



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

OFFICE OF  
CHIEF COUNSEL

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COR-140740-01

[REDACTED]

[REDACTED]:

This letter is in reply to your letter dated July 22, 2001, inquiring about the procedures for requesting a ruling on whether you, as a non-resident alien, are subject to U.S. tax on distributions received from a closed-end bond fund (the Fund). Specifically, you have inquired whether the tax exemption of §871(i) of the Internal Revenue Code (the Code) with respect to dividends paid by a domestic corporation meeting the 80% foreign business requirement of §861(c)(1) is applicable to the Fund distributions you received. While it is the practice of the Internal Revenue Service to issue letter rulings to individuals that interpret and apply the tax laws to a taxpayer's specific set of facts, the Service generally does not rule on issues that are inherently factual in nature such as whether a corporation has met the 80% foreign business requirement of §861(c)(1). See section 7.01 of Revenue Procedure 2001-1, 2001-1 I.R.B. 1, 19. Rev. Proc. 2001-1 can be obtained from the IRS website at: [www.irs.ustreas.gov/ind\\_info/bullet.html](http://www.irs.ustreas.gov/ind_info/bullet.html) Although we cannot issue a letter ruling, we offer the following general information for your assistance, but also suggest that you contact the Fund's investor relations department for information that may help you determine the appropriate tax treatment of their dividend distributions.

From the information provided in your letter, the distributions you are receiving appear to be from a regulated investment company (RIC) within the meaning of §851 of the Code, commonly known as a mutual fund. RICs are domestic corporations created by "pooling" funds of investors to allow them to take advantage of a diversity of investments and professional management. For tax purposes, a RIC generally is not subject to corporate level tax to the extent it distributes its investment company taxable income and net capital gain to its shareholders. Distributions received by RIC shareholders may consist of ordinary dividends, capital gain distributions, exempt-interest dividends and nontaxable return of capital distributions. A RIC reports its distributions to its shareholders on Form 1099-DIV.

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Your letter indicates that you are a nonresident alien, not engaged in a trade or business in the United States. Whether your distributions are subject to U.S. tax will depend on the specific kinds of distributions reported to you on Form 1099-DIV by the Fund. Generally, a non-resident alien is subject to U.S. income tax only with respect to U.S. source income. Dividends received from a domestic corporation are generally treated as U.S. source income under §861(a)(2)(A) of the Code.<sup>1</sup> Accordingly, in most cases, ordinary dividend distributions paid to a nonresident alien by a RIC will be subject to U.S. tax at a 30% withholding rate under §1441 or a lower treaty rate, if applicable.

A limited exception exists, as referenced in your letter, under §871(i) of the Code with respect to dividends paid by a domestic corporation meeting the 80% foreign business requirements of §861(c)(1). In general, a domestic corporation meets the 80% foreign business requirements if at least 80% of its gross income is derived outside the U.S. and is attributable to the active conduct of a trade or business in a foreign country. While it would be highly unusual for a U.S. mutual fund to meet these requirements, we suggest that you contact the Fund's investor relations department for information that may help you determine whether §871(i) is applicable with respect to the Fund distributions you received. See also Publication 564 (Mutual Fund Distributions) for further general information regarding the tax treatment of mutual fund distributions. Publication 564 is available on the IRS website at: [www.irs.ustreas.gov](http://www.irs.ustreas.gov). We hope that this general information will prove helpful to you. This information letter is advisory only and has no binding effect on the Internal Revenue Service. See section 2.4 of Rev. Proc. 2000-1, 2000-1 I.R.B. 4, 11.

Sincerely,

Barbara A. Felker  
Chief, Branch 3  
Office of Associate Chief Counsel  
(International)

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<sup>1</sup>A RIC may elect under §853 of the Code to pass through to its shareholders the right to take the foreign tax credit or deduction with respect to foreign taxes it paid, in which case the shareholders treat as foreign source income the amount of such taxes plus the portion of any dividend paid which represents income derived from foreign sources. However, this special source rule applies only for purposes of the foreign tax credit and does not operate to change the U.S. source of the distribution under §861 or for purposes of the withholding provisions. See §853(b)(2)(B) of the Code.