

EXCERPT FROM LETTER DATED 18 MARCH 1946 FROM TREASURY DEPARTMENT

A U.S. citizen is liable for Federal Income Tax on his entire income, from whatever source derived, except such items as may be exempted from the tax by statutory provisions.

Under the provisions of Section 116 (a) (1) of the Internal Revenue Code I.R.C., as amended, for taxable years beginning after December 31, 1942, citizens of the U.S. who receive compensation for personal services performed without the U.S. are entitled to exclude from gross income the amount of such compensation if they are bona fide residents of a foreign country or countries throughout the entire taxable year, provided that such compensation is not paid by the U. S. or any agency thereof.

A citizen taking up residence without the U. S. in the course of the taxable year is not entitled to the exemption accorded by Section 116 (a) (1) of the Code for such taxable year.

The Bureau holds that a U. S. citizen who is absent from the country on some temporary assignment and who intends to return to the U.S. upon completion of such temporary employment cannot be classified as a bona fide resident of a foreign country or countries within the meaning of Section 116 (a) (1) of the Code even though he may be outside the U.S. throughout the entire taxable year. If he expects to take up residence outside the U.S. during the taxable year 1946, Section 116 (a) (1) of the Code is not applicable to any compensation which he may receive during 1946 for his services performed outside the U.S.; therefore, the compensation received in 1946 for his services, wherever performed, as well as any other income not exempted from the tax by statutory provisions, will be fully taxable.

With respect to 1947 and subsequent years, if at the proper time he can establish to the satisfaction of the Commissioner of Internal Revenue that he was a bona fide resident of a foreign country or countries throughout the entire taxable year, he will be entitled to the benefits of Section 116 (a) (1) of the Code, unless he is employed by the U.S. or any agency thereof. Since the law requires bona fide residences for the entire taxable year, it can hardly be ruled in advance of the termination of the taxable year involved that an individual is a bona fide resident of a foreign country for such year; that is, it cannot be determined at this time whether or not an individual is a bona fide resident of a foreign country for 1947 and subsequent years.

The provisions of Section 116 (a) (1) of the Code are applicable only to compensation received for personal services performed outside of the U.S. and have no application to other types of income nor to any income derived from sources within the U.S. Therefore, even though he may be able to qualify as a bona fide resident of a foreign country or countries during

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1947 and subsequent years, any income not exempted from the tax by statutory provisions is fully taxable.

Sgd. E. I. McLarney
Acting Deputy Commissioner

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