

Reg. Section 1.911-7(a)(1)

Procedural Rules

(a) Elections of a qualified individual.



(1) In general. In order to receive either exclusion provided by section 911(a), a qualified individual must elect, separately with respect to each exclusion, to exclude foreign earned income under section 911(a)(1) and the housing cost amount under section 911(a)(2). Any such elections may be made on Form 2555 or on a comparable form. Each election must be filed either with the income tax return, or with an amended return, for the first taxable year of the individual for which the election is to be effective. An election once made remains in effect for that year and all subsequent years unless revoked under paragraph (b) of this section. Each election shall contain information sufficient to determine whether the individual is a qualified individual as provided in §1.911-2. The statement shall include the following information:

- (i) The individual's name, address, and social security number;
- (ii) The name of the individual's employer;
- (iii) Whether the individual claimed exclusions under section 911 for earlier years after 1981 and within the five preceding taxable years;
- (iv) Whether the individual has revoked a previously made election and the taxable year for which such revocation was effective;
- (v) The exclusion or exclusions the individual is electing;
- (vi) The foreign country or countries in which the individual's tax home is located and the date when such tax home was established;
- (vii) The status (either bona fide residence or physical presence) under which the individual claims the exclusion;
- (viii) The individual's qualifying period of residence or presence;
- (ix) The individual's foreign earned income for the taxable year including the fair market value of all noncash remuneration; and,

(x) If the individual elects to exclude the housing cost amount, the individual's housing expenses.

(2) Requirement of a return.

(i) In general. In order to make a valid election under this paragraph (a), the election must be made:

(A) With an income tax return that is timely filed (including any extensions of time to file),

(B) With a later return filed within the period prescribed in section 6511(a) amending the foregoing timely filed income tax return,

(C) With an original income tax return that is filed within one year after the due date of the return (determined without regard to any extension of time to file); this one year period does not constitute an extension of time for any purpose-it is merely a period during which a valid election may be made on a late return, or

(D) With an income tax return filed after the period described in paragraphs (a)(2)(i)(A), (B), or (C) of this section provided-

(1) The taxpayer owes no federal income tax after taking into account the exclusion and files Form 1040 with Form 2555 or a comparable form attached either before or after the Internal Revenue Service discovers that the taxpayer failed to elect the exclusion; or

(2) The taxpayer owes federal income tax after taking into account the exclusion and files Form 1040 with Form 2555 or a comparable form attached before the Internal Revenue Service discovers that the taxpayer failed to elect the exclusion.

(3) A taxpayer filing an income tax return pursuant to paragraph (a)(2)(i)(D)(1) or (2) of this section must type or legibly print the following statement at the top of the first page of the Form 1040: "Filed Pursuant to Section 1.911-7(a)(2)(i)(D)."

(ii) Election for 1982 and 1983 taxable years. Solely for purposes of paragraph (a)(2)(i)(A) of this section, an income tax return for any taxable year beginning before January 1, 1984 shall be considered timely filed if it is filed on or before July 23, 1985.

(3)Housing cost amount deduction. An individual does not have to make an election in order to claim the housing cost amount deduction. However, such individual must provide the Commissioner with information sufficient to determine the individual's correct amount of tax. Such information shall include the following: The individual's name, address, and social security number; the name of the individual's employer; the foreign country in which the individual's tax home was established; the status under which the individual claims the deduction; the individual's qualifying period of residence or presence; the individual's foreign earned income for the taxable year; and the individual's housing expenses.

(4)Effect of immaterial error or omission. An inadvertent error or omission of information required to be provided to make an election under this paragraph (a) shall not render the election invalid if the error or omission is not material in determining whether the individual is a qualified individual or whether the individual intends to make the election.

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