

Do You Work for a Foreign Government or International Organization in the U.S.?

You are not a U.S. Citizen?

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The goal of this article is to provide a comprehensive checklist of information for the U.S. person to consider prior to accepting an assignment outside the U.S. This article is not designed to teach you the technical competence required to perform self compliance; however it will certainly arm you with the knowledge to determine if your U.S. tax preparer knows all that they should know to provide you with technically competent professional services.

IRC Sec 893- Compensation of Employees of Foreign Governments or International Organizations

An International Organization is an organization designated by the President of the U.S. through an Executive Order to qualify from the privileges, exemptions, and immunities provided in the International Organizations Immunities Act.

Under the IRS IRC Sec893, Only the compensation- including wages, fees or salaries of non U.S. citizen employees received from a foreign government or international organization for work performed in the U.S., shall not be included in gross income and will be exempt from U.S. taxation.

The above exception is limited by the execution and filing of the waiver provided for in section 247(b) of the Immigration and Nationality Act (I.N.A.) (8 U.S.C. 1257(b)). This waiver obtained using U.S.C.I.S. Form I-508- Request for Waiver of Certain Rights, Privileges, Exemptions and Immunities. Form I-508 is used by Lawful Permanent Residents and nonimmigrant statuses conferred under I.N.A. 101(a)(15)(A), (E) or (G)- to waive diplomatic rights, privileges, exemptions and immunities to maintain, acquire or obtain lawful permanent residence.

Lawful Permanent Residents in such occupations who do not waive the exemption using Form I-508 and who fail to pay their U.S. income taxes may be adjusted to I.N.A. 101(a)(15) A, G or E status. Nonimmigrants in I.N.A. 101(a)(15) A, G or E status who do not waive the exemption and who fail to pay their U.S. income taxes, may be unable to adjust status to Lawful Permanent Resident status.

Taxpayers affected by IRC Sec 893 earning other sources income, including self-employment, interest, dividends, rents, royalties, etc.. within the U.S. (from U.S. sources) are not exempt income, unless affected by a U.S. income tax treaty provisions and must be reported on Form 1040NR- U.S. Nonresident Alien Income Tax Return. Additionally IRC Sec 893 will not apply in the case of foreign government employees whose employment services are primarily in connection with a commercial activity.

In the case of a foreign government employee the U.S. requires that the foreign government grant an equivalent exemption to employees of the U.S. government performing services in that foreign country. Further the Secretary of State is required to certify to the Secretary of the Treasury the names of those foreign countries that grant an equivalent exemption to employees of the U.S. government and the character of the services performed by the employees in the foreign country.

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