

# GMS Flash Alert

2020-167 | April 13, 2020



## United States - Sec. 911 Guidance from IRS for Congo, Haiti, Iraq, Sudan and Venezuela

On April 10, 2020, the U.S. Internal Revenue Service (IRS) released an advance copy of Revenue Procedure 2020-14,<sup>1</sup> which concerns individuals who failed to meet the eligibility requirements of either the bona fide residence test or the physical presence test under U.S. Internal Revenue Code section 911(d)(1) and thus may not exclude foreign earned income and housing cost amounts from gross income because war, civil unrest, or similar adverse conditions in a foreign country precluded the individuals from satisfying these requirements.

This Revenue Procedure does not address the issue of individuals who have departed from foreign countries by reason of the COVID-19 pandemic. However, it states that the IRS is monitoring developments in this area, and additional guidance may be issued for 2020.

### WHY THIS MATTERS

Individuals who would otherwise qualify for the foreign earned income and foreign housing cost exclusions, may lose the benefit of those exclusions if they leave a country prior to fulfilling the time requirements, which could affect the amount of tax they owe.

A special exception to the time requirements to qualify for those exclusions is allowed for persons who are forced to leave a country designated by the IRS due to war, civil unrest, or other adverse conditions.

### Revenue Procedure 2020-14: Democratic Republic of the Congo, Haiti, Iraq, Sudan and Venezuela

The Revenue Procedure provides that the Treasury Department, in consultation with the Department of State, has determined that for tax year 2019, war, civil unrest, or similar adverse conditions precluded the normal conduct of business in five countries.<sup>2</sup> An individual who left one of those countries on or after a specified date will be treated as a

"qualified individual" for purposes of section 911 with respect to the period during which that person was present in, or was a bona fide resident of, the country, provided that the individual establishes a reasonable expectation of meeting the requirements of section 911(d)(1) but for the adverse conditions. An individual who was first present, or established residency, in the country after the specified date, is not eligible to qualify for the exception.

The countries and effective dates listed in Rev. Proc. 2020-14 are:

- Democratic Republic of the Congo, for departures on or after January 13, 2019;
- Haiti, for departures on or after February 14, 2019;
- Iraq, for departures on or after May 14, 2019;
- Sudan, for departures on or after April 11, 2019;
- Venezuela, for departures on or after January 24, 2019.

## FOOTNOTES:

1 Rev. Proc. 2020-14 appears in the *Internal Revenue Bulletin* 2020-16 for Monday, April 13, 2020, on page 661. See <https://www.irs.gov/pub/irs-irbs/irb20-16.pdf>.

2 For prior coverage of other countries covered under IRS guidance related to section 911(d)(1), see GMS [Flash Alert 2019-064](#) (April 1, 2019).

\* \* \* \*

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