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flash Alert

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United States – New 2015 Adjusted Sec. 911-Related Housing Cost Limitations

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The U.S. Internal Revenue Service (IRS) has released the list of foreign locations with high housing costs relative to the United States.¹ This list is used for individuals living in foreign locations and claiming the foreign housing cost exclusion on their U.S. income tax returns under section 911 of the U.S. Internal Revenue Code (I.R.C.). (For prior coverage of this topic, see [Flash International Executive Alert 2014-047](#), April 25, 2014.)

Why This Matters

Employers seeking to accurately estimate the tax cost of an assignment from the U.S. to a foreign location may need to update their calculations to account for changes to the adjusted housing cost limitations. While Notice 2015-33 (the "Notice") does not contain many significant changes, the housing cost limitation for Sydney (Australia) increased from \$32,782 for 2014 to \$70,000 for 2015. Only one other location experienced a limitation increase (Quito, Ecuador) which was limited to \$700 (from \$37,500 in 2014 to \$38,200 in 2015). The limitations decreased for almost 60 percent of the locations, while 20 locations were eliminated and only four new locations were added (Kinshasa, Democratic Republic of the Congo, San Salvador, El Salvador, all cities in France not otherwise specifically identified, and New Karlsruhe, Germany).

Background

I.R.C. section 911 allows qualifying individuals whose tax home is in a foreign country, and who meet specified requirements as to residence or presence in a foreign country, to exclude certain amounts of foreign earned income and housing amounts from U.S. tax. The foreign earned income exclusion amount is indexed annually and the maximum amount for 2015 is \$100,800. The housing cost exclusion generally is equal to the housing expenses of the taxpayer to the extent they exceed a base equal to 16 percent of the foreign earned income exclusion (\$16,128 for 2015), subject to a limitation, or cap, equal to 30 percent of the foreign earned income exclusion (therefore \$30,240 for 2015). However, for certain foreign localities with high housing costs (see below), the 30-percent limitation can be adjusted by the U.S. Department of the Treasury ("Treasury").

Notice 2015-33

The Notice provides a table that identifies localities within foreign countries with high housing costs relative to housing costs in the United States. The table provides an adjusted limitation to the excludible housing expenses for individuals who qualify to claim the section 911 exclusions for 2015. Thus, a qualified individual incurring housing expenses in one or more of the high-cost localities identified in the table for 2015, may use the adjusted limit provided (in lieu of \$30,240) in determining the excludible housing cost amount. A qualified individual who incurs housing expenses in a locality other than one of those listed in the table is subject to the housing expense cap of \$30,240 for 2015.

Use of 2015 Amounts for 2014

Section 4 of Notice 2015-33 provides that in cases where the 2015 housing limitation amounts provided in the Notice are higher than those provided for 2014² (i.e., Sydney, Australia and Quito, Ecuador), taxpayers can elect to use the higher 2015 amounts on their 2014 income tax returns. Additionally, the Notice advises that the IRS and Treasury anticipate that future annual notices will allow a similar election.

Footnotes:

1 Notice 2015-33 is effective for taxable years beginning on or after January 1, 2015. Notice 2015-33 will appear in *Internal Revenue Bulletin* 2015-18 dated May 4, 2015. For Notice 2015-33, see: <http://www.irs.gov/pub/irs-drop/n-15-33.pdf>.

2 Notice 2014-29 provides the table of adjusted housing cost limitations applicable to tax year 2014, and that list also appears in the instructions to Form 2555 (2014).

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The following information is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230 as the content of this document is issued for general informational purposes only.

The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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