



PLR-131606-03

year, the School awards graduate Degrees to about x students, approximately one-third of whom are foreign nationals.

Students at the School often borrow substantial amounts to meet the expenses incurred in connection with obtaining a Degree from the School. These loans are generally from third-party lenders. For foreign graduates, this debt burden can act as a disincentive to returning to their home countries, or other foreign locations, where salary levels are generally lower than in the United States. The School wishes to prevent the burden of financing a Degree at the School from unduly narrowing graduates' career choices. To meet this objective, the School will establish a loan assistance program for certain graduates who accept low-paying employment outside of the United States after graduation from the School. This program would provide payments to help recipient graduates meet their need-based loan repayment obligations if they accept jobs in countries where salaries are too low to make debt repayment feasible. Such program payments would be calculated based upon a debt-to-income ratio. Students with low incomes and high levels of debt would be most likely to be accepted into the program and would receive the largest payments. As a condition for continued participation in the program, participants would be required every six months to certify: their income; that they remain employed abroad; and that they are current on loan repayments. Continued participation in the program would be entirely voluntary. The payment recipients would not promise the School that they will remain abroad, or remain in low paying jobs, for any fixed period of time.

Items of income that are not covered by the statutory or regulatory provisions of sections 861 through 863 of the Code are sourced according to general principles of law. Rev. Rul. 76-154, 1976-1 C.B. 191. In the absence of an overriding Code provision, the main factor in determining the source of income received is the location of the property or the situs of the activities that gave rise to the payment. Rev. Rul. 73-252, 1973-1 C.B. 337.

Payments made under the above-described loan assistance program are not specifically addressed in the Code or regulations. These payments are not described in any provision of sections 861, 862, or 863, or in any provision of the regulations under sections 861 through 863. They are not compensation for services since the payment recipients perform no services for College. Similarly, these payments would not meet the definitions of a "scholarship" or a "fellowship grant" (see section 1.117-3); a "prize" or an "award" (see section 74 and the regulations thereunder); a "grant" (see section 4945(g)(3)); or a "targeted grant" (see section 1.863-1(d)(2)(iii)).

Since the loan assistance payments are not directly addressed in the Code or regulations, their source will be determined using general principles of the applicable law and regulations. These loan assistance payments most nearly resemble

PLR-131606-03

compensation for services since the recipients will receive such payments only if they work, and continue to work, outside of the United States.

Accordingly, based upon the information submitted and the representations made, it is concluded that payments to foreign nationals made under the School's proposed loan assistance program should be sourced to the location of the activities that give rise to the payments. Since all such activities must be performed outside of the United States, the income from such payments shall be treated as income from sources without the United States.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter should be attached to any income tax return to which it is relevant.

Sincerely,

Barbara A. Felker  
Chief, Branch 3 (Id No: 50-02271)  
Office of Associate Chief Counsel  
(International)

cc: