

Title 26 CFR 1.871-4 Proof of residence of aliens

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TITLE 26--INTERNAL REVENUE

CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY (CONTINUED)

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Sec. 1.871-4 Proof of residence of aliens.

(a) Rules of evidence. The following rules of evidence shall govern in determining whether or not an alien within the United States has acquired residence therein for purposes of the income tax.

(b) **Nonresidence presumed**. An alien by reason of his alienage, is presumed to be a nonresident alien.

(c) Presumption rebutted--(1) Departing alien. In the case of an alien who presents himself for determination of tax liability before departure from the United States, **the presumption as to the alien's nonresidence may be overcome by proof**—[your social security number]

(i) That the alien, at least six months before the date he so presents himself, has filed a declaration of his intention to become a citizen of the United States under the naturalization laws; or

(ii) That the alien, at least six months before the date he so presents himself, has filed Form 1078 or **its equivalent**; or

(iii) Of acts and statements of the alien showing a definite **intention to acquire residence** in the United States or showing that his stay in the United States has been of such an extended nature as to constitute him a resident.

(2) Other aliens. In the case of other aliens, the presumption as to the alien's nonresidence may be overcome by proof--

(i) That the alien has filed a declaration of his intention to become a citizen of the United States under the naturalization laws; or

(ii) That the alien has filed Form 1078 or its equivalent; or

(iii) Of acts and statements of the alien showing a definite intention to acquire residence in the United States or showing that his stay in the United States has been of such an extended nature as to constitute him a resident.

(d) Certificate. If, in the application of paragraph (c)(1)(iii) or (2)(iii) of this section, the internal revenue officer or employee who examines the alien is in doubt as to the facts, such officer or employee may, to assist him in determining the facts, require a certificate or certificates setting forth the facts relied upon by the alien seeking to overcome the presumption. Each such certificate, which shall contain, or be verified by, a written declaration that it is made under the penalties of perjury, shall be executed by some credible person or persons, other than the alien and members of his family, who have known the alien at least six months before the date of execution of the certificate or certificates.