

Reg. 1.861-4(b)(1)(ii), Example

Compensation For Services Sourced Based on Payroll Costs

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Corp X, a domestic corporation, receives compensation of \$150,000 under a contract for services to be performed concurrently in the United States and in several foreign countries by numerous Corp X employees. Each Corp X employee performing services under this contract performs his or her services exclusively in one jurisdiction. Although the number of employees (and hours spent by employees) performing services under the contract within the United States equals the number of employees (and

hours spent by employees) performing services under the contract without the United States, the compensation paid to employees performing services under the contract within the United States is higher because of the more sophisticated nature of the services performed by the employees within the United States. Accordingly, the payroll cost for employees performing services under the contract within the United States is \$20,000 out of a total contract payroll cost of \$30,000. Under these facts and circumstances, a determination based upon relative payroll costs would be the basis that most correctly reflects the proper source of the income received under the contract. Thus, of the \$150,000 of compensation included in Corp X's gross income, \$100,000 ($\$150,000 \times \$20,000/\$30,000$) is attributable to the labor or personal services performed within the United States and \$50,000 ($\$150,000 \times \$10,000/\$30,000$) is attributable to the labor or personal services performed without the United States.

