

Internal Revenue Service

Department of the Treasury

Number: **2001-0063**

Washington, DC 20224

Release Date: 3/30/2001

Index Number: 9114.03-02

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Refer Reply To:

CC:INTL:BR1-COR-102348-01

Date:

February 15, 2001

Dear [REDACTED]:

This letter is in response to your letter dated January 9, 2001, pertaining to the U.S. tax consequences of distributions from a U.S. 401(k) plan to an Australian citizen currently residing in Australia. Such distributions are generally entitled to benefits under the U.S.-Australia Income Tax Treaty.

Paragraph 1 of Article 18 of the Treaty provides that pensions paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State. Thus, pension distributions received by a resident of Australia are taxable only in Australia.

Paragraph 4 of Article 18 of the Treaty provides that "pensions and other similar remuneration" means periodic payments made by reason of retirement or death, in consideration for services rendered, or by way of compensation paid after retirement for injuries received in connection with past employment. Depending on circumstances, lump sum distributions might not qualify as periodic payments, and another article of the Treaty might apply. In addition, distributions made prior to the taxpayer reaching retirement age might not qualify for benefits under Article 18.

This information letter is advisory only and has no binding effect on the Internal Revenue Service. See Rev. Proc. 2001-1, §2.04, 2001-1 I.R.B. 1, 9. If you wish a definitive determination, you may request a ruling under the procedures set forth in Revenue Procedure 2001-1.

COR-102348-01

If you have any further questions please contact Leslie R. Rubenstein of this office at (202) 622-3880 (not a toll-free number).

Sincerely,

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