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CUBA, NOW ON THE RIGHT SIDE OF THE IRS

How Did Cuba Get On The Wrong Side Of The IRS?

In October of 1962, the United States was almost dragged into a nuclear war with Russia because of Cuba. In response to the failed Bay of Pigs Invasion and the presence of American ballistic missiles within range of Moscow, Cuba requested nuclear ballistic missiles from Russia and Mr. Khrushchev complied. Our then president, John F. Kennedy recognized the threat and ordered a blockade on the nation of Cuba. The situation escalated to the point where the President ordered the United States Army and Navy to prepare to invade Cuba and the Air Force to get ready to carry our first round of nuclear preemptive attacks against Russia. The consequences for this world would have been absolutely devastating had the go-ahead been given.

What followed was a continuing cold war between NATO nations and The Warsaw Pact until 1991. Because of the incident, Cuba was given the cold shoulder by America for 25 years even after the Cold War ended. The United States was so mad, in fact, that foreign earned income from Cuba was made taxable under Subpart F Income, by putting them on the Section 901 list (concepts discussed below). That put them on the wrong side of the IRS.

What Is Subpart F Income?

Generally, income of controlled foreign countries or CFC's is generally exempt from tax in the United States. Subpart F (Internal Revenue Code 952) was an attempt by Congress in 1962 to impose limits on deferral of foreign earned income. Within it, is Paragraph (a)(5) which includes into taxable United States income of which Section 901(j) applies.

IRC Section 952(a)(5) reads: the income of such corporation derived from any foreign country during any period during which section 901(j) applies to such foreign country. The payments referred to in paragraph (4) are payments which would be unlawful under the Foreign Corrupt Practices Act of 1977 if the payor were a United States person. For purposes of paragraph (5), the income described therein shall be reduced, under regulations prescribed by the Secretary, so as to take into account deductions (including taxes) properly allocable to such income.

Code Section 901(j)(2)(A) reads: In general this subsection shall apply to any foreign country—

(i) the government of which the United States does not recognize, unless such government is otherwise eligible to purchase defense articles or services under the Arms Export Control Act,

(ii) with respect to which the United States has severed diplomatic relations,

(iii) with respect to which the United States has not severed diplomatic relations but does not conduct such relations,

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