

Reg. Section 1.911-4(b)(2)

Determination of housing cost amount eligible for exclusion or deduction

(a) Definition of housing cost amount. The term "housing cost amount" means an amount equal to the reasonable expenses paid or incurred (as defined in section 7701(a)(25)) during the taxable year by or on behalf of the individual attributable to housing in a foreign country for the individual and any spouse or dependents who reside with the individual (or live in a second foreign household described in paragraph (b)(5) of this section) less the base housing amount as defined in paragraph (c) of this section. The housing cost amount must be reduced by the amount of any military or section 912 allowance or similar allowance excludable from gross income that is intended to compensate the individual or the individual's spouse in whole or in part for the expenses of housing during the same period for which the individual claims a housing cost amount exclusion or deduction.

(b) Housing expenses.

(1) Included expenses. For purposes of paragraph (a) of this section, housing expenses include rent, the fair rental value of housing provided in kind by the employer, utilities (other than telephone charges), real and personal property insurance, occupancy taxes not described in paragraph (b)(2)(v) of this section, nonrefundable fees paid for securing a leasehold, rental of furniture and accessories, household repairs, and residential parking.

(2) Excluded expenses. Housing expenses do not include:

(i) The cost of house purchase, improvements, and other costs that are capital expenditures;

(ii) The cost of purchased furniture or accessories or domestic labor (maids, gardeners, etc.);

(iii) Amortized payments of principal with respect to an evidence of indebtedness secured by a mortgage on the taxpayer's housing;

(iv) Depreciation of housing owned by the taxpayer, or amortization or depreciation of capital improvements made to housing leased by the taxpayer;

(v) Interest and taxes deductible under section 163 or 164 or other amounts deductible under section 216(a) (relating to deduction of interest and taxes by cooperative housing corporation tenant);

(vi) The expenses of more than one foreign household except as provided in paragraph (b)(5) of this section;



(vii) Expenses excluded from gross income under section 119;

(viii) Expenses claimed as deductible moving expenses under section 217;
or

(ix) The cost of a pay television subscription.

(3)Limitation. Housing expenses are taken into account for purposes of this section only to the extent attributable to housing for portions of the taxable year within the period during which the individual satisfies the requirements of § 1.911-2(a). Housing expenses are not taken into account for the period during which the value of the individual's housing is excluded from gross income under section 119, unless the individual maintains a second foreign household described in paragraph (b)(5) of this section. If an individual maintains two foreign households, only expenses incurred with respect to the abode which bears the closest relationship, not necessarily geographic, with respect to the individual's tax home shall be taken into account, unless one of the households is a second foreign household.

(4)Reasonableness. An amount paid for housing shall not be treated as reasonable, for purposes of paragraph (a) of this section, to the extent that the expense is lavish or extravagant under the circumstances.

(5)Expenses of a second foreign household.

(i) In general. The term "second foreign household" means a separate abode maintained by an individual outside of the U.S. for his or her spouse or dependents (who, if minors, are in the individual's legal custody or the joint custody of the individual and the individual's spouse) at a place other than the tax home of the individual because of adverse living conditions at the individual's tax home. If an individual maintains a second foreign household the expenses of the second foreign household may be included in the individual's housing expenses under paragraph (b)(1) of this section. Under no circumstances shall an individual be considered to maintain more than one second foreign household at the same time.

(ii) Adverse living conditions. Solely for purposes of paragraph (b)(5)(i) of this section, adverse living conditions are living conditions which are dangerous, unhealthful, or otherwise adverse. Adverse living conditions include a state of warfare or civil insurrection in the general area of the individual's tax home. Adverse living conditions exist if the individual resides on the business premises of the employer for the convenience of the employer and, because of the nature of the business (for example, a construction site or drilling rig), it is not feasible for the employer to provide housing for the individual's spouse or dependents. The criteria used by the Department of State in granting a separate maintenance allowance are relevant, but not determinative, for purposes of determining whether a separate household is provided because of adverse living conditions.