

115TH CONGRESS  
2D SESSION

# H. R. 7358

To amend the Internal Revenue Code of 1986 to provide an alternative exclusion for nonresident citizens of the United States living abroad.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 2018

Mr. HOLDING introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide an alternative exclusion for nonresident citizens of the United States living abroad.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tax Fairness for  
5 Americans Abroad Act of 2018”.

6 **SEC. 2. TAXATION OF NONRESIDENT CITIZENS.**

7 (a) IN GENERAL.—The Internal Revenue Code of  
8 1986 is amended by inserting after section 911 the fol-  
9 lowing new section:

1 **“SEC. 911A. ALTERNATIVE FOR NONRESIDENT CITIZENS OF**  
2 **THE UNITED STATES LIVING ABROAD.**

3 “(a) EXCLUSION OF FOREIGN INCOME FROM GROSS  
4 INCOME.—In the case of a qualified nonresident citizen,  
5 there shall be excluded from the gross income of such indi-  
6 vidual, and exempt from taxation under this subtitle, for  
7 any taxable year—

8 “(1) the foreign earned income of such indi-  
9 vidual, and

10 “(2) the foreign unearned income of such indi-  
11 vidual.

12 “(b) DEFINITIONS.—For purposes of this section—

13 “(1) IN GENERAL.—Unless otherwise provided,  
14 terms used in this section have the same meaning  
15 given such terms in section 911.

16 “(2) QUALIFIED NONRESIDENT CITIZEN.—The  
17 term ‘qualified nonresident citizen’ means, with re-  
18 spect to a taxable year, a nonresident citizen who—

19 “(A) has not made the election described  
20 in section 911 for such taxable year, and

21 “(B) makes an election under this para-  
22 graph.

23 “(3) FOREIGN EARNED INCOME.—The term  
24 ‘foreign earned income’ has, with respect to a tax-  
25 able year, the meaning given such term in section  
26 911(b)—

1           “(A) without regard to paragraph (2)  
2           thereof, and

3           “(B) if ‘during the taxable year’ were sub-  
4           stituted in paragraph (1)(A) for ‘during the pe-  
5           riod described in subparagraph (A) or (B) of  
6           subsection (d)(1), whichever is applicable’.

7           “(4) FOREIGN UNEARNED INCOME.—

8           “(A) IN GENERAL.—The term ‘foreign un-  
9           earned income’ means income other than for-  
10          eign earned income that is sourced outside the  
11          United States.

12          “(B) EXCEPTION.—The term ‘foreign un-  
13          earned income’ shall only include income from  
14          the sale of personal property to the extent such  
15          income is attributable to periods during which  
16          the individual was a qualified nonresident cit-  
17          izen.

18          “(c) EXCLUSION OF GAIN DURING TIME AS QUALI-  
19          FIED NONRESIDENT CITIZEN.—There shall be excluded  
20          from gross income of an individual any foreign unearned  
21          income from the sale of personal property to the extent  
22          such income is attributable to periods during which the  
23          individual was a qualified nonresident citizen.

1       “(d) OTHER RULES.—Rules similar to the rules of  
2 paragraphs (4), (5), (6), (7), and (8) of section 911(d)  
3 shall apply for purposes of this subsection.”.

4       (b) CONFORMING AMENDMENT.—The table of sec-  
5 tions for subpart B of part III of subchapter N of chapter  
6 1 of such Code is amended by inserting after the item  
7 related to section 911 the following new item:

“Sec. 911A. Alternative for nonresident citizens of the United States living  
abroad”.

8       (c) NONRESIDENT CITIZEN DEFINED.—

9           (1) IN GENERAL.—Section 7701(b) of the In-  
10 ternal Revenue Code of 1986 is amended by adding  
11 the following new subparagraph:

12           “(C) NONRESIDENT CITIZEN.—The term  
13 ‘nonresident citizen’ means, with respect to a  
14 taxable year, an individual who—

15                   “(i) is a citizen of the United States,

16                   “(ii) has a tax home in a foreign  
17 country,

18                   “(iii) is in full compliance with United  
19 States income tax laws for the 3 previous  
20 taxable years, and

21                   “(iv) either—

22                           “(I) establishes to the satisfac-  
23 tion of the Secretary that such indi-  
24 vidual has been a bona fide resident

1 of a foreign country or countries for  
2 an uninterrupted period which in-  
3 cludes an entire taxable year, or

4 “(II) is present in a foreign  
5 country or countries during at least  
6 330 full days during such taxable  
7 year.

8 “(D) LIMITATION ON NONRESIDENT CITI-  
9 ZENS.—The term ‘nonresident citizen’ shall not  
10 include any Federal employee.”

11 (2) CONFORMING AMENDMENT.—The heading  
12 of section 7701(b) of such Code is amended by strik-  
13 ing “and” and inserting a comma and by inserting  
14 after “nonresident alien” the following: “, and non-  
15 resident citizen”.

16 (d) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply with respect to taxable years begin-  
18 ning after the date of the enactment of this Act.

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