



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

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May 19, 2003



Dear [REDACTED]:

Reference: Article 23 (Teachers) and Article 24 (Students and Trainees) of the U.S. – Israel Income Tax Treaty

In response to your request, dated February 13, 2003, we are providing the following general information pursuant to section 2.04 of Revenue Procedure 2003-1, 2003-1 I.R.B.1 (Jan. 6, 2003). This information letter is advisory only and has no binding effect on the Internal Revenue Service. If you require a definitive determination of the law applicable to your particular facts, you should submit a request for a private letter ruling pursuant to the rules set forth in section 8 of Revenue Procedure 2003-1.

You have asked two questions: 1. Whether individuals may claim the benefits of Article 24 (Students and Trainees) more than once in a lifetime; and 2. Whether individuals may claim the benefits of Article 23 (Teachers) where they have previously enjoyed the benefits of Article 24 (Students and Trainees).

1. Whether individuals may claim the benefits of Article 24 (Students and Trainees) more than once in a lifetime.

Article 24(1) provides the following 5 year U.S. income tax exemption for Israeli students in the United States:

An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State and who is temporarily present in that other Contracting State for the primary purpose of -

- (ii) Securing training required to qualify him to practice a profession or professional specialty, or
- (iii) Studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary or educational organization,

shall be exempt from tax by that other Contracting State with respect to amounts described in subparagraph (b) for a period not exceeding 5 taxable years from the date of his arrival in that other Contracting State.

Based on an absence of an explicit prohibition in the Treaty and Technical Explanation, an individual may claim the benefits of Article 24 more than once in their lifetime. However, Article 24 requires an individual to be a resident of “one of the Contracting States at the time he becomes temporarily present in the Other Contracting State”.

Neither the Treaty itself nor the Technical Explanation defines the length of time required outside of the United States for an individual to reestablish residency in Israel. However, the Service has previously taken the position under the United States – Netherlands Income Tax Treaty (as it existed in 1956), that individuals may claim benefits under the student article more than once in a lifetime provided they leave the United States for at least one year and that upon their return, they meet the requirements for the exemption under the applicable treaty.

Rev. Rul. 56-164, C.B. 1956-1, 848 at 849. Rev. Rul. 56-164 expands its provisions beyond the Netherlands Treaty, stating that its principles “also apply to other income tax conventions which contain language similar to that here considered”. See, e.g., Rev. Rul. 77-242, C.B. 1977-2 at 489 (stating that a visiting professor from the United Kingdom must be absent from the United States for at least 1 year after the expiration of an initial 2 year exemption period before another 2 year exemption period begins). Therefore, an individual must leave the United States for at least one year and reestablish residence in Israel before returning to the United States as a student.

2. Whether individuals may claim the benefits of Article 23 (Teachers) where they have previously enjoyed the benefits of Article 24 (Students and Trainees).

Article 23 (Teachers) provides a two year exemption from U.S. income taxes under the following circumstances:

Where a resident of one of the Contracting States is invited by the Government of the other Contracting State, a political subdivision, or a local authority thereof, or by a university or other recognized educational institution in that other Contracting State to come to that other Contracting State for a period not expected to exceed 2 years for the purpose of teaching or engaging in research, or both, at a university or other recognized educational

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institution and such resident comes to that other Contracting State primarily for such purpose, his income from personal services for teaching or research at such university or educational institution shall be exempt from tax by that other Contracting State for a period not exceeding 2 years from the date of his arrival in that other Contracting State.

Article 24(4) clearly contemplates a situation where an individual claims the benefits of both Article 23 (Teachers) and Article 24 (Students and Trainees). Article 24(4) provides a total time limit of 5 years for individuals claiming the benefits of both articles:

The benefits provided under Article 23 (Teachers) and paragraph (1) of this Article shall, when taken together, extend only for such period of time, not to exceed 5 taxable years from the date of arrival of the individual claiming such benefits, as may reasonably or customarily be required to effectuate the purpose of the visit.

Furthermore, Article 24(4) provides that:

The benefits provided under Article 23 (Teachers) shall not be available to an individual if, during the immediately preceding period, such individual enjoyed the benefits of paragraph (1) of this Article.

The Treasury Technical Explanation, reprinted in 2 Tax Treaties (CCH) & 4663, reiterates the requirement that individuals who have claimed benefits under Article 24 must leave the United States before returning as a teacher:

[A]n Israeli individual who originally entered the United States for the purpose of becoming a student and received benefits under paragraph (1) must leave the United States and, if necessary, reestablish residence in Israel and then return at the invitation of the United States...for the primary purpose of becoming a teacher in order to take advantage of Article 23.

Based on Article 24(4) and its Treasury Technical Explanation, an individual may enjoy the benefits of Article 23 after previously studying in the United States and excluding income under Article 24. However, such an individual must leave the United States for at least one year and reestablish residence in Israel (if such status was lost while a student in the United States) before returning to the United States as a teacher.

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If you have any questions, please feel free to contact _____ of my staff at

Sincerely,

W.E. Williams
Senior Technical Reviewer, Branch 1
Associate Chief Counsel (International)