Title 26 CFR 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—

(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.