

SEC. 1012. INCOME TAX TREATMENT OF NONRESIDENT ALIEN INDIVIDUALS WHO ARE MARRIED TO CITIZENS OR RESIDENTS OF THE UNITED STATES.

(a) **ELECTION TO BE TREATED AS RESIDENTS OF THE UNITED STATES.**—

26 USC 6013.

(1) **IN GENERAL.**—Section 6013 (relating to joint returns of income tax by husband and wife) is amended by adding at the end thereof the following new subsections:

“(g) **ELECTION TO TREAT NONRESIDENT ALIEN INDIVIDUAL AS RESIDENT OF THE UNITED STATES.**—

26 USC 1.

“(1) **IN GENERAL.**—A nonresident alien individual with respect to whom this subsection is in effect for the taxable year shall be treated as a resident of the United States for purposes of chapter 1 for all of such taxable year.

“(2) **INDIVIDUALS WITH RESPECT TO WHOM THIS SUBSECTION IS IN EFFECT.**—This subsection shall be in effect with respect to any individual who, at the time an election was made under this subsection, was a nonresident alien individual married to a citizen or resident of the United States, if both of them made such election to have the benefits of this subsection apply to them.

“(3) **DURATION OF ELECTION.**—An election under this subsection shall apply to the taxable year for which made and to all subsequent taxable years until terminated under paragraph (4) or (5); except that any such election shall not apply for any taxable year if neither spouse is a citizen or resident of the United States at any time during such year.

“(4) **TERMINATION OF ELECTION.**—An election under this subsection shall terminate at the earliest of the following times:

“(A) **REVOCATION BY TAXPAYERS.**—If either taxpayer revokes the election, as of the first taxable year for which the last day prescribed by law for filing the return of tax under chapter 1 has not yet occurred.

“(B) **DEATH.**—In the case of the death of either spouse, as of the beginning of the first taxable year of the spouse who survives following the taxable year in which such death occurred; except that if the spouse who survives is a citizen or resident of the United States who is a surviving spouse entitled to the benefits of section 2, the time provided by this subparagraph shall be as of the close of the last taxable year for which such individual is entitled to the benefits of section 2.

“(C) **LEGAL SEPARATION.**—In the case of the legal separation of the couple under a decree of divorce or of separate maintenance, as of the beginning of the taxable year in which such legal separation occurs.

“(D) **TERMINATION BY SECRETARY.**—At the time provided in paragraph (5).

“(5) **TERMINATION BY SECRETARY.**—The Secretary may terminate any election under this subsection for any taxable year if he determines that either spouse has failed—

“(A) to keep such books and records,

“(B) to grant such access to such books and records, or

“(C) to supply such other information,

as may be reasonably necessary to ascertain the amount of liability for taxes under chapter 1 of either spouse for such taxable year.