

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.

(Also: Part I, §911, 1.911-1.)

Rev. Proc. 2010-17

SECTION 1. PURPOSE

.01 This revenue procedure provides information to any individual who failed to meet the eligibility requirements of §911(d)(1) of the Internal Revenue Code because adverse conditions in a foreign country precluded the individual from meeting those requirements for taxable year 2009.

.02 This revenue procedure lists the countries for which the eligibility requirements of §911(d)(1) are waived for taxable year 2009.

SECTION 2. BACKGROUND

.01 Section 911(a) of the Code allows a “qualified individual,” as defined in

§911(d)(1), to exclude foreign earned income and housing cost amounts from gross income. Section 911(c)(4) of the Code allows a qualified individual to deduct housing cost amounts from gross income.

.02 Section 911(d)(1) of the Code defines the term “qualified individual” as an individual whose tax home is in a foreign country and who is (A) a citizen of the United States and establishes to the satisfaction of the Secretary of the Treasury that the individual has been a *bona fide* resident of a foreign country or countries for an uninterrupted period that includes an entire taxable year, or (B) a citizen or resident of the United States who, during any period of 12 consecutive months, is present in a foreign country or countries during at least 330 full days.

.03 Section 911(d)(4) of the Code provides an exception to the eligibility requirements of §911(d)(1). An individual will be treated as a qualified individual with respect to a period in which the individual was a *bona fide* resident of, or was present in, a foreign country, if the individual left the country during a period for which the Secretary of the Treasury, after consultation with the Secretary of State, determines that individuals were required to leave because of war, civil unrest, or similar adverse conditions that precluded the normal conduct of business. An individual must establish that but for those conditions the individual could reasonably have been expected to meet the eligibility requirements.

.04 For 2009, the Secretary of the Treasury, in consultation with the Secretary of State, has determined that war, civil unrest, or similar adverse conditions precluded the normal conduct of business in the following countries beginning on the specified date:

Date of Departure

<i>Country</i>	<i>On or after</i>
Madagascar	March 18, 2009
Guinea	October 1, 2009

.05 Accordingly, for purposes of §911 of the Code, an individual who left one of the foregoing countries on or after the specified departure date during 2009 shall be treated as a qualified individual with respect to the period during which that individual was present in, or was a *bona fide* resident of, such foreign country, if the individual establishes a reasonable expectation of meeting the requirements of §911(d) but for those conditions.

.06 To qualify for relief under §911(d)(4) of the Code, an individual must have established residency, or have been physically present, in the foreign country on or prior to the date that the Secretary of the Treasury determines that individuals were required to leave the foreign country. Individuals who establish residency, or are first physically present, in the foreign country after the date that the Secretary prescribes shall not be treated as qualified individuals under §911(d)(4) of the Code. For example, individuals who are first physically present or establish residency in Madagascar after March 18, 2009, are not eligible to qualify for the exception provided in §911(d)(4) of the Code for taxable year 2009.

SECTION 3. INQUIRIES

A taxpayer who needs assistance on how to claim this exclusion, or on how to file an amended return, should contact a local IRS Office or, for a taxpayer residing or

traveling outside the United States, the nearest overseas IRS office.

SECTION 4. DRAFTING INFORMATION

The principal author of this revenue procedure is Kate Y. Hwa of the Office of Associate Chief Counsel (International). For further information regarding this revenue procedure contact Ms. Hwa at (202) 622-3840 (not a toll free call).