



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

OFFICE OF
CHIEF COUNSEL

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April 12, 2000

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Re: Taxation of Distribution Under Annuity Contract

Dear 

This letter responds to your letter dated January 25, 2000, concerning the treatment of a distribution under an annuity contract with a U.S. insurance company. You asked whether it is proper for the insurance company to withhold a 15-percent U.S. tax from a distribution to a Canadian citizen who does not reside in the United States. You particularly asked about a statement in Publication 515 indicating that most tax treaties provide that private pensions and annuities are exempt from withholding.

The U.S.-Canada income tax treaty ("Canadian treaty") is an exception to the rule that most U.S. income tax treaties do not impose withholding on private pension and annuity distributions to residents of the other country. Under Article XVIII of the Canadian treaty, both the United States and Canada are entitled to tax pensions and annuities arising in one country and paid to a resident of the other country. However, the tax imposed by the country where the pension or annuity arises is limited to 15 percent. Thus, if an annuity arising in the United States is paid to a resident of Canada, the United States is entitled to impose a 15-percent tax.

The insurance company or other person that makes the annuity distribution is responsible for withholding the 15-percent tax and sending it to the Internal Revenue Service. That person also is responsible for issuing a Form 1042-S to the recipient of the distribution reporting the amount of the distribution and the amount of the tax withheld. The recipient will not be required to file a return with the Internal Revenue Service as long as he or she does not receive any other income from the United States.

We hope this information will be helpful to you. If you have any questions, you may contact the undersigned, ID # 50-02354, at (202) 622-3880 (not a toll-free number). This general information letter is advisory only and has no binding effect on the Internal Revenue Service.

Sincerely,

M. Grace Fleeman
Assistant to the Branch Chief
Branch 1
Office of the Associate Chief Counsel
(International)