

# Global Watch

International Assignment Services

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## United States

### *IRS waives Section 911 requirements for departures from specified countries*

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*This article is intended to highlight general issues and is not a comprehensive statement of the topic or the laws of that country.*

### ***In Brief***

The Internal Revenue Service (IRS) recently issued [Revenue Procedure 2012-21](#) which waives the Internal Revenue Code Section 911(d)(1) "qualified individual" requirement for certain individuals living abroad who wish to claim beneficial income and housing exclusions under Section 911. This favorable guidance applies to U. S. citizens or residents who established residency or were physically present in Egypt, Libya, Syria, or Yemen before certain dates but thereafter departed these countries because of war, civil unrest, or similar adverse conditions.

### **Section 911 exclusion**

Generally, United States citizens and residents who live abroad and meet the definition of a "qualified individual," can elect to exclude from gross income the foreign earned income and housing costs of such individual under Section 911 within certain limits. Under Section

911(d)(1), a person is a "qualified individual" if his or her tax home is in a foreign country and is (i) a U.S. citizen who establishes bona fide residency in a foreign country or countries for an uninterrupted period that includes an entire taxable year; or (ii) a U.S. citizen or resident who, during any period of 12 consecutive months, is present in a foreign country or countries during at least 330 full days.

An exception to this rule is provided under Section 911(d)(4), *Waiver of Period of Stay in Foreign Country*. This exception allows a person to be treated as a qualified individual for the period in which such individual was a bona fide resident of, or was present in a foreign country, if the individual left the country because of war, civil unrest, or similar adverse conditions that precluded the normal conduct of business. The IRS and the U.S. Department of State determined that these conditions precluded the normal



conduct of business in Egypt, Libya, Syria, and Yemen after certain dates in 2011.

### Requirements for waiver

In order to claim this beneficial waiver, the individual must have either established residency or been physically present in Egypt, Libya, Syria, or Yemen before the dates in the chart below. In addition, the individual must have left such country on or after the following departure dates:

Country	Date of Departure
Egypt	February 1, 2011
Libya	February 21, 2011
Syria	April 25, 2011
Yemen	May 25, 2011

The individual must also establish that but for the war, civil unrest, or other adverse conditions in these jurisdictions, he or she could

reasonably have been expected to meet the Section 911(d) requirements.

### *The Bottom Line*

Companies employing U.S. citizens or residents that were expecting to meet the "qualified individual" requirements under Section 911 with respect to assignments in Egypt, Syria, Libya, or Yemen should consider the impact of this revenue procedure on 2011 U.S. personal income tax returns. The waiver could allow a claim for foreign earned income and housing exclusions that would have otherwise been disallowed.

Taxpayers should consider whether exclusions available under Section 911 will provide the greatest tax benefit (an often complex determination due to the foreign tax credit and related limitations.) Because the countries included in the Revenue Procedure have relatively low tax rates, a Section 911 election may be beneficial.

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