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**Tax Committee Comments and Recommendations, No 3:  
Comments on Proposed Regulations Under Section 957(d) of the  
Internal Revenue Code Relating to Definition of United States  
Person Submitted to the IRS - Nov. 16, 1964**

American Institute of Certified Public Accountants. Committee on Federal Taxation

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TAX COMMITTEE COMMENTS AND RECOMMENDATIONS

Comments on Proposed Regulations  
Under Section 957(d) of the Internal Revenue Code  
Relating to Definition of United States Person

Submitted to the IRS - Nov. 16, 1964

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COMMITTEE ON FEDERAL TAXATION  
of the  
AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

Comments on Proposed Regulations  
Under Section 957(d) Relating to  
Definition of United States Person

Section  
1.957-4(d)(1)

In order to qualify not to be treated as a U.S. person under Section 957(d)(3) this provision requires that the individual be a resident of a possession (other than Puerto Rico or the Virgin Islands) for his entire taxable year. Sections 957(d)(3) and 931(a), do not require residence for the entire taxable year. Therefore, it is suggested that this provision be revised so that an individual who is a resident of a possession on the last day of his taxable year in which or with which the taxable year of the foreign corporation ends will not be treated as a U.S. person for purposes of Subpart F. This will follow the treatment of Virgin Island residents as stated in Regulations Section 1.957-4(c)(1). (Puerto Rican residents are treated differently since Section 933(1) statutorily requires an entire taxable year of residence which is not the case for the Virgin Islands or other possessions.)

COMMITTEE ON FEDERAL TAXATION

of the

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

Comments on Proposed Regulations  
Under Section 957(d) Relating to  
Definition of United States Person

Section  
1.957-4(d)(2)

The proposed Regulations provide that, in testing to see whether or not an individual is a United States person under Section 957(d)(3), a calculation must first be made to determine how much of his gross income from sources within possessions of the United States is excluded under Section 931. For the purpose of this calculation alone it is proposed that Section 951(a) income derived from possessions not be taken into account.

It is further proposed that after the determination is made as to whether or not an individual qualifies as a United States person, then the necessary calculations shall be made under Section 931. In making the calculations under Section 931, all of the individual's gross income, including amounts taxable under Section 951(a), are to be taken into account. If 50% or more of the individual's gross income is derived from the active conduct of a trade or business as a proprietor or employee within a possession of the United States and if he meets the 80% test of Section 931(a)(1), then he is taxed only on gross income from sources within the United States. This would mean that he would then be able to exclude subpart F income otherwise taxable under Section 951(a).

It would seem that a more reasonable interpretation of Section 957(d)(3) would call for the inclusion of Section 951(a) income in an individual's total gross income for the purpose of testing to determine whether he is a United States person under Section 957(d).