

1997



Department of the Treasury
Internal Revenue Service

Instructions for Form 2555-EZ

Foreign Earned Income Exclusion

General Instructions

TIP: *Do not* include on Form 1040, line 54 (Federal income tax withheld), any taxes a foreign employer withheld from your pay and paid to the foreign country's tax authority instead of to the U.S. Treasury.

What To Look for in 1998

The maximum foreign earned income exclusion for 1998 is \$72,000.

Purpose of Form

If you qualify, you may use Form 2555-EZ instead of **Form 2555**, Foreign Earned Income, to exclude a limited amount of your foreign earned income. You may not exclude more than your foreign earned income for the year.

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

Foreign country. A foreign country is any territory (including the air space, territorial waters, seabed, and subsoil) under the sovereignty of a government other than the United States. It does not include U.S. possessions or territories.

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.*

Who Qualifies

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

1. You meet the seven conditions listed at the top of Form 2555-EZ.

2. Your total foreign earned income received in 1997 is reported on Form 1040, line 7.

3. You do not have a housing deduction carryover from 1996.

4. You meet **either** the **bona fide residence test** (see the instructions for lines 1a and 1b on page 2) or the **physical presence test** (see the instructions for lines 2a and 2b on page 2).

5. You meet the **tax home test** (see the instructions for line 3 on page 2).

Note: *If your only earned income from work abroad is pay you received from the U.S. Government as its employee, you do*

not qualify for the foreign earned income exclusion. Do not 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 each must complete separate Forms 2555-EZ.

Community income. The amount of the exclusion is not 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.

Violation of Travel Restrictions

Generally, if you were in a foreign country in violation of U.S. travel restrictions, the following rules apply: **(1)** any time spent in that country may not be counted in determining if you qualify under the bona fide residence or physical presence test; and **(2)** any income earned in that country is not considered foreign earned income. See page 3 for a list of countries to which U.S. travel restrictions apply.

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 get this publication from most U.S. embassies and consulates or by writing to: Eastern Area Distribution Center, P.O. Box 25866, Richmond, VA 23286-8107. You can also download forms and publications from the IRS Internet web site at www.irs.ustreas.gov.

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. By March

1998, the IRS will publish in the Internal Revenue Bulletin a list of countries and the dates they qualify for the waiver. 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, write "Claiming Waiver" in the top margin on page 1 of your 1997 Form 2555-EZ.

Where To Attach

Attach Form 2555-EZ to Form 1040 in the order of the "Attachment Sequence No." shown in the upper right corner of the form.

Where To File

Send your return to the Internal Revenue Service Center, Philadelphia, PA 19255-0002.

When To File

Form 1040 is generally due April 15, 1998.

However, you are automatically granted a 2-month extension of time to file (to June 15, 1998) 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.

Special extension of time. The first year you plan to take the foreign earned income exclusion, you may not expect to qualify until after the automatic 2-month extension period described above. If this occurs, you may apply for an extension to a date after you expect to qualify.

To apply for this extension, complete and file **Form 2350**, Application for Extension of Time To File U.S. Income Tax Return, with the Internal Revenue

Service Center, Philadelphia, PA 19255, before the due date of your return. Interest is charged on the tax not paid by the regular due date as explained above.

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**, Amended U.S. Individual Income Tax Return. 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 do not wish to claim the exclusion. If you revoke your choice, you may not claim the exclusion for your next 5 tax years without the approval of the Internal Revenue Service. See Pub. 54 for details.

Earned income credit. You **cannot** take the earned income credit if you claim the exclusion.

Foreign tax credit or deduction. You may not claim a credit or deduction for foreign income taxes paid on income you exclude. If all your foreign earned income is excluded, you may not claim a credit or deduction for the foreign taxes paid on that income. If only part of your income is excluded, you may not 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, get **Pub. 590**, Individual Retirement Arrangements (IRAs).

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.

No specific rule determines if you are a bona fide resident of a foreign country because the determination involves 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 to the authorities of a foreign country in which you earned income that you are not a resident of that country, and the authorities hold that you are not subject to their income tax laws as a resident, you are not considered a bona fide resident of that country.

If you submitted such a statement and the authorities have not made an adverse determination of your nonresident status, you are not 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.

To figure the minimum of 330 full days' 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 may 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.

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 may qualify under this test if the time requirements are met. See Pub. 54 for details on how to make this choice.*

Line 3

Tax Home Test

To meet this test, your **tax home** must be in a foreign country, or countries, 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 do not 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 are not 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 does not 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 **do not** meet the tax home test. You **may not** claim the foreign earned income exclusion.

Line 12

Complete columns (a) through (d) if you were present in the United States or any of its possessions in 1997. Do not 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. **Do not** 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 may not be excluded.

Line 14

Enter the number of days in your qualifying period that fall within 1997. 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, 1997. You maintain the tax home and residence until January 31, 1999. The number of days in your qualifying period that fall within 1997 is 140 (August 14 through December 31, 1997).

Line 17

Enter the total foreign earned income you **earned and received** in 1997. Report the amount in U.S. dollars using the exchange rates in effect when you actually received the income. Be sure to report on Form 1040 all income you received in 1997 regardless of when you earned it.

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 1996 in 1997 because of your employer's payroll period, that income may be treated as earned in 1997. If you cannot treat that wage or salary payment as earned in 1997, the rules explained on this page under **Income earned in prior year** apply. See Pub. 54 for more details.

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 **does not** include—

- Amounts from 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, or
- Amounts received after the end of the tax year following the tax year in which you performed the services.

Income earned in prior year. Foreign earned income received in 1997 for services you performed in 1996 may be excluded from your 1997 gross income if, and to the extent, the income would have been excludable if you had received it in 1996.

If you are excluding income under this rule, **do not** 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 1996 on Form 2555-EZ to the left of line 18. Next to the amount write "Exclusion of Income Earned in 1996." Include it in the total reported on line 18.

Note: *If you claimed any deduction, credit, or exclusion on your 1996 return that is definitely related to the 1996 foreign earned income you are excluding under this rule, you may have to amend your 1996 income tax return to adjust the amount claimed. To do this, file Form 1040X.*

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Internal Revenue Code section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping	26 min.
Learning about the law or the form	17 min.
Preparing the form	42 min.
Copying, assembling, and sending the form to the IRS..	35 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the Instructions for Form 1040.

List of Countries to Which Travel Restrictions Apply

Country	Time Periods		
	Beginning	and	Ending
Cuba	January 1, 1987		Still in effect
Iraq	August 2, 1990		Still in effect
Libya	January 1, 1987		Still in effect