

## ***Services Performed for Foreign Employer***

If you were paid by a foreign employer, your U.S. source income may be exempt from U.S. tax, but only if you meet one of the situations discussed next.

**Employees of foreign persons, organizations, or offices.** Income for personal services performed in the United States as a nonresident alien is not considered to be from U.S. sources and is tax exempt if you meet all three of the following conditions.

1. You perform personal services as an employee of or under a contract with a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in a trade or business in the United States; or you work for an office or place of business maintained in a foreign country or possession of the United States by a U.S. corporation, a U.S. partnership, or a U.S. citizen or resident.
2. You perform these services while you are a nonresident alien temporarily present in the United States for a period or periods of not more than a total of 90 days during the tax year.
3. Your pay for these services is not more than \$3,000.

If you do not meet all three conditions, your income from personal services performed in the United States is U.S. source income and is taxed according to the rules in chapter 4.

If your pay for these services is more than \$3,000, the entire amount is income from a trade or business within the United States. To find if your pay is more than \$3,000, do not include any amounts you get from your employer for advances or reimbursements of business travel expenses, if you were required to and did account to your employer for those expenses. If the advances or reimbursements are more than your expenses, include the excess in your pay for these services.

A day means a calendar day during any part of which you are physically present in the United States.

### **Example 1.**

During 2014, Henry Smythe, a nonresident alien from a nontreaty country, worked for an overseas office of a U.S. partnership. Henry, who uses the calendar year as his tax year, was temporarily present in the United States for 60 days during 2014 performing personal services for the overseas office of the partnership. That office paid him a total gross salary of \$2,800 for those services. During 2014, he was not engaged in a trade or business in the United States. The salary is not considered U.S. source income and is exempt from U.S. tax.

### **Example 2.**

The facts are the same as in **Example 1**, except that Henry's total gross salary for the services performed in the United States during 2014 was \$4,500. He received \$2,875 in 2014, and \$1,625 in 2015. During 2014, he was engaged in a trade or business in the United States because the compensation for his personal services in the United States was more than \$3,000. Henry's salary is U.S. source income and is taxed under the rules in chapter 4.

**Crew members.** Compensation for services performed by a nonresident alien in connection with the individual's temporary presence in the United States as a regular crew member of a foreign vessel (for example, a boat or ship) engaged in transportation between the United States and a foreign country or U.S. possession is not U.S. source income and is exempt from U.S. tax. This exemption does not apply to compensation for services performed on foreign aircraft.

**Students and exchange visitors.** Nonresident alien students and exchange visitors present in the

United States under "F," "J," or "Q" visas can exclude from gross income pay received from a foreign employer.

This group includes bona fide students, scholars, trainees, teachers, professors, research assistants, specialists, or leaders in a field of specialized knowledge or skill, or persons of similar description. It also includes the alien's spouse and minor children if they come with the alien or come later to join the alien.

A nonresident alien temporarily present in the United States under a "J" visa includes an alien individual entering the United States as an exchange visitor under the Mutual Educational and Cultural Exchange Act of 1961.

**Foreign employer.** A foreign employer is:

- A nonresident alien individual, foreign partnership, or foreign corporation, or
- An office or place of business maintained in a foreign country or in a U.S. possession by a U.S. corporation, a U.S. partnership, or an individual who is a U.S. citizen or resident.

The term "foreign employer" does not include a foreign government. Pay from a foreign government that is exempt from U.S. income tax is discussed in [chapter 10](#).

**Income from certain annuities.** Do not include in income any annuity received under a qualified annuity plan or from a qualified trust exempt from U.S. income tax if you meet both of the following conditions.

1. You receive the annuity only because:

- a. You performed personal services outside the United States while you were a nonresident alien, or
- b. You performed personal services inside the United States while you were a nonresident alien and you met the three conditions, described earlier, under [Employees of foreign persons, organizations, or offices](#).

2. At the time the first amount is paid as an annuity under the plan (or by the trust), 90% or more of the employees for whom contributions or benefits are provided under the annuity plan (or under the plan of which the trust is a part) are U.S. citizens or residents.

If the annuity qualifies under condition (1) but not condition (2) above, you do not have to include the amount in income if:

- You are a resident of a country that gives a substantially equal exclusion to U.S. citizens and residents, or
- You are a resident of a beneficiary developing country under Title V of the Trade Act of 1974.

If you are not sure whether the annuity is from a qualified annuity plan or qualified trust, ask the person who made the payment.

**Income affected by treaties.** Income of any kind that is exempt from U.S. tax under a treaty to which the United States is a party is excluded from your gross income. Income on which the tax is only limited by treaty, however, is included in gross income. See [chapter 9](#).