



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

OFFICE OF
CHIEF COUNSEL

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CC:INTL:Br.3:DBergkuist
COR-121097-00



Re: Your request for general information

Dear [REDACTED]:

This letter responds to your letter dated October 5, 2000, in which you raise several points concerning the interaction between the definition of "gross income" in section 61 of the Internal Revenue Code and the "source of income" rules in sections 861 through 865.

A U.S. citizen is subject to tax on his or her worldwide income. The computation of taxable income begins with gross income. Section 61 of the Code provides that "gross income means all income from whatever source derived" The Supreme Court has long recognized that the definition of gross income sweeps broadly and reflects Congress' intent to exert the full measure of its taxing power and to bring within the definition of income "any accession of wealth." Commissioner v. Schleier, 515 U.S. 323, 327 (1995); United States v. Burke, 504 U.S. 229, 233 (1992). Accordingly, any receipt of funds by a taxpayer is presumed to be gross income unless the taxpayer can demonstrate that the accession fits into one of the exclusions created by other sections of the Code. See Commissioner v. Glenshaw Glass Co., U.S. 426, 431 (1955). "[A]ll income from whatever source derived" thus includes income earned or received from any geographic source.

In the case of an individual, section 62 of the Code defines "adjusted gross income" as gross income minus certain listed deductions. Pursuant to section 63, "taxable income" generally means gross income minus those deductions allowed by the Code. For individuals who do not itemize their deductions, section 63(b) defines "taxable income" as adjusted gross income minus the standard deduction and the deduction for personal exemptions.

Sections 861 through 865 of the Code address the source of items of gross income and deductions. Under these provisions, taxable income is "sourced" as either from within

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the United States or from without (i.e., outside of) the United States. These source rules are utilized under several parts of the Code. In the case of a U.S. citizen, the most notable of these parts concerns the foreign tax credit. While the determination of a U.S. citizen's foreign source and U.S. source taxable income may affect the amount of his or her tax liability by way of the foreign tax credit, it does not affect which items are considered for purposes of the taxpayer's overall taxable income. This determination is made under the rules of sections 61 through 63.

Thus, in summary, the source rules of sections 861 through 865 of the Code do not limit or exclude items from consideration for purposes of determining a U.S. citizen's taxable income under sections 61 through 63. We hope that this general information will prove helpful to you. If you have any further questions or comments, please call David Bergkuist (employee ID 50-00518) at (202) 622-3850.

Sincerely,

Irwin Halpern
Senior Technical Reviewer
Branch 3
Office of the Associate Chief Counsel
(International)