

items of the type specified in paragraph (a) (1), (2), or (3) of this section shall file with his return a statement setting forth the amount of such income and such information as may be necessary to show that the income is of the type specified therein

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§ 1 861-3 *Dividends*—(a) *General* Gross income from sources within the United States includes dividends as defined by section 316 and the regulations thereunder, from—

(1) *Domestic corporation* A domestic corporation other than one entitled to the benefits of section 931, and other than a corporation less than 20 percent of the gross income of which is shown to the satisfaction of the district director (or, if applicable, the Director of International Operations) to have been derived from sources within the United States, as determined under the provisions of sections 861 to 864, inclusive, and the regulations thereunder, for the 3-year period ending with the close of the taxable year of such corporation preceding the declaration of such dividends, or for such part of such period as the corporation has been in existence, or

(2) *Foreign corporation* A foreign corporation unless less than 50 percent of its gross income for the 3-year period ending with the close of its taxable year preceding the declaration of such dividends or for such part of such period as it has been in existence, was derived from sources within the United States as determined under the provisions of sections 861 to 864, inclusive and the regulations thereunder, but only in an amount which bears the same ratio to such dividends as the gross income of the corporation for such period derived from sources within the United States bears to its gross income from all sources. However, for purposes of sections 901 to 905, inclusive and the regulations thereunder, relating to the foreign tax credit dividends from a foreign corporation shall be treated as income from sources without the United States to the extent exceeding the amount of the deduction allowable under section 245 in respect of such dividends

(b) *Presumption as to source* Dividends will be treated as income from sources within the United States (except for purposes of sections 901 to 905, inclusive and the regulations there-

under) unless the taxpayer submits with his return sufficient data to establish to the satisfaction of the district director (or if applicable the Director of International Operations) that, in accordance with paragraph (a) (1) or (2) of this section, they are not income from sources within the United States

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§ 1 861-4 *Compensation for labor or personal services*—(a) *General* Gross income from sources within the United States includes compensation for labor or personal services performed in the United States regardless of the residence of the payer of the place in which the contract for service was made or of the place of payment, except that such compensation shall be deemed not to be income from sources within the United States, if—

(1) The labor or services are performed by a nonresident alien individual temporarily present in the United States for a period or periods not exceeding a total of 90 days during the taxable year,

(2) The compensation does not exceed \$3 000 in the aggregate, and

(3) The compensation is for labor or services performed as an employee of, or under a contract with—

(i) A nonresident alien foreign partnership, or foreign corporation, not engaged in trade or business within the United States or

(ii) A domestic corporation, if the labor or services are performed for an office or place of business maintained in a foreign country or in a possession of the United States by that corporation

(b) *Amount includible in gross income* If a specific amount is paid for labor or personal services performed in the United States, that amount (if income from sources within the United States) shall be included in the gross income. If no accurate allocation or segregation of compensation for labor or personal services performed in the United States can be made or when such labor or service is performed partly within and partly without the United States the amount to be included in the gross income shall be determined by an apportionment on the time basis, that is, there shall be included in the gross income an amount which bears the same relation to the total compensation as the number of days of performance of the labor or services within the United