



LB&I International Practice Service Transaction Unit

IPS Level	Number	Title	UIL Code	Number
Shelf	N/A	Cross-Over	–	–
Volume	16	Treaties	Level 1 UIL	9450
Part	16.9	Treaty Issues Pertaining to Teachers, Students, and Researchers	Level 2 UIL	9450.01
Chapter	N/A	N/A	Level 3 UIL	–
Sub-Chapter	N/A	N/A	–	–

Unit Name	Treaty Exemption of Income from Teaching
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Document Control Number (DCN)	TRE/9450.09_01(2015)
Date of Last Update	04/10/15

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Issue and Transaction Overview

Treaty Exemption of Income from Teaching

The United States has entered into more than 60 bilateral income tax treaties that reduce or eliminate U.S. taxes imposed on residents of the treaty countries (referred to in treaties as “Contracting States.”). Some U.S. tax treaties have provisions exempting from U.S. tax the income from teaching at universities or other educational institutions. This Practice Unit discusses the provisions specifically for teachers found in these tax treaties. It will assist you to determine whether a teacher is eligible to claim an exemption under these provisions.

Keep in mind, every treaty is different and these provisions may differ from treaty to treaty. Because these provisions may be located in different articles of the treaty, for purposes of this Practice Unit, we will refer to them as the “teachers’ article.” Note that some treaties refer to teachers as “researchers” or “scholars.” Therefore, if the teacher is referencing a particular treaty and it doesn’t contain an article with “teacher” in the title or text, check to see if there are references to scholars in the treaty and whether they might apply to your taxpayer.

Therefore, in every case involving a tax treaty, carefully review the teachers’ article and any other applicable articles, as well as any contemporaneous or subsequent protocol(s), memoranda of understanding, or exchange(s) of notes between the treaty countries, to determine if treaty benefits should be granted. In addition, more interpretive guidance may be found in the Treasury Department’s Technical Explanation (TE) of the treaty/protocol, as well as the Joint Committee on Taxation Report, the Senate Foreign Relations Committee Report, authoritative case law, and guidance issued by the Internal Revenue Service (IRS). Only a limited number of treaties have a teachers’ article. Neither the 2006 U.S. Model Income Tax Convention nor its TE have a teachers’ article.

This Practice Unit will focus on the teachers’ provisions included in the U.S.-Philippines Tax Treaty.

Transaction and Fact Pattern

Treaty Exemption of Income from Teaching

Facts

- Jane claims exemption under the treaty with Country A (which is identical in all material aspects with the U.S.-Philippines Tax Treaty).
- In June 2010, Jane, a resident of Country A, signed a one-year contract to teach at a public school in the United States. In July 2010, she obtained a J-1 visa which was valid for three years. Jane also signed a document with her visa sponsor in which she agreed to return to Country A once her visa expired. In September 2010, Jane came to the United States to teach at a public high school.
 - In May 2011, Jane's one year teaching contract was not renewed for another year. In July 2011, she found another teaching position at a second high school in the United States for the 2011 school year. She signed a teaching contract with the second school and began teaching there in September 2011. Jane timely filed Form 1040NR, U.S. Nonresident Alien Income Tax Return, for each relevant tax year.
 - In 2013, Jane filed Form 1040X, Amended U.S. Individual Income Tax Return, to amend her prior returns. Jane claimed that for each relevant year, her personal services income from teaching was exempt by virtue of the U.S.-Country A treaty. As a result of her claim of exempt status, she had overpaid her taxes in previous years.

Transaction and Fact Pattern (cont'd)

Treaty Exemption of Income from Teaching

Facts

The teachers' article in the U.S.-Country A treaty requires Jane to prove that she meets five criteria:

- 1. Residency.** Jane must be a resident of Country A immediately prior to coming to the United States to teach.
- 2. Invitation to Teach at a Recognized Educational Institution.** Jane must be invited by a government, political subdivision, local authority, university, or other recognized educational institution within the United States to teach.
- 3. Stay Not Expected to Exceed Two Years.** At the time Jane came to the United States, Jane, her employer, and her visa sponsor collectively did not expect Jane's stay to exceed two years.
- 4. Primary Purpose.** Jane did in fact come to the United States for the primary purpose of teaching.
- 5. Time Limit of Exemption.** Jane may exempt only income earned within two years of her date of arrival in the United States (some treaties specify different time limits). If all of the first four criteria are satisfied at the time Jane comes to the United States, and she stays more than two years, she will not lose the exemption for the first two years.

If Jane does not meet all of the criteria in the U.S.-Country A treaty teachers' article, then her wages are not eligible for exemption under this article. If Jane's wages are not eligible for exemption under the teachers' article, if she is a resident of Country A in the year the income is earned, the dependent personal services article in the U.S.-Country A's treaty may give taxing authority to the United States.

Summary of Potential Issues

Treaty Exemption of Income from Teaching	
Issue 1	Residency. Whether the foreign teacher was a resident of the other treaty country immediately prior to coming to the United States to teach.
Issue 2	Invitation to Teach at a Recognized Educational Institution. Whether the foreign teacher was invited by a government, political subdivision, local authority, university, or other recognized educational institution within the United States to teach.
Issue 3	Stay Not Expected to Exceed Two Years. Whether, at the time the teacher came to the United States, the teacher was expected to stay for a period not expected to exceed two years.
Issue 4	Primary Purpose. Whether the teacher's primary purpose in coming to the United States was to teach.
Issue 5	Time Limit of Exemption. Whether the teacher is claiming an exemption for income earned no more than two years after the teacher's date of arrival in the United States.

All Issues, Step 1: Initial Factual Development

Treaty Exemption of Income from Teaching

The determination of whether the teacher's stay was for a period not expected to exceed two years (discussed further in [Issue 3](#)) should be part of the Initial Factual Development to determine whether the teacher is eligible for exemption under the U.S.-Country A treaty. Certain contracts may be relevant in determining whether all the involved parties expected, at the time the teacher came to the United States, the teacher's stay was not expected to exceed two years. (Note that not all teachers' articles have this requirement.)

Fact Element	Resources	6103 Protected Resources
<ul style="list-style-type: none"> ▪ Document the payment of large placement fees over a significant time period to a visa sponsor to find a teaching position in the United States. ▪ The documentation submitted to the visa sponsor may also indicate whether the period was not expected to exceed two years. 	<ul style="list-style-type: none"> ▪ Documentation and legal placement fees 	
<ul style="list-style-type: none"> ▪ The terms of a signed employment contract may indicate whether the teacher came to the United States for a period not expected to exceed two years. Normally, teaching contracts are made for one year. Thus, the terms of most teaching contracts may not be strong evidence on whether or not the teacher was invited for a period not expected to exceed two years. 	<ul style="list-style-type: none"> ▪ Employment contracts 	

All Issues, Step 1: Initial Factual Development (cont'd)

Treaty Exemption of Income from Teaching

The determination of whether the teacher's stay was for a period not expected to exceed two years (discussed further in [Issue 3](#)) should be part of the Initial Factual Development to determine whether the teacher is eligible for exemption under the U.S.-Country A treaty. Documents relating to the teacher's employment in the United States may be relevant in determining whether all the involved parties expected, at the time the teacher came to the United States, that the teacher was expected to stay for a period not expected to exceed two years. (Note that not all teachers' articles have this requirement.)

Fact Element	Resources	6103 Protected Resources
<ul style="list-style-type: none"> ▪ Verify whether the teacher obtained a permanent teaching credential instead of an annual waiver. 	<ul style="list-style-type: none"> ▪ Teaching credential. A foreign teacher may be required to obtain a local credential as a condition of employment. 	
<ul style="list-style-type: none"> ▪ Document a large pay differential. ▪ Ask to see performance evaluations. ▪ Verify the length of employment as a teacher. 	<ul style="list-style-type: none"> ▪ Employment history in the United States. 	

All Issues, Step 1: Initial Factual Development (cont'd)

Treaty Exemption of Income from Teaching

The determination of whether the teacher's stay was for a period not expected to exceed two years (discussed further in [Issue 3](#)) should be part of the Initial Factual Development to determine whether the teacher is eligible for exemption under the U.S.-Country A treaty. Forms filed with the IRS may be relevant in determining whether all the involved parties expected, at the time the teacher came to the United States, that the teacher was expected to stay for a period not expected to exceed two years. (Note that not all teachers' articles have this requirement.)

Fact Element	Resources	6103 Protected Resources
<ul style="list-style-type: none"> ▪ Evaluate how long the teacher expected to remain in the United States as well as his or her remaining ties to their country of residence immediately prior to arrival. The teacher's responses on Form 9210 and Form 9250 (Part I, question 8) may indicate what their expectations were as well as what ties he or she may have to his or her country of residence. 	<ul style="list-style-type: none"> ▪ Form 9210 ▪ Form 9250 	

All Issues, Step 1: Initial Factual Development (cont'd)

Treaty Exemption of Income from Teaching

The determination of whether the teacher's stay was for a period not expected to exceed two years (discussed further in [Issue 3](#)) should be part of the Initial Factual Development to determine whether the teacher is eligible for exemption under the U.S.-Country A treaty. Forms filed with the State Department and the U.S. Citizenship and Immigration Service (USCIS) may be relevant in determining whether all the involved parties expected, at the time the teacher came to the United States, that the teacher was expected to stay for a period not expected to exceed two years. (Not all teachers' articles have this requirement.)

Fact Element	Resources	6103 Protected Resources
<ul style="list-style-type: none"> ▪ Ascertain whether the individual had a Form DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status. This form is issued by designated visa sponsors to prospective teachers who then use it to apply for a J-1 visa. It specifies the nature of the exchange program and its start and ending dates. Block 3 of this Form indicates the starting and ending dates of the exchange program. ▪ Some J-1 visas are subject to a two-year home-country physical presence test once the visa expires. This residency requirement may be waived. A waiver of the two-year residency requirement may indicate the teacher's intent to remain in the United States. 	<ul style="list-style-type: none"> ▪ State Department Form DS-2019 ▪ Waiver of the Exchange Visitor Two-Year Home-Country Physical Presence Requirement 	
<ul style="list-style-type: none"> ▪ Determine how long the foreign teacher is in the United States based on Form I-94, Arrival-Departure Record. ▪ Verify the teacher's visa stamp in his or her passport. 	<ul style="list-style-type: none"> ▪ USCIS Form I-94 	

Issue 1, Step 2: Review Potential Issues

Treaty Exemption of Income from Teaching

Issue 1

Residency. Whether the foreign teacher was a resident of the other treaty country immediately prior to coming to the United States to teach.

Explanation of Issue	Resources
<p>In order to qualify for the exemption in the teachers' article in the U.S.-Country A treaty, Jane must be a resident of Country A immediately prior to coming to the United States to teach. If she was not a Country A resident immediately prior to coming to teach, she cannot exempt her income from U.S. tax under the teachers' article.</p>	
<p>Definition of Residence. The definition of a "resident" may be different from treaty to treaty.</p> <ul style="list-style-type: none"> ▪ Some tax treaties define a resident as one who "is liable to tax" in a Contracting State by reason of "domicile, residence, or citizenship." Other treaties, however, may define "resident" differently. Review the relevant treaty to determine the definition of a resident in that treaty. 	<ul style="list-style-type: none"> ▪ U.S. Model Treaty (2006), Art. 4 ▪ U.S.-Philippines Income Tax Treaty, Art. 3(1) ▪ Practice Unit, "Determining an Individual's Residency for Treaty Purposes," DCN: TRE/9450.05_01(2015)
<p> CONSULTATION: Each treaty will differ from other treaties. When researching a case, always use the relevant treaty for a specific jurisdiction. Do not presume the terms of one treaty will be applicable to other jurisdictions. If necessary, consult with Chief Counsel to resolve questions regarding treaty interpretation in your case.</p>	

Issue 1, Step 3: Additional Factual Development

Treaty Exemption of Income from Teaching

Issue 1

Residency. Whether the foreign teacher was a resident of the other treaty country immediately prior to coming to the United States to teach.

Fact Element	Resources	6103 Protected Resources
<p>Form 8233, Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, requires nonresident alien teachers and researchers claiming eligibility for exemption from withholding under a treaty article to attach a document to Form 8233. The document must state: where they claim residence, the name of their U.S. employer, and the expected duration of their employment. See also Appendix B—Tax Treaty Exemption Procedure for Teachers and Researchers in IRS Publication 519.</p>	<ul style="list-style-type: none"> ▪ Form 8233 ▪ Pub. 519 	
<p>The teacher should claim tax residence in the same country on the Form 8233 supporting document and Form 1040NR (Schedule OI—Other Information, Line B).</p>	<ul style="list-style-type: none"> ▪ Form 1040NR 	

Issue 1, Step 4: Develop Arguments

Treaty Exemption of Income from Teaching

Issue 1

Residency. Whether the foreign teacher was a resident of the other treaty country immediately prior to coming to the United States to teach.

Explanation of Adjustment	Resources	6103 Protected Resources
<p>Compare the responses on the forms. Evaluate whether the foreign teacher is a resident of the other treaty country immediately prior to coming to the United States based on the definition of resident in the relevant treaty and their responses on Form 1040NR and Form 8233.</p>	<ul style="list-style-type: none"> ▪ Form 1040NR ▪ Form 8233 ▪ Pub. 519 ▪ Practice Unit, “Determining an Individual’s Residency for Treaty Purposes,” DCN: TRE/9450.05_01(2015) 	
<p> DECISION POINT: If Jane was a resident of Country A immediately prior to coming to the United States to teach, then proceed to Issue 2. However, if Jane was not a resident of Country A immediately before coming to the United States to teach, then her income from teaching is not exempt under the teachers’ article of the U.S.-Country A treaty.</p>		

Issue 2, Step 2: Review Potential Issues

Treaty Exemption of Income from Teaching

Issue 2

Invitation to Teach at a Recognized Educational Institution. Whether the foreign teacher was invited by a government, political subdivision, local authority, university, or other recognized educational institution within the United States to teach.

Explanation of Issue	Resources
<p>In order to qualify for the exemption in the teachers' article in the U.S.-Country A treaty, Jane must have been invited to teach in the United States by a government, political subdivision, local authority, university, or other recognized educational institution within the United States. If she was not invited by such an organization or institution to teach, she cannot exempt her income from U.S. tax under the teachers' article.</p>	
<p>Definition of an educational institution.</p> <ul style="list-style-type: none"> ▪ When a term is not defined in a tax treaty, unless its context requires otherwise, the term should have the meaning that it has in the tax laws of the Contracting State whose tax is being applied. ▪ An educational institution is a school maintaining a regular faculty with an established curriculum which has an organized body of students in attendance at the place where educational activities are carried on. This definition includes colleges, primary, and secondary schools but not correspondence or night schools. 	<ul style="list-style-type: none"> ▪ U.S.-Philippines Income Tax Treaty, Art. 2(2) ▪ U.S. Model Treaty (2006), Art. 3(2) ▪ IRC 170(b)(1)(A)(ii) ▪ Rev. Rul. 75-10

Issue 2, Step 2: Review Potential Issues (cont'd)

Treaty Exemption of Income from Teaching

Issue 2

Invitation to Teach at a Recognized Educational Institution. Whether the foreign teacher was invited by a government, political subdivision, local authority, university, or other recognized educational institution within the United States to teach.

Explanation of Issue	Resources
<p>Invitation may be direct or indirect.</p> <p>The teacher may be invited either directly by a government, political subdivision, local authority, university, or other recognized educational institution or indirectly by an intermediary. In <i>Santos v. Commissioner</i>, 135 T.C. 447 (2010), Amity Institute, a nonprofit organization, operated a teacher exchange program regulated by the State Department. Amity used an agency in the Philippines to recruit teachers for the program. Amity Institute functioned as an intermediary between the school districts and the prospective teachers.</p>	<ul style="list-style-type: none">▪ Santos v. Commissioner - 135 T.C. 447, 448 (2010)

Issue 2, Step 3: Additional Factual Development

Treaty Exemption of Income from Teaching

Issue 2

Invitation to Teach at a Recognized Educational Institution. Whether the foreign teacher was invited by a government, political subdivision, local authority, university, or other recognized educational institution within the United States to teach.

Fact Element	Resources	6103 Protected Resources
<p>General information on the teacher’s employer may help to determine whether it is a recognized educational institution. To determine which entity invited the foreign teacher, you should evaluate their:</p>		
<ul style="list-style-type: none"> ▪ Responses on government forms. Blocks 2 and 7 on Form DS-2019 indicate the name of the sponsoring employer. The foreign teacher’s response to Part II, question 1, of Form 9250 indicates which entity invited the teacher. 	<ul style="list-style-type: none"> ▪ State Department Form DS-2019 ▪ Form 9250 	
<ul style="list-style-type: none"> ▪ Employment contract and Form W-2. The Form W-2, Wage and Tax Statement, the foreign teacher receives and the foreign teacher’s employment contract may indicate whether his or her employer is a recognized educational institution. 	<ul style="list-style-type: none"> ▪ Form W-2 	

Issue 2, Step 3: Additional Factual Development (cont'd)

Treaty Exemption of Income from Teaching

Issue 2

Invitation to Teach at a Recognized Educational Institution. Whether the foreign teacher was invited by a government, political subdivision, local authority, university, or other recognized educational institution within the United States to teach.

Fact Element	Resources	6103 Protected Resources
<p>Once you have identified the entity that invited the foreign teacher, use the information to evaluate whether the entity:</p> <ul style="list-style-type: none"> ▪ Maintains a regular faculty, ▪ Has an established curriculum, and ▪ Has an organized body of students in attendance at the place where educational activities are carried on. <p>Determine whether the teacher was invited to teach at a recognized educational institution by their responses on Form 9250 (Part II, questions 1-2) and Form DS-2019 (Blocks 2 and 7 indicate the name of the sponsoring employer).</p>	<ul style="list-style-type: none"> ▪ State Department Form DS-2019 ▪ Form 9250 	
<p> CAUTION: Under the U.S.-Country A treaty, the foreign teacher must teach at the recognized educational institution that <i>invited</i> them to qualify for exemption.</p>		

Issue 2, Step 4: Develop Arguments

Treaty Exemption of Income from Teaching

Issue 2

Invitation to Teach at a Recognized Educational Institution. Whether the foreign teacher was invited by a government, political subdivision, local authority, university, or other recognized educational institution within the United States to teach.

Explanation of Adjustment	Resources	6103 Protected Resources
<p>Review the teacher's responses on government forms, employment contract(s), and Form W-2 to determine whether the entity that invited the teacher is a recognized educational institution. Internet information on the institution may also indicate whether it is a recognized educational institution.</p>	<ul style="list-style-type: none"> ▪ IRC 170(b)(1)(A)(ii) ▪ Rev. Rul. 75-10 ▪ State Department Form DS-2019 ▪ Form 9250 	
<p> DECISION POINT: If the teacher was invited by a government, political subdivision, local authority, or other recognized educational institution within the United States to teach, then proceed to Issue 3. However, if the teacher was not invited by one of these entities, then the teacher's income is not exempt under the teachers' article of the U.S.-Country A treaty.</p>		

Issue 3, Step 2: Review Potential Issues

Treaty Exemption of Income from Teaching

Issue 3

Stay Not Expected to Exceed Two Years. Whether, at the time the teacher came to the United States, the teacher was expected to stay for a period not expected to exceed two years.

Explanation of Issue	Resources
<p>In order to qualify for the exemption in the teachers' article in the U.S.-Country A treaty, Jane must have been invited to come to the United States "for a period not expected to exceed two years" at the time she came to the United States. If it was expected, at the time she came to the United States, that she would stay longer than two years, she does not qualify for the exemption. (Note, not all treaties contain an expectation requirement.)</p>	
<p>In determining whether Jane was or was not expected to come to the United States for a period not exceeding two years, the collective expectations of all the involved parties—<i>e.g.</i>, Jane, her employer, and her visa sponsor—should be ascertained.</p>	
<p>In determining the collective expectations of all the involved parties, you should review the foreign teacher's: employment contract, teaching credential, responses on government forms, contractual terms with their visa sponsor, U.S. employment history, and pay differential. You should also evaluate the employing school's cost to recruit foreign teachers and the school's retention rate for foreign teachers.</p>	

Issue 3, Step 2: Review Potential Issues (cont'd)

Treaty Exemption of Income from Teaching

Issue 3

Stay Not Expected to Exceed Two Years. Whether, at the time the teacher came to the United States, the teacher was expected to stay for a period not expected to exceed two years.

Explanation of Issue	Resources
<p>The terms of foreign teacher’s employment contracts are relevant in determining whether the teacher’s employment was for a period expected not to exceed two years.</p> <p>Length of teaching contract. Foreign teachers sign contracts with the school he or she teaches at and with their visa sponsor.</p> <ul style="list-style-type: none"> ▪ A contractual term longer than two years is relevant to determine whether the teacher came to teach for a period expected to go beyond two years. ▪ Teachers may claim that because their initial teaching contract was for just one year, this is proof that the teacher did not expect to exceed two years. However, an initial teaching contract normally is for just one year. If there is other evidence to the contrary (such as contractual arrangements with their visa sponsor that cover a three-year period), then the teacher’s argument will not be persuasive. 	<ul style="list-style-type: none"> ▪ Santos v. Commissioner - 135 T.C. 447, 451-52 (2010) ▪ Ucol-Cobaria v. Commissioner -T.C. Summ. Op. 2010-162 ▪ IRM 21.8.4.7.4.3 - Teacher/Researcher Time of Benefit
 <p>CAUTION: Tax Court Summary Opinions may not be treated as precedent. They are cited here and elsewhere in this Practice Unit for illustrative purposes only.</p>	

Issue 3, Step 2: Review Potential Issues (cont'd)

Treaty Exemption of Income from Teaching

Issue 3

Stay Not Expected to Exceed Two Years. Whether, at the time the teacher came to the United States, the teacher was expected to stay for a period not expected to exceed two years.

Explanation of Issue	Resources
<p>The type of teaching credential is relevant in determining whether the teacher's employment period was expected to exceed the period permitted by a treaty.</p> <p>Teaching credential. A foreign teacher may be required to obtain a teaching credential as a condition of his or her employment.</p> <ul style="list-style-type: none"> ▪ The teacher may be able to teach without taking the exam for the teaching credential by getting a waiver of the requirement annually. Because a teacher can meet the credentialing requirements through the waiver, if the teacher sits for the credentialing exam, this may be an indication the teacher expects to remain in the teaching position for more than two years. ▪ A teacher who passes the test for the local teaching credential may be granted tenure at the school. In general, once tenured, a teacher no longer receives an annual employment contract. 	<ul style="list-style-type: none"> ▪ Santos v. Commissioner -135 T.C. 447, 458-9 (2010)

Issue 3, Step 2: Review Potential Issues (cont'd)

Treaty Exemption of Income from Teaching

Issue 3

Stay Not Expected to Exceed Two Years. Whether, at the time the teacher came to the United States, the teacher was expected to stay for a period not expected to exceed two years.

Explanation of Issue	Resources
<p>The teacher's answers on government forms may indicate how long he or she expected to remain in the United States. For example, see Form 9210 and Form 9250 (Part I, question 8). This determination does not focus on the expectation of any single party but rather on the expectation of all the involved parties.</p>	<ul style="list-style-type: none"> ▪ Santos v. Commissioner - 135 T.C. 447, 450 (2010)
<p>IRS forms. In their responses to IRS forms, teachers may indicate whether their expectation is to remain in the United States longer than the two-year period.</p>	<ul style="list-style-type: none"> ▪ Form 9210 ▪ Form 9250
<p>State Department forms. A J-1 visa is commonly used to hire foreign teachers through exchange programs.</p> <ul style="list-style-type: none"> ▪ Form DS-2019 is used to support a foreign teachers' J-1 visa (Block 3 identifies the starting and ending dates of the exchange). ▪ Some J-1 visas are subject to a two-year home-country physical presence test once the visa expires. This residency requirement may be waived. A waiver of the two-year residency requirement may indicate the teacher's intent to remain in the United States. 	<ul style="list-style-type: none"> ▪ State Department Form DS-2019 ▪ Waiver of the Exchange Visitor Two-Year Home-Country Physical Presence Requirement
<p>USCIS forms. USCIS forms can indicate how long the teacher intended remain in the United States when he or she first arrived.</p>	<ul style="list-style-type: none"> ▪ USCIS Form I-94 ▪ Teacher's visa stamp in passport

Issue 3, Step 2: Review Potential Issues (cont'd)

Treaty Exemption of Income from Teaching

Issue 3

Stay Not Expected to Exceed Two Years. Whether, at the time the teacher came to the United States, the teacher was expected to stay for a period not expected to exceed two years.

Explanation of Issue	Resources
<p>Along with their employment contracts, the terms of foreign teachers' contracts with their visa sponsors are relevant in determining whether a teacher came to the United States for a duration expected to exceed the period permitted by the treaty.</p> <p>Contractual terms with visa sponsor. To secure a J-1 visa, foreign teachers may have to pay a third party a fee to sponsor their visa. The payment terms of the placement fees and related expenses may indicate whether the teacher came for a period not expected to exceed two years. Relevant factors include whether:</p> <ul style="list-style-type: none"> ▪ The placement fees must be repaid for a period longer than the term specified for exemption under the treaty article. If the fees are paid over a longer period than permitted under the treaty article, this may indicate a period was expected to exceed two years. ▪ The visa sponsor's fees are high compared to the teacher's salary in their home country. In <i>Santos</i>, a teacher paid \$3,000 in placement fees to a visa sponsor and \$2,000 in related expenses. This outlay (\$5,000) is ten times greater than a teacher's average monthly salary (\$500) in the teacher's country of origin. ▪ The teacher may have also signed a document with their visa sponsor (sometimes called a "memorandum of understanding" or a "home return MOU") shortly before they came to the United States to teach. In <i>Santos</i>, the home return MOU contemplated the teacher's return to her country of origin after the two-year period provided in the teachers' article. 	<ul style="list-style-type: none"> ▪ Santos v. Commissioner -135 T.C. 447, 459 (2010) ▪ Ucol-Cobarria v. Commissioner - T.C. Summ. Op. 2010-162 ▪ IRM 21.8.4.7.4.3 - Teacher/Researcher Time of Benefit

Issue 3, Step 2: Review Potential Issues (cont'd)

Treaty Exemption of Income from Teaching

Issue 3

Stay Not Expected to Exceed Two Years. Whether, at the time the teacher came to the United States, the teacher was expected to stay for a period not expected to exceed two years.

Explanation of Issue	Resources
<p>Information relating to the foreign teacher's U.S. work history is also relevant in determining whether the employment period was expected to exceed two years.</p> <p>United States employment history. A teacher's U.S. employment history can indicate how long he or she intended to teach in the United States at the time she or he came here. If the teacher:</p> <ul style="list-style-type: none"> ▪ Works in the United States beyond the two-year period and up to the current tax year, this may indicate that he or she expected to remain in the United States for more than two years. ▪ Is dismissed from his or her position or is not offered a contract renewal, and instead of returning home, finds another job teaching in another school, this may indicate he or she intended to remain in the United States for more than two years. ▪ Remains with a school after denial of a request to transfer to a less harsh classroom environment, this may indicate he or she intended to remain in the United States for more than two years. 	<ul style="list-style-type: none"> ▪ Ucol-Cobaria v. Commissioner - T.C. Summ. Op. 2010-162 ▪ Abiog v. Commissioner - T.C. Summ. Op. 2010-166 ▪ Lumaban v. Commissioner - T.C. Summ. Op. 2010-169 ▪ Ucol-Cobaria v. Commissioner, T.C. Summ. Op. 2010-162

Issue 3, Step 2: Review Potential Issues (cont'd)

Treaty Exemption of Income from Teaching

Issue 3

Stay Not Expected to Exceed Two Years. Whether, at the time the teacher came to the United States, the teacher was expected to stay for a period not expected to exceed two years.

Explanation of Issue	Resources
<p>Pay differential. Salaries for teachers in the United States may be higher than in other nations. In one case, a teacher's annual salary rose from \$2,148 (in the Philippines) to \$37,157 (a 1,700% increase) her first year in the United States and again to \$58,262 by her third year. A pay differential of this size is a factor in determining whether a foreign teacher expected to remain for a period exceeding two years.</p>	<ul style="list-style-type: none">▪ Santos v. Commissioner - 135 T.C. 447, 459 (2010)▪ Samaco v. Commissioner - T.C. Summ. Op. 2010-165▪ Malazarte v. Commissioner - T.C. Summ. Op. 2010-168

Issue 3, Step 3: Additional Factual Development

Treaty Exemption of Income from Teaching

Issue 3

Stay Not Expected to Exceed Two Years. Whether, at the time the teacher came to the United States, the teacher was expected to stay for a period not expected to exceed two years.

Fact Element	Resources	6103 Protected Resources
<p>Determine whether the teacher expected to stay for a period not expected to exceed two years through their work history and pay differential:</p> <ul style="list-style-type: none"> ▪ Work history. <ul style="list-style-type: none"> – Determine length of teaching contract. – Determine whether teacher remained in the United States past two years, was dismissed (or not offered a contract renewal), or remained in position despite challenging work environment. – Teaching credential. If the teacher sits for a local credentialing exam, this may indicate an intent to stay for a period expected to exceed two years. 	<ul style="list-style-type: none"> ▪ Request a copy of the teacher’s employment contract(s) to determine whether he or she expected to stay in the U.S. for a period not expected to exceed two years. ▪ Inquire whether the teacher was dismissed, was not offered a renewed contract, or requested a transfer. If the teacher was dismissed or not offered a new contract, inquire whether the teacher sought another teaching position. ▪ Request a copy of the teacher’s credential. 	
<ul style="list-style-type: none"> ▪ Pay differential. The Form W-2 will provide the teacher’s pay in the United States for the current and any prior years. 	<ul style="list-style-type: none"> ▪ Form W-2 ▪ Determine what the teacher’s rate of pay was prior to coming to the United States to teach. 	

Issue 3, Step 3: Additional Factual Development (cont'd)

Treaty Exemption of Income from Teaching

Issue 3

Stay Not Expected to Exceed Two Years. Whether, at the time the teacher came to the United States, the teacher was expected to stay for a period not expected to exceed two years.

Fact Element	Resources	6103 Protected Resources
<p>Determine whether the teacher expected to stay for a period not expected to exceed two years through the terms of their contract with their visa sponsor:</p> <ul style="list-style-type: none"> ▪ Contractual terms with a visa sponsor. <ul style="list-style-type: none"> – Determine whether the teacher’s placement fees must be repaid for a period longer than the term specified for exemption under the treaty article. – Compare the fees paid to the visa sponsor to the teacher’s annual salary in their home country. – Verify whether the teacher signed a document with their visa sponsor (sometimes called a “memorandum of understanding” or a “home return MOU”) which contemplates the teacher’s return to their country of origin after the two-year period provided in the teachers’ article. 	<ul style="list-style-type: none"> ▪ Request a copy of the teacher’s contract with their visa sponsor. 	

Issue 3, Step 3: Additional Factual Development (cont'd)

Treaty Exemption of Income from Teaching

Issue 3

Stay Not Expected to Exceed Two Years. Whether, at the time the teacher came to the United States, the teacher was expected to stay for a period not expected to exceed two years.

Fact Element	Resources	6103 Protected Resources
<p>Government forms. Determine whether the teacher expected to stay for a period not expected to exceed two years through their responses on forms filed with the IRS, State Department, and USCIS.</p>	<ul style="list-style-type: none">▪ Form 9210▪ Form 9250▪ State Department Form DS-2019▪ Waiver of the Exchange Visitor Two-Year Home-Country Physical Presence Requirement▪ USCIS Form I-94▪ Teacher's visa stamp in passport	

Issue 3, Step 3: Additional Factual Development (cont'd)

Treaty Exemption of Income from Teaching

Issue 3

Stay Not Expected to Exceed Two Years. Whether, at the time the teacher came to the United States, the teacher was expected to stay for a period not expected to exceed two years.

Fact Element	Resources	6103 Protected Resources
<p>Determine whether the teacher was expected to stay for a period expected to exceed two years by considering information relating to the U.S. school's expectations for the teacher's employment:</p> <ul style="list-style-type: none"> ▪ Cost to employing school. If a school system has to invest a significant amount time, money, and effort to recruit teacher from abroad, it has an incentive to retain foreign teachers for as long as possible to recoup these expenses. 	<ul style="list-style-type: none"> ▪ Interview the employing school to determine its cost to recruit and retain the teacher. 	
<ul style="list-style-type: none"> ▪ Retention rate. If only a small minority of teachers (in one case, 4 percent) left their U.S. employer prior to completing the three-year exchange program, a high retention rate for a three-year program can indicate that teachers were expected to remain longer than the two-year period specified in the treaty. 	<ul style="list-style-type: none"> ▪ Interview the employing school to determine the percentage of teachers who left their U.S. employer beyond the two-year term. 	

Issue 3, Step 4: Develop Arguments

Treaty Exemption of Income from Teaching

Issue 3

Stay Not Expected to Exceed Two Years. Whether, at the time the teacher came to the United States, the teacher was expected to stay for a period not expected to exceed two years.

Explanation of Adjustment	Resources	6103 Protected Resources
<p>Consider whether the teacher came to the United States for a period not expected to exceed two years. Evaluate information on the teacher's:</p> <ul style="list-style-type: none"> ▪ Government forms (e.g., USCIS Form DS-2019 and forms submitted to the IRS). ▪ Employment contract. ▪ Contract with the teacher's visa sponsor. ▪ Teaching credentials. ▪ U.S. employment history, including pay differential determination. <p>These documents, along with the employer's and visa sponsor's expectations, can indicate whether the teachers' article is satisfied.</p>	<ul style="list-style-type: none"> ▪ Santos v. Commissioner - 135 T.C. 447 (2010) ▪ Form 9210 ▪ Form 9250 ▪ USCIS Form DS-2019 ▪ Waiver of the Exchange Visitor Two-Year Home-Country Physical Presence Requirement 	

Issue 3, Step 4: Develop Arguments (cont'd)

Treaty Exemption of Income from Teaching

Issue 3

Stay Not Expected to Exceed Two Years. Whether, at the time the teacher came to the United States, the teacher was expected to stay for a period not expected to exceed two years.

Explanation of Adjustment	Resources	6103 Protected Resources
<p>Along with the teacher's expectations, evaluate the school's and the visa sponsor's expectations:</p> <ul style="list-style-type: none"> ▪ Cost to employing school. School system had invested a significant amount time, money, and effort to recruit teacher from abroad. ▪ Retention rate. A high retention rate may be evidence that a period is expected to exceed two years. 	<ul style="list-style-type: none"> ▪ Santos v. Commissioner - 135 T.C. 447 (2010) ▪ Form 9210 ▪ Form 9250 ▪ USCIS Form DS-2019 ▪ Waiver of the Exchange Visitor Two-Year Home-Country Physical Presence Requirement 	
<p> DECISION POINT: If the teacher was expected to stay for a period not expected to exceed two years, then proceed to Issue 4. However, if, at the time the teacher came to the United States, he or she was expected to stay for a period expected to exceed two years, then the teacher's income is not exempt under the teachers' article of the U.S.-Country A treaty.</p>		

Issue 4, Step 2: Review Potential Issues

Treaty Exemption of Income from Teaching

Issue 4

Primary purpose. Whether the teacher's primary purpose in coming to the United States was to teach.

Explanation of Issue	Resources
<p>In order to qualify for the exemption in the teachers' article in the U.S.-Country A treaty, Jane must have come to the United States for the primary purpose of teaching. If Jane did not come to the United States for the primary purpose of teaching, then she cannot exempt her income from U.S. tax under the teachers' article.</p>	
<p>Evidence of primary purpose. A teacher's response on Form 9250 (Part I, question 9) may indicate whether their primary purpose for coming to the United States was to teach. A taxpayer's visa may also indicate his or her primary purpose for coming to the United States.</p> <p>An analogous example of primary purpose is provided in <i>Weyts v. Commissioner</i>, T.C. Memo 2003-68, where a student with an F-1 visa was present in the United States for the primary purpose of studying at a university. As a result, the student was eligible for exemption under the students' article of the U.S.-Belgium Tax Treaty.</p>	<ul style="list-style-type: none"> ▪ Form 9250 ▪ <i>Weyts v. Commissioner</i> - T.C. Memo 2003-68
<p> CAUTION: To qualify for exemption under the U.S.-Country A treaty, the foreign teacher's primary purpose for coming to the United States must be to teach at the recognized educational institution which <i>invited</i> him and not at a different school.</p>	

Issue 4, Step 2: Review Potential Issues (cont'd)

Treaty Exemption of Income from Teaching

Issue 4

Primary purpose. Whether the teacher's primary purpose in coming to the United States was to teach.

Explanation of Issue	Resources
<p>Student eligibility for exemption of teaching income. A taxpayer came to the United States on an F-1 student visa. As a part of her education, the taxpayer began to teach at the school she was attending. However, the facts and circumstances of the case indicated that the taxpayer's primary purpose was to teach at a university. Even though the taxpayer entered the United States on a student visa, she was eligible for exemption under the teachers' article of the relevant treaty.</p>	<ul style="list-style-type: none">▪ Rev. Rul. 74-174▪ Rev. Rul. 55-211

Issue 4, Step 3: Additional Factual Development

Treaty Exemption of Income from Teaching

Issue 4

Primary purpose. Whether the teacher's primary purpose in coming to the United States was to teach.

Fact Element	Resources	6103 Protected Resources
<p>Proof of primary purpose.</p> <ul style="list-style-type: none"> ▪ The teacher's response on Form 9250 (Part I, question 9) may indicate whether their primary purpose in coming to the United States was to teach. ▪ A visa may also be evidence of an individual's primary purpose in coming to the United States. (The H-1B visa is less commonly used than the J-1 visa to hire foreign teachers because its application deadline prevents them from securing visas before the school year begins.) 	<ul style="list-style-type: none"> ▪ Form 9250 ▪ A copy of the teacher's visa ▪ J-1 Visa ▪ H-1B Visa ▪ Q Visa 	

Issue 4, Step 3: Additional Factual Development (cont'd)

Treaty Exemption of Income from Teaching

Issue 4

Primary purpose. Whether the teacher's primary purpose in coming to the United States was to teach.

Fact Element	Resources	6103 Protected Resources
<p>Student eligibility for exemption of teaching income. When a student also teaches as part of their education, their teaching income may be exempt from taxation based on their facts and circumstances. Eligibility for benefits may depend on whether the student/teacher spends a substantial portion of their time teaching or whether teaching is incidental to their studies. Potentially relevant information to request includes, but is not limited to:</p> <ul style="list-style-type: none"> ▪ The amount of time the student/teacher devotes to teaching activities, such as grading papers, course instruction, and hosting class discussions, relative to the time spent studying or conducting degree-related research; ▪ Whether the student/teacher taught before coming to the United States; and ▪ Whether the student/teacher is required to teach as a condition of their degree program. 	<ul style="list-style-type: none"> ▪ Rev. Rul. 74-174 	

Issue 4, Step 4: Develop Arguments

Treaty Exemption of Income from Teaching

Issue 4

Primary purpose. Whether the teacher's primary purpose in coming to the United States was to teach.

Explanation of Adjustment	Resources	6103 Protected Resources
<p>In order for a foreign teacher to qualify for an exemption under the U.S.-Country A treaty, the foreign teacher must be in the United States for the primary purpose of teaching.</p> <p>Evidence of primary purpose. A teacher's visa may indicate their primary purpose for coming to the United States. The teacher's response on Form 9250 (Part I, question 9) may also indicate their primary purpose. The facts and circumstances of a teacher's case are also relevant in determining their primary purpose.</p>	<ul style="list-style-type: none"> ▪ Form 9250 ▪ Weyts v. Commissioner - T.C. Memo 2003-68 ▪ J-1 Visa ▪ H-1B Visa ▪ Q Visa 	
<p> DECISION POINT: If the teacher's primary purpose in coming to the United States was to teach then proceed to Issue 5. However, if the teacher's primary purpose in coming to the United States was not to teach, then the teacher's income is not exempt under the teachers' article of the U.S.-Country A treaty.</p>		

Issue 5, Step 2: Review Potential Issues

Treaty Exemption of Income from Teaching

Issue 5

Time Limit of Exemption. Whether the teacher is claiming an exemption for income earned no more than two years after the teacher's date of arrival in the United States.

Explanation of Issue	Resources
<p>The U.S.-Country A treaty provides that, if the other requirements of the teachers' article are met, Jane may exempt from U.S. tax her teaching income earned within two years of her date of arrival in the United States. The treaty does not exempt income she earns more than two years after the date of her arrival in the United States.</p>	
<p>Beginning of treaty period. The treaty exemption period commences when the teacher enters the United States to begin teaching. A teacher who enters and leaves the United States for unrelated reasons (e.g., personal vacation), will not trigger the period specified in the treaty until they enter for the purpose of teaching.</p>	<ul style="list-style-type: none">▪ Rev. Rul. 89-5

Issue 5, Step 2: Review Potential Issues (cont'd)

Treaty Exemption of Income from Teaching

Issue 5

Time Limit of Exemption. Whether the teacher is claiming an exemption for income earned no more than two years after the teacher's date of arrival in the United States.

Explanation of Issue	Resources
<p>No tolling of two-year period. Normally, the two- (or three-) year period of exemption is not paused if the teacher does not teach for the full period. For example, a foreign teacher who taught several 1½ month-long courses in the United States over a two-year period may not have the exemption period extended. Once the two-year period begins, it generally cannot be paused.</p>	<ul style="list-style-type: none"> ▪ Rev. Rul. 77-242
<p>Exception to rule against tolling in U.S.-China Treaty. Teachers claiming exemption under the U.S.-China Treaty however can claim exemption for “up to three years in the aggregate.” If the teacher stops teaching in the United States before the full three-year period ends and establishes residency in China prior to returning to the United States to resume teaching, then the three-year exemption period resumes when the teacher returns for the primary purpose of teaching.</p>	<ul style="list-style-type: none"> ▪ U.S.-China Income Tax Treaty, Art. 19 ▪ TE to U.S.-China Income Tax Treaty, Art. 19 ▪ Ann 2011-18 - China Professors and Teachers MAP Agreement
<p> CONSULTATION: Because each treaty is different, you should read each treaty to determine how the time limit is assessed. If necessary, consult with Chief Counsel to resolve questions regarding treaty interpretation in your case.</p>	

Issue 5, Step 2: Review Potential Issues (cont'd)

Treaty Exemption of Income from Teaching

Issue 5

Time Limit of Exemption. Whether the teacher is claiming an exemption for income earned no more than two years after the teacher's date of arrival in the United States.

Explanation of Issue	Resources
<p>Aggregate benefits rule in U.S.-China Tax Treaty. The aggregate benefits rule in the teachers' article of the U.S.-China Tax Treaty also means that once three years of benefits are claimed, then the individual may never again claim benefits under the teachers' article.</p>	<ul style="list-style-type: none"> ▪ Ann 2011-18 – China Professors and Teachers MAP Agreement
<p>The aggregate treatment in the U.S.-China Tax Treaty contrasts with treaties that permit a person to claim the full two-year exemption amount, leave the United States to re-establish residency in the other country, and then return to the United States and claim teachers benefits a second time.</p>	<ul style="list-style-type: none"> ▪ Rev. Rul. 56-164
<p> CONSULTATION: Because each treaty is different, you should read each treaty to determine how the time limit is assessed. If necessary, consult with Chief Counsel to resolve questions regarding treaty interpretation in your case.</p>	

Issue 5, Step 3: Additional Factual Development

Treaty Exemption of Income from Teaching

Issue 5

Time Limit of Exemption. Whether the teacher is claiming an exemption for income earned no more than two years after the teacher's date of arrival in the United States.

Fact Element	Resources	6103 Protected Resources
<p>Exemption period extends two years from the day the teacher arrived in the United States for the purpose of teaching.</p> <ul style="list-style-type: none"> ▪ Form 8233 (Lines 8 and 10) requires filers to specify their date of entry into the United States. ▪ Teachers filing Form 8233 must attach a statement to the form. The dates of entry and departure on the Form 8233 supporting document and Form 1040NR (Schedule OI—Other Information, Line G) should be consistent. 	<ul style="list-style-type: none"> ▪ Form 8233 ▪ Pub. 519 ▪ Form 1040NR 	

Issue 5, Step 4: Develop Arguments

Treaty Exemption of Income from Teaching

Issue 5

Time Limit of Exemption. Whether the teacher is claiming an exemption for income earned no more than two years after the teacher's date of arrival in the United States.

Explanation of Adjustment	Resources	6103 Protected Resources
<p>Entry date. The exemption period under the teachers' article begins only when the teacher enters the United States to begin teaching. Form 8233 (Lines 8 and 10) and its supporting documents may be useful in determining the teacher's date of entry to begin teaching. In most cases, once it begins the exemption period may not be paused.</p>	<ul style="list-style-type: none"> ▪ Form 8233 ▪ Pub. 519 	
<p> DECISION POINT: If the teacher claimed the exemption for the two-year period allowed by the teachers' article of the U.S.-Country A treaty and if they meet the requirements set forth under the other four issues, then the income the teacher earned from teaching is exempt from U.S. taxation under the teachers' article. If the teacher remains in the United States and continues teaching, the U.S.-Country A treaty provides that they may not claim the exemption on income earned more than two years after their date of arrival in the United States.</p>		

Issue 5, Step 4: Develop Arguments (cont'd)

Treaty Exemption of Income from Teaching

Issue 5

Time Limit of Exemption. Whether the teacher is claiming an exemption for income earned no more than two years after the teacher's date of arrival in the United States.

Explanation of Adjustment	Resources	6103 Protected Resources
 <p>DECISION POINT: If you conclude that the taxpayer is not entitled to benefits under the teachers' article, consider whether the taxpayer's income might be exempt from U.S. tax under another treaty article.</p>		
<p>Eligibility under a different treaty article. Treaty articles on students or trainees may be relevant to a teacher.</p> <p>For example, Article 22(4) of the U.S.-Philippines Tax Treaty has an ordering rule addressing students seeking exemption under the teachers' article. It is important to carefully read a treaty to determine which, or even if, an article applies.</p>	<ul style="list-style-type: none"> ▪ U.S.-Philippines Income Tax Treaty, Art. 22(4) 	

Issue 5, Step 4: Develop Arguments (cont'd)

Treaty Exemption of Income from Teaching

Issue 5

Time Limit of Exemption. Whether the teacher is claiming an exemption for income earned no more than two years after the teacher's date of arrival in the United States.

Explanation of Adjustment	Resources	6103 Protected Resources
<p>Eligibility under a different treaty article (cont'd). When a researcher came to the United States through a visiting fellow program on a J-1 visa to perform research training for a period longer than permitted by one article in a treaty, he was deemed exempt under a second article in the treaty.</p> <ul style="list-style-type: none"> ▪ The taxpayer was eligible under Article 19 of the U.S-China Tax Treaty, which would exempt income of teachers, professors, and researchers for only the first three years he participated in the program. <p>(Discussion continued on next slide.)</p>	<ul style="list-style-type: none"> ▪ CCA 200515018 	
 <p>CAUTION: Chief Counsel Advice (CCA) may not be treated as precedent. It is cited here for illustrative purposes only.</p>		

Issue 5, Step 4: Develop Arguments (cont'd)

Treaty Exemption of Income from Teaching

Issue 5

Time Limit of Exemption. Whether the teacher is claiming an exemption for income earned no more than two years after the teacher's date of arrival in the United States.

Explanation of Adjustment	Resources	6103 Protected Resources
<p>Eligibility under a different treaty article (cont'd). According to the CCA discussed on the previous slide:</p> <ul style="list-style-type: none"> ▪ The taxpayer was also eligible for exemption under Article 20. That article exempts income of students for as long “as is reasonably necessary to complete the education or training.” The researcher participated in the fellowship for fewer than five years—the maximum length of the fellowship. As a result, the researcher satisfied the “reasonably necessary” standard in Article 20. ▪ Because the researcher was eligible for benefits under Article 20, which can exempt income for a longer period than Article 19 can, his payments were exempt for a period exceeding three years. 	<ul style="list-style-type: none"> ▪ CCA 200515018 	

Issue 5, Step 4: Develop Arguments (cont'd)

Treaty Exemption of Income from Teaching

Issue 5

Time Limit of Exemption. Whether the teacher is claiming an exemption for income earned no more than two years after the teacher's date of arrival in the United States.

Explanation of Adjustment	Resources	6103 Protected Resources
 <p>CAUTION: U.S. citizens and treaty residents. Most tax treaties contain a “saving clause” in which the United States reserves the right to tax its treaty residents and citizens as if no tax treaty were in effect. Even if they are otherwise eligible for exemption under the relevant teachers’ article, you must determine whether the saving clause applies to the teacher.</p>	<ul style="list-style-type: none"> ▪ U.S. Model Treaty (2006), Art. 1(4) ▪ TE to U.S. Model Treaty (2006), Art.1(4) ▪ Practice Unit, “Application of the Saving Clause to U.S. Citizens and Residents,” DCN: TRE/9450.11_01(2015) 	
 <p>CONSULTATION: As slides 42–44 illustrate, each treaty has different articles that might apply to the same individual. To determine whether a treaty applies to the teacher’s facts, each treaty must be read independently. Several treaty articles may be relevant to a foreign teacher’s circumstances. If necessary, consult with Chief Counsel to resolve questions regarding treaty interpretation in your case.</p>		

Training and Additional Resources

Chapter 16.9 Treaty Issues Pertaining to Teachers		
Type of Resource	Description(s) and/or Instructions for Accessing	References
Issue Toolkits	<ul style="list-style-type: none"> ▪ <i>Treaty-Visa Tool</i>. In the Treaties IPN, under the “Best Practices” tab. 	
Databases / Research Tools	<ul style="list-style-type: none"> ▪ BNA Tax Management Portfolios (available on Westlaw) can provide useful information <ul style="list-style-type: none"> ▪ “Business Operations Abroad (Countries)” in the “Foreign Income Series” describes local laws on residence for several countries. ▪ U.S. Income Taxation of Foreign Students, Teachers, and Researchers, BNA Tax Management Int’l Portfolio 914-2nd, discusses and applies the general principles of nonresident alien taxation to foreign students, teachers, and researchers. 	
Reference Materials – Treaties	<ul style="list-style-type: none"> ▪ Pub. 519 (available on irs.gov) includes “Appendix B—Tax Treaty Exemption Procedure for Teachers and Researchers,” which details the statements that non-resident aliens claiming exemption under the teachers article must provide along with their Form 8233. 	

Glossary of Terms and Acronyms

Term/Acronym	Definition
CCA	Chief Counsel Advice
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
MOU	Memorandum of Understanding
TE	Technical Explanation
USCIS	U.S. Citizenship and Immigration Service (formerly the Immigration and Naturalization Service, or INS)

Index of Related Issues

Issue	Associated UIL(s)	References
Jurisdiction to Tax: Income from Employment	9441.02-06	
Jurisdiction to Tax: Treaty exemptions	9441.11-01	
Treaties: Determining an Individual's Residency for Treaty Purposes	9450.05	DCN: TRE/9450.05_01(2015)
Treaties: Application of the Saving Clause to U.S. Citizens and Residents	9450.11	DCN: TRE/9450.11_01(2015)