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2016

Instructions for Form 2555-EZ

Department of the Treasury
Internal Revenue Service

Foreign Earned Income Exclusion

DRAFT AS OF July 7, 2016

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Form 2555-EZ and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/form2555ez*.

What's New

Exclusion amount. For 2016, the maximum exclusion has increased to $101,300.

General Instructions

CAUTION *Do not include on Form 1040, line 64 (federal income tax withheld), any taxes an employer withheld from your pay and paid to the foreign country's tax authority instead of to the U.S. Treasury.*

Purpose of Form

If you qualify, you can use Form 2555-EZ instead of Form 2555, Foreign Earned Income, to figure your foreign earned income exclusion. You can't exclude more than your foreign earned income for the year.

General Information

If you are a U.S. citizen or a U.S. resident alien living in a foreign country, you are subject to the same U.S. income tax laws that apply to citizens and resident aliens living in the United States.

Note. Specific rules apply to determine if you are a resident or nonresident alien of the United States. See Pub. 519, U.S. Tax Guide for Aliens, for details.

Foreign country. A foreign country is any territory under the sovereignty of a government other than that of the United States.

The term "foreign country" includes the country's territorial waters and airspace, but not international waters and the airspace above them. It also includes the seabed and subsoil of those submarine areas adjacent to the country's territorial waters over which it has exclusive rights under international law to explore and exploit the natural resources.

The term "foreign country" does not include U.S. possessions or territories. It does not include the Antarctic region.

Who Qualifies

You can use Form 2555-EZ to claim the foreign earned income exclusion if all of the following apply.

- You meet the seven conditions listed at the top of Form 2555-EZ.
- Your total foreign earned income received in 2016 is reported on Form 1040, line 7.
- You don't have a housing deduction carryover from 2015.
- You meet either the bona fide residence test (see the instructions for lines 1a and 1b, later) or the physical presence test (see the instructions for lines 2a and 2b, later).
- You meet the tax home test (see the instructions for line 3, later).

Note. Income from working abroad as an employee of the U.S. Government doesn't qualify for the foreign earned income exclusion. Don't file Form 2555-EZ.

Married Couples

If both you and your spouse qualify for, and choose to claim, the foreign earned income exclusion, figure the amount of the exclusion separately for each of you. You must each complete separate Forms 2555-EZ.

Community income. The amount of the exclusion isn't affected by the income-splitting provisions of community property laws. The sum of the amounts figured separately for each of you is the total amount excluded on a joint return.

Travel to Cuba

Generally, if you were in Cuba in violation of U.S. travel restrictions, the following rules apply.

- Any time spent in Cuba can't be counted in determining if you qualify under the bona fide residence or physical presence test.
- Any income earned in Cuba isn't considered foreign earned income.

Note. If you performed services at the U.S. Naval Base at Guantanamo Bay, you weren't in violation of U.S. travel restrictions.

Waiver of Time Requirements

If your tax home was in a foreign country and you were a bona fide resident of, or physically present in, a foreign country and had to leave because of war, civil unrest, or similar adverse conditions, the minimum time requirements specified under the bona fide residence and physical presence tests may be waived. You must be able to show that you reasonably could have expected to meet the minimum time requirements if you had not been required to leave. Each year the IRS will publish in the Internal Revenue Bulletin a list of the only countries that qualify for the waiver for the previous year and the dates they qualify. If you left one of the countries during the period indicated, you can claim the foreign earned income exclusion on Form 2555-EZ, but only for the number of days you were a bona fide resident of, or physically present in, the foreign country.

If you can claim the foreign earned income exclusion because of the waiver of time requirements, attach a statement to your return explaining that you expected to meet the applicable time requirement, but the conditions in the foreign country prevented you from the normal conduct of business. Also, enter "Claiming Waiver" in the top margin on page 1 of your Form 2555-EZ.

Additional Information

Pub. 54, Tax Guide for U.S. Citizens and Resident Aliens Abroad, has more information about the bona fide residence test, the physical presence test, and the foreign earned income exclusion. You can download this publication (as well as other forms and publications) at IRS.gov. You can also get this publication by writing to: National Distribution Center, 1201 N. Mitsubishi Motorway, Bloomington, IL 61705-6613.

When To File

A 2016 calendar year Form 1040 is generally due April 18, 2017.

However, you are automatically granted a 2-month extension of time to file (to June 15, 2017) if, on the due date of your return, you live outside the United States and Puerto Rico and your tax home (defined later) is outside the United States and Puerto Rico. If you take this

extension, you must attach a statement to your return explaining that you meet these two conditions.

The automatic 2-month extension also applies to paying the tax. However, interest is charged on the unpaid tax from the regular due date until it is paid.

When to claim the exclusion(s). The first year you plan to take the foreign earned income exclusion, you may not yet have met either the physical presence test or the bona fide residence test by the due date of your return (including the automatic 2-month extension, discussed earlier). If this occurs, you can either:

1. Apply for a special extension to a date after you expect to qualify, or
2. File your return timely without claiming the exclusion and then file an amended return after you qualify.

Special extension of time. To apply for this extension, complete and file Form 2350, Application for Extension of Time To File U.S. Income Tax Return, with the Department of the Treasury, Internal Revenue Service Center, Austin, TX 73301-0045, before the due date of your return. Interest is charged on the tax not paid by the regular due date as explained earlier.

Amended return. File Form 1040X, Amended U.S. Individual Income Tax Return, to change a return you already filed. Generally, Form 1040X must be filed within 3 years after the date the original return was filed or within 2 years after the date the tax was paid, whichever is later.

Where To File

Attach Form 2555-EZ to Form 1040 when filed. Mail your Form 1040 to one of the special addresses designated for those filing Form 2555 or Form 2555-EZ. Don't mail your Form 1040 to the addresses associated with your state of residence if Form 2555 or Form 2555-EZ is attached. See the Instructions for Form 1040. The filing addresses are also available at *www.irs.gov/uac/INTERNATIONAL-Where-to-File-Form-1040,-1040A,-and-1040EZ-Addresses-for-Taxpayers-and-Tax-Professionals*.

Choosing the Exclusion

To choose the foreign earned income exclusion, complete the appropriate parts of Form 2555-EZ and file it with your Form 1040 or Form 1040X. Your initial choice to claim the exclusion must usually be made on a timely filed return (including extensions) or on a return amending a timely filed return. However, there are exceptions. See Pub. 54 for more information.

Once you choose to claim the exclusion, that choice remains in effect for that year and all future years unless it is revoked. To revoke your choice, you must attach a statement to your return for the first year you don't wish to claim the exclusion. If you revoke your choice, you cannot claim the exclusion for your next 5 tax years without the approval of the Internal Revenue Service. See Pub. 54 for details.

Additional child tax credit. You can't take the additional child tax credit if you claim the exclusion.

Earned income credit. You can't take the earned income credit if you claim the exclusion.

Foreign tax credit or deduction. You can't claim a credit or deduction for foreign income taxes paid on income you exclude. If all of your foreign earned income is excluded, you can't claim a credit or deduction for the foreign taxes paid on that income. If only part of your income is excluded, you can't claim a credit or deduction for the foreign taxes allocable to the excluded income. For details on how to figure the amount allocable to the excluded income, see Pub. 514, Foreign Tax Credit for Individuals.

IRA deduction. If you claim the exclusion, special rules apply in figuring the amount of your IRA deduction. For details, see Pub. 590, Individual Retirement Arrangements (IRAs).

Figuring Tax on Income Not Excluded

If you claim the foreign earned income exclusion, you must figure the tax on your nonexcluded income using the tax rates that would have applied had you not claimed the exclusion. See the Instructions for Form 1040 and complete the Foreign Earned Income Tax Worksheet to figure the amount of tax to enter on Form 1040, line 44. When figuring your alternative minimum tax on Form 6251, you must use the Foreign Earned Income Tax Worksheet in the instructions for Form 6251.

Specific Instructions

Lines 1a and 1b

Bona Fide Residence Test

To meet this test, you must be one of the following:

- A U.S. citizen who is a bona fide resident of a foreign country, or countries, for an uninterrupted period that includes an entire tax year (January 1–December 31), or
- A U.S. resident alien who is a citizen or national of a country with which the United States has an income tax treaty in effect and who is a bona fide resident of a foreign country, or countries, for an uninterrupted period that includes an entire tax year (January 1–December 31). See Pub. 901, U.S. Tax Treaties, for a list of countries with which the United States has an income tax treaty in effect.

Whether you are a bona fide resident of a foreign country depends on your intention about the length and nature of your stay. Evidence of your intention may be your words and acts. If these conflict, your acts carry more weight than your words. Generally, if you go to a foreign country for a definite, temporary purpose and return to the United States after you accomplish it, you are not a bona fide resident of the foreign country. If accomplishing the purpose requires an extended, indefinite stay, and you make your home in the foreign country, you may be a bona fide resident. See Pub. 54 for more information and examples.

If you submitted a statement of nonresidence to the authorities of a foreign country in which you earned income and the authorities hold that you aren't subject to their income tax laws by reason of nonresidency in the foreign country, you aren't considered a bona fide resident of that country.

If you submitted such a statement and the authorities haven't made an adverse determination of your nonresident status, you aren't considered a bona fide resident of that country.

Line 1b. If you answered “Yes” on line 1a, enter the dates your bona fide residence began and ended. If you are still a bona fide resident, enter “Continues” in the space for the date your bona fide residence ended.

Lines 2a and 2b

Physical Presence Test

To meet this test, you must be a U.S. citizen or resident alien who is physically present in a foreign country, or countries, for at least 330 full days during any period of 12 months in a row. A full day means the 24-hour period that starts at midnight.

Line 2a. To figure 330 full days of presence, add all separate periods you were present in a foreign country during the 12-month period in which those days occurred. The 330 full days can be interrupted by periods when you are traveling over international waters or are otherwise not in a foreign country. See Pub. 54 for more information and examples.

Line 2b. The 12-month period on which the physical presence test is based must include 366 days, part of which must be in 2016. The dates may begin or end in a calendar year other than 2016.

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TIP *You must enter dates in both spaces provided on line 2b. Don't enter "Continues" in the space for the ending date.*

Note. A nonresident alien who, with a U.S. citizen or U.S. resident alien spouse, chooses to be taxed as a resident of the United States can qualify under this test if the time requirements are met. See Pub. 54 for details on how to make this choice.

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Line 3

Tax Home Test

To meet this test, your tax home must be in a foreign country, or countries (see *Foreign country*, earlier), throughout your period of bona fide residence or physical presence, whichever applies. For this purpose, your period of physical presence is the 330 full days during which you were present in a foreign country, not the 12 consecutive months during which those days occurred.

Your tax home is your regular or principal place of business, employment, or post of duty, regardless of where you maintain your family residence. If you don't have a regular or principal place of business because of the nature of your trade or business, your tax home is your regular place of abode (the place where you regularly live).

You aren't considered to have a tax home in a foreign country for any period during which your abode is in the United States. However, if you are temporarily present in the United States, or you maintain a dwelling in the United States (whether or not that dwelling is used by your spouse and dependents), it doesn't necessarily mean that your abode is in the United States during that time.

Example. You are employed on an offshore oil rig in the territorial waters of a foreign country and work a 28-day on/28-day off schedule. You return to your family residence in the United States during your off periods. You are considered to have an abode in the United States and don't meet the tax home test. You can't claim the foreign earned income exclusion.

Line 4

Enter your entire address including city, province or state, country, and postal code. If using a military or diplomatic address, include the country in which you are living or stationed.

Line 11

Enter your tax home(s) and date(s) established on line 11a. See *Tax Home Test* under *Line 3*, earlier.

Line 12

Complete columns (a) through (d) if you were present in the United States or any of its possessions in 2016. Don't include time spent in the United States or its possessions before your period of bona fide residence or physical presence, whichever applies, began or after it ended.

Column (d). Enter, in U.S. dollars, the amount of income earned in the United States on business (such as meetings or conventions). Attach a statement showing how you determined the amount. Don't include this income on line 17. Even if you live and work in a foreign country, any income earned during the time spent in the United States on business is considered U.S. source income and can't be excluded.

Line 14

Enter the number of days in your qualifying period that fall within 2016. Your qualifying period is the period during which you meet the tax home test and either the bona fide residence test or the physical presence test.

Example. You establish a tax home and bona fide residence in a foreign country on August 14, 2016. You maintain the tax home and residence until January 31, 2018. The number of days in your qualifying period that fall within 2016 is 140 (August 14 through December 31, 2016).

Line 17

Enter the total foreign earned income you earned and received in 2016. Report the amount in U.S. dollars using the exchange rates in effect when you actually received the income. If you are a cash-basis taxpayer, include in income on Form 1040 the foreign earned income you received in 2016 regardless of when you earned it. (For example, include wages on Form 1040, line 7.)

Income is earned in the year you performed the services for which you received the pay. But if you received your last wage or salary payment for 2015 in 2016 because of your employer's payroll period, that income can be treated as earned in 2016. If you can't treat that wage or salary payment as earned in 2016, the rules explained later under *Income earned in prior year* apply. See Pub. 54 for more details.

Note. If your total foreign earned income entered on line 17 is over $101,300, do not file Form 2555-EZ. You must file Form 2555 instead.

Foreign earned income. For purposes of this form, foreign earned income means only the following types of income received for personal services you performed in a foreign country during the period for which you meet the tax home test and either the bona fide residence test or the physical presence test.

- Wages, salaries, tips, and bonuses.
- Noncash income (such as a home or car) if reported as income on Form 1040, line 7.
- Allowances or reimbursements if reported as income on Form 1040, line 7.

Foreign earned income doesn't include:

- Income earned in the United States on business (Form 2555-EZ, line 12, column (d)),
- Amounts paid to you by the U.S. Government or any of its agencies if you were an employee of the U.S. Government or any of its agencies,
- Amounts that are actually a distribution of corporate earnings or profits rather than a reasonable allowance as compensation for your personal services,
- Amounts received after the end of the tax year following the tax year in which you performed the services, or
- Amounts you must include in gross income because of your employer's contributions to a nonexempt employees' trust or to a nonqualified annuity contract.

Income earned in prior year. Foreign earned income received in 2016 for services you performed in 2015 can be excluded from your 2016 gross income if, and to the extent, the income would have been excludable if you had received it in 2015.

If you are excluding income under this rule, don't include this income on line 17. Instead, attach a statement to Form 2555-EZ showing how you figured the exclusion. Enter the amount that would have been excludable in 2015 on Form 2555-EZ to the left of line 18. Next to the amount enter "Exclusion of Income Earned in 2015." Include it in the total reported on line 18.

Note. If you claimed any deduction, credit, or exclusion on your 2015 return that is definitely related to the 2015 foreign earned income you are excluding under this rule, you may have to amend your 2014 income tax return to adjust the amount claimed. To do this, file Form 1040X.