



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

OFFICE OF
CHIEF COUNSEL

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June 28, 2001
CC:INTL:Br.3:DBergkuist
COR-118834-00



Dear Mr. [REDACTED]:

This is in response to your letter dated September 25, 2000, in which you requested certain general information concerning payments made by a foreign educational trust to a college or university in the United States for the benefit of an American student. You have asked under what circumstances would such payments be considered taxable income to the student.

Pursuant to Revenue Procedure 2001-1, 2001-1 I.R.B. 1, the National Office may issue general information letters that call attention to well-established interpretations or principles of tax law without application to a specific set of facts. An information letter is advisory only and has no binding effect on the Service. See section 2.04 of Rev. Proc. 2001-1. If you require a written determination that applies the tax laws to a specific set of facts, see the procedures set forth in section 8 of Rev. Proc. 2001-1 for requesting a private letter ruling.

Depending upon the specific facts of your situation, your inquiry raises issues under several provisions of the Internal Revenue Code. Your letter refers to an "American student." If the student is a United States citizen or resident, the student is subject to tax on his or her worldwide income. See section 1.1-1(b) of the Income Tax Regulations which provides that, in general, all citizens of the United States, wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Code whether the income is received from sources within or without the United States. If, on the other hand, the student is a nonresident alien individual, the student is generally taxed on only his or her United States source income and income that is effectively connected with the conduct of a trade or business within the United States. See section 871.

Payments made on behalf of, or for the benefit of, another person are generally treated as received by that person. The payment by a foreign educational trust to a United States educational institution on behalf of, or for the benefit of, an "American student"

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would generally be considered to have been received by the student and then paid to the college or university for tuition or other expenses. Generally, section 61 provides that gross income means all income from whatever source derived, except as otherwise provided in the Code. Therefore, the payment by the foreign educational trust is includible in the student's taxable income for United States tax purposes unless it is specifically excluded therefrom under a provision of the Code. See, for example, section 117 of the Code, which provides that gross income does not include any amount received as a qualified scholarship by an individual who is a candidate for a degree at an educational institution that meets certain requirements; see also section 102 which provides, in part, that gross income does not include the value of property acquired by gift.

Your inquiry presents a number of different issues that would require additional facts in order to be adequately addressed. If you wish to pursue a private letter ruling that applies the tax laws to a particular set of facts, please consult section 8 of Rev. Proc. 2001-1. For your information, we are enclosing a copy of Publication 520 relating to Scholarships and Fellowships.

We hope that this general information will prove helpful to you.

Sincerely,

Anne O'Connell Devereaux
Assistant to the Branch Chief
Branch 3
Office of the Associate Chief Counsel
(International)

Attachment: Pub 520