

Rev. Proc. 98-38

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 1997.

02. The Internal Revenue Service has previously listed countries for which the eligibility requirements of § 911(d)(1) of the Code are waived under § 911(d)(4) because of adverse conditions in those countries during the time periods stated. See Rev. Proc. 97-51, 1997-45 I.R.B. 9, Rev. Proc. 96-33, 1996-1 C.B. 720, and Rev. Proc. 95-45, 1995-2 C.B. 412. This revenue procedure lists countries added to the list in 1997, for which the eligibility requirements of § 911(d)(1) are waived. Rev. Proc. 97-51, Rev. Proc. 96-33, and Rev. Proc. 95-45 remain in full force and effect; the periods listed therein are omitted from this revenue procedure for brevity.

SEC. 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)(3) 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 1997, the Secretary of the Treasury in consultation with the Secretary of State, has determined that war, civil unrest, or similar adverse conditions that precluded the normal conduct of business existed in the following countries beginning on or after the specified periods:

	<i>Date of Departure</i>
<i>Country</i>	<i>On or After</i>
Albania	March 12, 1997
Cambodia	July 9, 1997
Central African Republic	March 28, 1997
Democratic Republic of the Congo (formerly Zaire)	May 3, 1997

	<i>Date of Departure</i>
<i>Country</i>	<i>On or After</i>
Republic of the Congo	June 7, 1997
Sierra Leone	May 28, 1997
Tajikistan	November 26, 1997

.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 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 pursuant to § 911(d)(4)(C). For example, individuals who are first physically present in Albania after March 12, 1997, are not eligible to qualify for the exemption prescribed in § 911(d)(4) of the Code.

.07 In order to assist those individuals who are filing prior year or amended tax returns, the Internal Revenue Service is republishing the country added to the list in 1996 for which the eligibility requirements of § 911(d)(1) of the Code are waived under § 911(d)(4) for the year 1996:

<i>Country</i>	<i>Date of Departure</i>	<i>On or Before</i>
	<i>On or After</i>	
Central African Republic	May 21, 1996	September 12, 1996

No new departure dates were added to the list for tax years 1994 and 1995.

SEC. 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.

SEC. 4. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 97-51, 1997-45 I.R.B. 9 is supplemented.

DRAFTING INFORMATION

The principal author of this revenue procedure is Leslie B. van der Wal of the Office of Associate Chief Counsel (International). For further information regarding this revenue procedure contact Mr. Carl Cooper at (202) 622-3840 (not a toll-free call).