

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:
CC:INTL:Br1-PLR-117524-98
Date:
March 3, 1999

DO: TY: TIN:

Date A =

Country B =

State C =

University D =

Period E =

Period F =

Amount G =

Entity H =

Contract I =

Contract J =

Amount K =

Contract L =

Amount M =

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Dear :

This responds to your letter dated August 25, 1998, requesting a ruling with respect to the application of Article 18 of the United States-United Kingdom Income Tax Treaty (the "Treaty") to annuity payments under a section 403(b) retirement plan. Additional information was submitted in letters dated November 12, 1998 and January 31, 1999.

The ruling contained in this letter is based upon information and representations submitted by you and accompanied by a penalty of perjury statement executed by you. While this office has not verified any of the material submitted in support of the request for a ruling, it is subject to verification on examination.

You are a citizen and resident of Country B. You have recently attained age 65. You worked at University D during Period E and Period F. University D is a public institution governed and controlled by State C.

During your employment with University D, you participated in a section 403(b) retirement plan that was sponsored by University D. You elected to receive an annuity form of benefit, payable over the joint lives of you and your wife. On Date A, Contract I was purchased on your behalf from Entity H in exchange for total proceeds of Amount G from your accumulating annuities under the plan (Amount K from Contract J and Amount M from Contract L).

Contract I provides that you will receive guaranteed monthly annuity payments, based on the contract amount, for your lifetime. It also provides that you may receive additional monthly payments. Any additional payments and their amounts are payable at the discretion of Entity H. In the event of your death, Contract I provides that your wife will receive payments in the same amount you would have received for as long as she survives you. No further payments will be made to anyone after both you and your wife have died.

RULING REQUESTED

You have requested a ruling that the annuity payments to you will be taxable under the Treaty only by Country B and thus will not be taxable by the United States.

LAW AND ANALYSIS

Section 871(a), in general, imposes a 30 percent tax on, among other items, amounts received by nonresident alien individuals as salaries, wages, annuities, compensations, remunerations, and other fixed or determinable annual or periodical income to the extent the income is received from sources within the United States and is not

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effectively connected with the conduct of a trade or business within the United States.

Section 1441(a) provides, in general, for the withholding of tax at a 30 percent rate on certain income from sources within the United States of nonresident alien individuals. However, section 894(a) requires that the provisions of the Code be applied with due regard to any treaty obligation of the United States that applies to the taxpayer.

Article 18(1) of the Treaty provides that, subject to the provisions of Article 19(2), any pension in consideration of past employment and any annuity paid to an individual who is a resident of a Contracting State shall be taxed only in that State. Article 18(3) defines the term "annuity" as a stated sum payable periodically at stated times, during life or during a specified time period, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 19(2)(a) of the Treaty provides that any pension paid by a Contracting State or a political subdivision or local authority thereof, in respect of services rendered to such State or subdivision or local authority shall be taxable only in that State. However, Article 19(2)(b) provides that such pension shall be taxable only in the other Contracting State if the recipient is both a national of and a resident of that other State.

CONCLUSION

Based on the information submitted and the representations made, we hold that the annuity payments to you will not be subject to tax by the United States pursuant to Article 18 of the Treaty.

No opinion is expressed as to whether you are or will be a resident of Country B for purposes of the Treaty. See section 4.01(13) of Rev. Proc. 99-7, 1999-1 I.R.B. 226.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. This ruling does not address the tax consequences of annuity payments made to your wife in the event that she survives you.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

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A copy of this letter must be attached to any income tax return to which it is relevant.

Sincerely,

M. Grace Fleeman
Assistant to the Branch Chief, CC:INTL:Br1