



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

OFFICE OF
CHIEF COUNSEL

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Dear _____ :

This is in reply to your e-mail dated November 30, 2004, in which you inquire whether the salary paid by the _____ government to your client Mr. _____, former ambassador to the United States, while he was stationed in the United States and performing official duties for the _____ government is exempt from U.S. federal income taxation under section 893 of the Internal Revenue Code of 1986 (Code).

The Office of Associate Chief Counsel (International) of the Internal Revenue Service may issue letter rulings to individuals as to the tax effects on their acts or transactions in circumstances described in Revenue Procedures 2004-1, 2004-1 I.R.B. 1, and 2004-7, 2004-1 I.R.B. 237. These revenue procedures, which also set forth the procedural requirements for obtaining a ruling, are available on the internet at http://www.irs.gov/irb/2004-01_IRB/index.html. While your e-mail did not comply with the requirements for obtaining a letter ruling, we offer the following general information.

Section 893 of the Code provides, in part, that, if certain conditions are satisfied, the wages, fees, or salary of any employee of a foreign government (including diplomatic representatives) received as compensation for official services to that government will not be included in gross income and will be exempt from U.S. federal income taxation. The exemption under section 893 only applies if (1) the employee is not a citizen of the United States; (2) the services performed by the employee are of a character similar to those performed by employees of the Government of the United States in foreign countries; and (3) the foreign government (e.g., _____) grants an equivalent exemption to employees of the Government of the United States performing similar services in that foreign country.

The tax exemption, however, is not available to any employee of a foreign government whose services are primarily in connection with a commercial activity (whether within or

outside the United States) of the foreign government. The regulations under section 893 also provide that an employee of a foreign government who executes and files the waiver provided by section 247(b) of the Immigration and Nationality Act (Bureau of Citizenship and Immigration Services Form I-508) to keep his or her immigrant status (*i.e.*, green card) will no longer qualify for the section 893 tax exemption from the date of filing the waiver.

The foregoing is general information provided for your assistance and does not constitute a letter ruling. We hope the information will be helpful to you.

Sincerely,

Richard L. Chewning
Senior Counsel, Branch 3
Office of Associate Chief
Counsel (International)
IRS I.D. No.