DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
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July 21, 2004

Via Regular Mail

[redacted]

Reference: Application of Income Tax Treaties to Pension Distributions

Dear [redacted]:

This responds to your letter to the Associate Chief Counsel (International) dated June 2, 2004. In response to your inquiry, we are providing the following general information. This information letter is advisory only and has no binding effect on the Internal Revenue Service.

You have asked about the application of income tax treaties to U.S. citizens living abroad and receiving pension distributions. Tax treaties typically reduce the U.S. tax liabilities of residents of foreign countries and the foreign tax liabilities of U.S citizens and residents. With certain exceptions, treaties do not reduce the U.S. tax liabilities of U.S. citizens or residents. U.S. citizens and residents are generally subject to U.S. income tax on their worldwide income, regardless of source, and regardless of where they reside.

Article 1(4) of the 1996 U.S. Model Income Tax Treaty provides:

> Notwithstanding any provision of the Convention except paragraph 5 of this Article, a Contracting State may tax its residents (as determined under Article 4 (Residence)), and by reason of citizenship may tax its citizens, as if the Convention had not come into effect. For this purpose, the term "citizen" shall include a former citizen or long-term resident whose loss of such status had as one of its principal purposes the avoidance of tax (as defined under the laws of the Contracting State of which the person was a citizen or long-term resident), but only for a period of 10 years following such loss.

This type of provision, found in every U.S. income tax treaty currently in force, is commonly referred to as the “saving clause,” because it preserves the right of the United States to tax its citizens without regard to income tax treaties. Although certain exceptions exist, there is typically not an exception for pension distributions. However, if a pension recipient is taxed by both the United States and the recipient's country of residence, relief may be available under the "Relief From Double Taxation" article in the applicable treaty. You should be sure to check the specific provisions of any treaty that applies to you.

For additional general information regarding the U.S. tax rules for U.S. citizens living abroad, please see Publication 54, “Tax Guide for U.S. Citizens and Resident Aliens Abroad”, available on the Internet at http://www.irs.gov/pub/irs-pdf/p54.pdf.

We hope this information will be helpful to you. If you require a definitive determination of the law applicable to your particular facts, you may submit a request for a private letter ruling to this office pursuant to the rules set forth in Revenue Procedure 2004-1, which is available on the Internet at http://www.irs.gov/pub/irs-irbs/irb04-01.pdf. If you should have any further questions in this matter, please contact [redacted] at [redacted] (not a toll-free number).

Sincerely,

M. Grace Fleeman
Senior Counsel, Branch 1
(International)