



# GMS Flash Alert

2019-064 | April 1, 2019



## United States - Sec. 911 Guidance from IRS for Congo, Cuba, Iraq, and Nicaragua

On March 28, 2019, the U.S. Internal Revenue Service (IRS) released an advance copy of Revenue Procedure 2019-15,<sup>1</sup> which concerns individuals who failed to meet the eligibility requirements of either the bona fide residence test or the physical presence test under U.S. Internal Revenue Code section 911(d)(1) – and thus may not exclude foreign earned income and housing cost amounts from gross income – because war, civil unrest, or similar adverse conditions in a foreign country precluded the individuals from satisfying these requirements.<sup>2</sup>

The Rev. Proc. released on March 28 lists four countries for which the eligibility requirements of section 911(d)(1) are waived for tax year 2018: Democratic Republic of the Congo, Cuba, Iraq, and Nicaragua.

### WHY THIS MATTERS

Individuals who would otherwise qualify for the foreign earned income and foreign housing cost exclusions, may lose the benefit of those exclusions if they leave a country prior to fulfilling the time requirements, which could affect the amount of tax they owe.

A special exception to the time requirements to qualify for those exclusions is allowed for persons who are forced to leave a country designated by the IRS due to war, civil unrest, or other adverse conditions.

### Revenue Procedure 2019-15: Democratic Republic of the Congo, Cuba, Iraq, Nicaragua

Rev. Proc. 2019-15 provides that the Treasury Department, in consultation with the Department of State, has determined that for tax year 2018, war, civil unrest, or similar adverse conditions precluded the normal conduct of business in four countries. An individual who left one of those countries on or after a specified date will be treated as a

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“qualified individual” for purposes of section 911 with respect to the period during which that person was present in, or was a bona fide resident of, the country, provided that the individual establishes a reasonable expectation of meeting the requirements of section 911(d)(1) but for the adverse conditions. An individual who was first present, or established residency, in the country after the specified date, is not eligible to qualify for the exception.

The countries and effective dates listed in Rev. Proc. 2019-15 are:

<i>Country</i>	<i>Date of Departure On or After</i>
Congo (Democratic Republic of the)	December 14, 2018
Cuba	January 4, 2018
Iraq	September 28, 2018
Nicaragua	July 6, 2018

## FOOTNOTES:

1 See the advanced copy of [Rev.Proc. 2019-15](#) . Revenue Procedure 2019-15 will be published in *Internal Revenue Bulletin* 2019-14, dated April 1, 2019.

2 For coverage of Rev. Proc.2018-23 designating Turkey as a country for which the eligibility requirements of section 911(d)(1) is waived for tax year 2016, see [GMS Flash Alert 2018-063](#), April 11, 2018.

\* \* \* \*

**The above information is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230 as the content of this document is issued for general informational purposes only.**

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