



GMS Flash Alert

2021-124 | April 28, 2021



United States – Section 911 Guidance from IRS for Iraq

On April 23, 2021, the U.S. Internal Revenue Service (IRS) released an advance copy of Revenue Procedure 2021-21,¹ 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 would not be able to 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 normal conduct of business and prevented individuals from satisfying these requirements. The Revenue Procedure released on April 23:

- does not list any countries for which the eligibility requirements of section 911(d)(1) are waived for **tax year 2021**; but
- adds Iraq to the list of countries for which the eligibility requirements of section 911(d)(1) are waived for **tax year 2020**.²

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.

Context

This Revenue Procedure expands on the relief provided by Revenue Procedure 2020-27,³ which states that for the 2019 and 2020 tax years, the global health emergency caused by the COVID-19 virus is considered an “adverse condition” that precluded the normal conduct of business for the period from December 1, 2019 to July 15, 2020, for the People’s Republic of China (excluding Hong Kong and Macau) and for the period February 1, 2020 to July 15, 2020, for all other foreign countries. Revenue Procedure 2021-21 does not address the issue of individuals who have departed from foreign countries by reason of the COVID-19 pandemic during 2021, as it remains to be seen whether the IRS will issue similar guidance in regards to the 2021 tax year.

Revenue Procedure 2021-21: Iraq

The Revenue Procedure provides that the Treasury Department, in consultation with the Secretary of State, has determined that for tax year 2020, war, civil unrest, or similar adverse conditions precluded the normal conduct of business in Iraq beginning on or after March 25, 2020. An individual who left Iraq on or after March 25, 2020, 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, Iraq, provided that the individual establishes a reasonable expectation of meeting the requirements of section 911(d) but for the adverse conditions. An individual who was first physically present, or established residency, in Iraq after March 25, 2020, is not eligible to qualify for the exception.

FOOTNOTES:

1 Rev. Proc. 2021-21 appears in the *Internal Revenue Bulletin* 2021-17 for Monday, April 26, 2021, on page 1118. See <https://www.irs.gov/pub/irs-irbs/irb21-17.pdf>.

2 For prior coverage of the countries covered under IRS guidance related to section 911(d)(1) for the 2019 tax year, see *GMS Flash Alert 2020-167* (April 13, 2020).

3 For prior coverage of the relief provided by Rev. Proc. 2020-27, see *GMS Flash Alert 2020-188* (April 22, 2020).

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Please join us for a webcast on Thursday, May 6, 2021! "Global Mobility Reimagined: Finding the right target operating model for your talent mobility program"

In the webcast, topics covered will include:

- Best practices on developing a Target Operating Model (TOM) that is right for your organization
- How to align your mobility strategy and TOM with your organization's talent and business strategy
- How to build a business case to support a managed services strategy
- How to design a managed services operating model including agreed services scope, processes, and partner governance model
- How to draft managed services contracts to include flexible pricing models, SLA, and KPIs
- How to support negotiation to balance between service quality, operational outcomes, and pricing
- Importance of having key transition and change management support to establish a sustainable and scalable operating model.

Date: May 6, 2021

Time: 8:00 a.m.–9:00 a.m. New York | 1:00 p.m.–2:00 p.m. London | 8:00 p.m.–9:00 p.m. China and Singapore

To register and for more information, go to:

https://event.webcasts.com/starthere.jsp?ei=1447267&tp_key=edbe40f033

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