relevant territory if you meet all of the following.

- You have been a bona fide resident of the relevant territory for each of the 3 tax years immediately preceding your change of residence.
- In the year of the move, you do not have a tax home outside the relevant territory or a closer connection to the United States or a foreign country than to the relevant territory during any of the first 183 days of the tax year.

- You are not a bona fide resident of the relevant territory for any of the 3 tax years immediately following the tax year of your move.

**Example.** You, a U.S. citizen, file returns on a calendar year basis. From January 2020 through December 2022, you were a bona fide resident of American Samoa. You continued to live there until September 6, 2023, when you accepted new employment and moved to Hawaii. Your principal place of business from January 1 through September 5, 2023 (more than 183 days), was in American Samoa, and during that period you did not have a closer connection to the United States or a foreign country than to American Samoa. If you continue to live and work in Hawaii for the rest of 2023 and throughout years 2024 through 2026, you will satisfy the tax home and closer connection tests for 2023 with respect to American Samoa. If you also satisfy the presence test in 2023, you will



be considered a bona fide resident for the 2023 tax year.

## **Puerto Rico**

You will be considered a bona fide resident of Puerto Rico for the part of the tax year preceding the date on which you move if you:

- Are a U.S. citizen,
- Are a bona fide resident of Puerto Rico for at least 2 tax years immediately preceding the tax year of the move,
- Cease to be a bona fide resident of Puerto Rico during the tax year,
- Cease to have a tax home in Puerto Rico during the tax year, and
- Have a closer connection to Puerto Rico than to the United States or a foreign country throughout the part of the tax year preceding the date on which you cease to have a tax home in Puerto Rico.

**Example.** You, a U.S. citizen, file returns on a calendar year basis. For all of 2021 and 2022, you were a bona fide resident of Puerto Rico. From January through May 4, 2023, you continued to reside and maintain your principal place of business in and closer connection to Puerto Rico. On May 5, 2023, you moved and changed your tax home to Nevada. Later that year, you established a closer connection to the United States than to Puerto Rico. You did not satisfy the presence test for 2023 with respect to Puerto Rico, nor the tax home or closer connection tests. However, because you were a bona fide resident of Puerto Rico for at least 2 tax years before you moved to Nevada in 2023, you were a bona fide resident of Puerto Rico from January 1 through May 4, 2023.

# **Reporting a Change in Bona Fide Residence**

If you became or ceased to be a bona fide resident of a U.S. territory, you may need to file Form 8898. This applies to the U.S. territories of American Samoa, the CNMI, Guam, Puerto Rico, and the USVI.

## **Who Must File**

You must file Form 8898 for the tax year in which you meet both of the following conditions.

1. Your worldwide gross income (defined below) in that tax year is more than \$75,000.
2. You meet one of the following.
  - a. You take a position for U.S. tax purposes that you became a bona fide resident of a U.S. territory after a tax year for which you filed

a U.S. income tax return as a citizen or resident alien of the United States but not as a bona fide resident of the territory.

- b. You are a citizen or resident alien of the United States who takes the position for U.S. tax purposes that you ceased to be a bona fide resident of a U.S. territory after a tax year for which you filed an income tax return (with the IRS, the territory tax authority, or both) as a bona fide resident of the territory.
- c. You take the position for U.S. tax purposes that you became a bona fide resident of Puerto Rico or American Samoa after a tax year for which you were required to file an income tax return as a bona fide resident of the CNMI, Guam, or the USVI.

**Worldwide gross income.** Worldwide gross income means all income you received in the form of money, goods, property, and services, including any income from sources outside the United States (even if you can exclude part or all of it) and before any deductions, credits, or rebates.

**Example.** You are a U.S. citizen who moved to the CNMI in December 2022, but did not become a bona fide resident of that territory until the 2023 tax year. You must file Form 8898 for the 2023 tax year if your worldwide gross income for that year was more than \$75,000.

## **Penalty for Not Filing Form 8898**

If you are required to file Form 8898 for any tax year and you fail to file it, you may owe a penalty of \$1,000. Also, you may owe this penalty if you do not include all the information required by the form or the form

includes incorrect information. In either case, you will not owe this penalty if

Table 2-1. **General Rules for Determining U.S. Source of Income**

Item of Income	Factor Determining Source
Salaries, wages, and other compensation for labor or personal services	Where labor or services performed <b>Note.</b> See <a href="#">Compensation for Labor or Personal Services</a> .
Pensions	Contributions: Where services were performed that earned the pension Investment earnings: Where pension trust is located
Interest	Residence of payer
Dividends	Where corporation created or organized
Rents	Location of property
Royalties: Natural resources Patents, copyrights, etc.	Location of property Where property is used
Sale of business inventory—purchased	Where sold
Sale of business inventory—produced	Where sold unless sold within the United States. Allocation if purchased in U.S. territory and sold within the United States.
Sale of real property	Location of property
Sale of personal property	Seller's tax home (but see <a href="#">Special Rules for Gains From Dispositions of Certain Property</a> , later, for exceptions)
Sale of natural resources	Allocation based on fair market value of product at export terminal. For more information, see Regulations section 1.863-1(b).

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you can show that such failure is due to reasonable cause and not willful neglect. This is in addition to any criminal penalty that may be imposed.

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## **2.**

# **Territory Source Income**

In order to determine where to file your return and which form(s) you need to complete, you may need to determine the source of each item of income you received during the tax year.

This chapter discusses the rules for determining if the source of your income is from:

- American Samoa,
- The Commonwealth of the Northern Mariana Islands,
- The Commonwealth of Puerto Rico (Puerto Rico),
- Guam, or
- The U.S. Virgin Islands.

Generally, the same rules that apply for determining U.S. source income also apply for determining territory source income.

However, there are some important exceptions to these rules. Both the general rules and the exceptions are discussed in this chapter.

**U.S. income rule.** This rule states that income is not territory source income if, under the rules of Internal Revenue Code sections 861–865, it is treated as income:

- From sources within the United States, or
- Effectively connected with the conduct of a trade or business within the United States.

Table 2-1 shows the general rules for determining whether income is from sources within the United States.

# Types of Income

This section looks at the most common types of income received by individuals, and the rules for determining the source of the income. Generally, the same rules shown in Table 2-1 are used to determine if you have territory source income.

## Compensation for Labor or Personal Services

Income from labor or personal services includes wages, salaries, commissions, fees, per diem allowances, employee allowances and bonuses, and fringe benefits. It also includes income earned by sole proprietors and general partners from providing personal services in the course of their trades or businesses.

**Services performed wholly within a relevant territory.** Generally, all pay you receive for services performed in a relevant

territory is considered to be from sources within that territory. However, there are exceptions to this rule as discussed further below.

***U.S. Armed Forces.*** If you are a bona fide resident of a relevant territory, your military service pay on active duty will be sourced in that territory even if you perform the services in the United States or another territory. However, if you are not a bona fide resident of a territory, your military service pay will be income from the

United States even if you perform services in a territory.

***Civilian spouse of active duty member of the U.S. Armed Forces.*** If you are a bona fide resident of a U.S. territory and choose to keep that territory as your tax residence under MSRRA when relocating with your service member spouse under military orders, the source of income for your labor or personal services is considered to be that

territory. Likewise, if your tax residence is in one of the 50 states or the District of Columbia before relocating and you choose to keep it as your tax residence, the source of income for services performed in any of the U.S. territories is considered to be the United States and, specifically, your state of residence or the District of Columbia. For more information, see the following.

- Notice 2010-30, available at [IRS.gov/irb/ 2010-18 IRB#NOT-2010-30](http://IRS.gov/irb/2010-18_IRB#NOT-2010-30).
- Notice 2011-16, available at [IRS.gov/irb/ 2011-17 IRB#NOT-2011-16](http://IRS.gov/irb/2011-17_IRB#NOT-2011-16).
- Notice 2012-41, available at [IRS.gov/irb/ 2012-26 IRB#NOT-2012-41](http://IRS.gov/irb/2012-26_IRB#NOT-2012-41).

Also, you can consult with state, local, or U.S. territory tax authorities regarding your tax obligations under MSRRA.

**De minimis exception.** There is an exception to the rule for determining the source of income earned in a territory. Generally, you will not have income from a territory if during a tax year you:

- Are a U.S. citizen or resident;
- Are not a bona fide resident of that territory;
- Are not employed by or under contract with an individual, partnership, or corporation that is engaged in a trade or business in that territory;
- Temporarily perform services in that territory for 90 days or less; and
- Earned \$3,000 or less from such services.

**Services performed partly inside and partly outside a relevant territory.** If you are an employee and receive compensation for labor or personal services performed both



inside and outside the relevant territory, special rules apply in determining the source of the compensation. Compensation (other than certain fringe benefits) is sourced on a time basis. Certain fringe benefits (such as housing and education) are sourced on a geographical basis.

Or you may be permitted to use an alternative basis to determine the source of compensation. See Alternative basis, later.

If you are self-employed, determine the source of your income for labor or personal services from self-employment on the basis that most correctly reflects the proper source of that income under the facts and circumstances of your particular case. In many cases, the facts and circumstances will call for an apportionment on a time basis, as explained next.

***Time basis.*** Use a time basis to figure your compensation for labor or personal services

from the relevant territory (other than the fringe benefits discussed later).

Do this by multiplying your total compensation (other than the fringe benefits discussed later) by the following fraction:

$$\frac{\text{Number of days you performed services in the relevant territory during the year}}{\text{Total number of days you performed services during the year}}$$

You can use a unit of time less than a day in the above fraction, if appropriate. The time period for which the income is made does not have to be a year. Instead, you can use another distinct, separate, and continuous time period if you can establish to the satisfaction of the IRS that this other period is more appropriate.

**Example.** In 2023, you worked in your employer's office in the United States for 60 days and in the Puerto Rico office for 180

days, earning a total of \$80,000 for the year. Your Puerto Rico source income is \$60,000, figured as follows.

$$\frac{180 \text{ days}}{240 \text{ days}} \times \$80,000 = \$60,000$$

***Multi-year compensation.*** The source of multi-year compensation is generally determined on a time basis over the period to which the compensation is attributable. Multi-year compensation is compensation that is included in your income in 1 tax year but is attributable to a period that includes 2 or more tax years. You determine the period to which the income is attributable based on the facts and circumstances of your case. For more information on multi-year compensation, see Regulations section 1.861-4(b).

***Certain fringe benefits sourced on a geographical basis.*** If you received any of the following fringe benefits as compensation

for labor or services performed as an employee partly inside and partly outside a relevant territory, you must source that income on a geographical basis.

- Housing.
- Education.
- Local transportation.
- Tax reimbursement.
- Hazardous or hardship duty pay.
- Moving expense reimbursement.

For information on determining the source of the fringe benefits listed above, see Regulations section 1.861-4(b).

***Alternative basis.*** You can determine the source of your compensation under an alternative basis if you establish to the satisfaction of the IRS that, under the facts and circumstances of your case, the alternative basis more properly determines

the source of your income than the time or geographical basis. If you use an alternative basis, you must keep (and have available for inspection) records to document why the alternative basis more properly determines the source of your income.

**Pensions.** Generally, pension income has two components: contributions to the pension plan and the earnings accrued from investing those contributions. The contribution portion is sourced according to where services were performed that earned the pension. The investment earnings portion is sourced according to the location of the pension trust making the distributions.

**Example.** You are a U.S. citizen who worked in Puerto Rico for a U.S. company. All services were performed in Puerto Rico. Upon retirement, you remained in Puerto Rico and began receiving your pension from the U.S. pension trust of your employer. Distributions from the U.S. pension trust must be allocated

between (1) contributions, which are Puerto Rico source income; and (2) investment earnings, which are U.S. source income.

***Disaster and coronavirus-related tax relief.*** If you are required to file a U.S. federal income tax return, you may be entitled to some special disaster and coronavirus-related rules regarding the use of retirement funds. For more information, see Form 8915-E, Form 8915-F, and their instructions.

To determine whether you are required to file a U.S. income tax return, see chapter 3.

## **Investment Income**

This category includes such income as interest, dividends, rents, and royalties.

**Interest income.** The source of interest income is generally determined by the residence of the payer. Interest paid by corporations created or organized in a

relevant territory (territory corporation) or by individuals who are bona fide residents of a relevant territory is considered income from sources within that territory.

However, there is an exception to this rule if you are a bona fide resident of a relevant territory, receive interest from a corporation created or organized in that territory, and are a shareholder of that corporation, and you own, directly or indirectly, at least 10% of the total voting stock of the corporation. See Regulations section 1.937-2(i) for more information.

**Dividends.** Generally, dividends paid by a corporation created or organized in a relevant territory will be considered income from sources within that territory. There are additional rules for bona fide residents of a relevant territory who receive dividend income from territory corporations, and who own, directly or indirectly, at least 10% of the voting stock of the corporation. For more

information, see Regulations section 1.937-2(g).

**Rental income.** Rents from property located in a relevant territory are treated as income from sources within that territory.

**Royalties.** Royalties from natural resources located in a relevant territory are considered income from sources within that territory.

Also considered territory source income are royalties received for the use of, or for the privilege of using, in a relevant territory, patents, copyrights, secret processes and formulas, goodwill, trademarks, trade brands, franchises, and other like property.

## **Sales or Other Dispositions of Property**

The source rules for sales or other dispositions of property are varied. The most common situations are discussed below.



**Real property.** Real property includes land and buildings, and generally anything built on, growing on, or attached to land. The location of the property generally determines the source of income from the sale. For example, if you are a bona fide resident of Guam and sell your home that is located in Guam, the gain on the sale is sourced in Guam. If, however, the home you sold was located in the United States, the gain is U.S. source income.

**Personal property.** The term “personal property” refers to property (such as machinery, equipment, or furniture) that is not real property. Generally, gain (or loss) from the sale or other disposition is sourced according to the seller's tax home. If personal property is sold by a bona fide resident of a relevant territory, the gain (or loss) from the sale is treated as sourced within that territory.

This rule does not apply to the sale of inventory, intangible property, depreciable personal property, or property sold through a foreign office or fixed place of business. The rules applying to sales of inventory are discussed below. For information on sales of the other types of property mentioned, see Internal Revenue Code section 865.

**Inventory.** Your inventory is personal property that is stock in trade or that is held primarily for sale to customers in the ordinary course of your trade or business. The source of income from the sale of inventory depends on whether the inventory was purchased or produced.

***Purchased.*** Income from the sale of inventory that you purchased is sourced where you sell the property. Generally, this is where title to the property passes to the buyer. However, income from the sale of inventory purchased within a U.S. territory and sold within the United States is sourced

based on an allocation. For information on making the allocation, see Regulations section 1.863-3.

***Produced.*** Income from the sale of inventory that you produced in a relevant territory and sold outside that territory (or vice versa) is sourced based on an allocation. For information on making the allocation, see Regulations section 1.863-3.

## **Special Rules for Gains From Dispositions of Certain Property**

There are special rules for gains from dispositions of certain investment property (for example, stocks, bonds, debt instruments, diamonds, and gold) owned by a U.S. citizen or resident alien prior to becoming a bona fide resident of a territory. You are subject to these special rules if you meet both of the following conditions.

- For the tax year for which the source of the gain must be determined, you

are a bona fide resident of the relevant territory.

- For any of the 10 years preceding that year, you were a citizen or resident alien of the United States (other than a bona fide resident of the relevant territory).

If you meet these conditions, gains from the disposition of this property will not be treated as income from sources within the relevant territory for purposes of the Internal Revenue Code. Accordingly, bona fide residents of American Samoa and Puerto Rico, for example, may not exclude the gain on their U.S. tax return. (See chapter 3 for additional filing information.) With respect to the CNMI, Guam, and the USVI, the gain from the disposition of this property will not meet the requirements for certain tax rules that may allow bona fide residents of those territories to reduce or obtain a rebate of taxes on

income from sources within the relevant territories.

For details, see Regulations section 1.937-2(f)(1) and Examples 1 and 2 of section 1.937-2(k).

***Example 1.*** In 2017, you, a U.S. citizen, lived in the United States and paid \$1,000 for 100 shares of stock in the Rose Corporation, a U.S. corporation listed on the New York Stock Exchange. On March 1, 2020, you moved to Puerto Rico and changed your tax home to Puerto Rico on the same date. You satisfied the presence test in 2020 and, under the year-of-move exception, you were considered a bona fide resident of Puerto Rico for the rest of 2020. On March 1, 2020, the closing value of your stock in the Rose Corporation was \$2,000. On January 5, 2023, while still a bona fide resident of Puerto Rico, you sold all your Rose Corporation stock for \$7,000. Under the special rules discussed earlier, none of your \$6,000 gain will be

treated as income from sources within Puerto Rico.



*The source rules discussed in the preceding paragraphs supplement, and may apply in conjunction with, an existing special rule. This existing special rule applies if you are a U.S. citizen or resident alien who becomes a bona fide resident of American Samoa, the CNMI, or Guam, and who has gain from the disposition of certain U.S. assets during the 10-year period beginning when you became a bona fide resident. The gain is U.S. source income that is generally subject to U.S. tax if the property is either (1) located in the United States; (2) stock issued by a U.S. corporation or a debt obligation of a U.S. person or of the United States, a state (or political subdivision), or the District of Columbia; or (3) property that has a basis in whole or in part by reference to property described in (1) or (2). See chapter 3 for filing information.*

**Special election.** You can choose to treat the part of gain (or loss) attributable to the time you held the property while a bona fide resident of the relevant territory (the territory holding period) as gain (or loss) from sources within that territory. Make the election by reporting the gain attributable to the territory holding period on your income tax return for the year of disposition. This election overrides both of the special rules discussed earlier.

There are two methods for figuring the gain (or loss) for the territory holding period, one for marketable securities and another for other types of investment property.

***Marketable securities.*** Marketable securities are those actively traded on an established financial market, such as stock in a publicly held corporation. Under the special election, allocate the gain (or loss) by figuring the appreciation separately for your territory and U.S. holding periods.

Your territory holding period begins on the first day you do not have a tax home outside the relevant territory. The gain (or loss) attributable to the territory holding period is the difference in fair market value of the security at the close of the market on the first and last days of this holding period. This is your gain (or loss) that is treated as being from sources within the relevant territory. If you were a bona fide resident of the relevant territory for more than one continuous period, combine the gains (or losses) from each territory holding period.

***Example 2.*** Assume the same facts as in *Example 1*, except that you make the special election to allocate the gain between your U.S. and territory holding periods. Your territory holding period began March 1, 2020, the date your tax home changed to Puerto Rico. Therefore, the portion of the gain attributable to your territory holding period is \$5,000 (\$7,000 sale price – \$2,000 closing



value on the first day of the territory holding period). By reporting \$5,000 of your \$6,000 gain as Puerto Rico source income on your 2023 Puerto Rico tax return (and the remainder as non-Puerto Rico source income), you elect to treat that amount as Puerto Rico source income.

***Other personal property.*** For personal property other than marketable securities, use a time-based allocation. Figure the gain (or loss) attributable to the territory holding period by multiplying your total gain (or loss) by the following fraction.

$$\frac{\text{Number of days in the territory holding period}}{\text{Total number of days in your holding period}}$$

The result is your gain (or loss) that is treated as being from sources within the relevant territory.