



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

April 6, 2005

OFFICE OF
CHIEF COUNSEL

Number: **INFO 2005-0067**

Release Number: 6/30/05

CONEX-113096-05/CC:INTL:B3

Index No: 861.00-00

The Honorable Michael Bilirakis
U. S. House of Representatives
Washington, D.C. 20515-0909

Attn: Sarah Owens

Dear Mr. Bilirakis:

I apologize for the delay in responding to your letter of February 2, 2005, to our Congressional Liaison. Your inquiry on behalf of your constituent, , concerned the federal income tax. We have already sent a letter to explaining our authority to administer the tax system.

Responding to letters like this one on a point by point basis is difficult because they usually reflect personal opinions and frustrations with the tax system that we cannot address. However, I can provide the following general information, which I hope is helpful.

The federal tax law is contained in Title 26 of the United States Code and is reproduced separately as the Internal Revenue Code (the Code). Under Title 26, the IRS is a part of the United States Department of the Treasury. The Code does not define the term "income." Gross income, not "income," is the starting point for determining an individual's federal income tax liability. The term "gross income" is defined in section 61 of the Code.

Section 61 includes in gross income "all income from whatever source derived." As the Supreme Court stated in *Commissioner v. Glenshaw Glass Co.*, 348 U.S. 426, 429 (1955), "Congress applied no limitations as to the source of taxable receipts..." Nothing in sections 861 to 865 of the Code limits the gross income subject to United States taxation to foreign-source income.

The rules of sections 861 through 865 help determine whether income is from sources within the United States or without the United States, which is relevant, for example, in determining whether a U.S. citizen or resident may claim a credit for foreign taxes paid. See *Great-West Life Assurance Co. v. United States*, 678 F.2d 180, 183(Ct.Cl. 1982)

(stating that “[t]he determination of where income is derived or ‘sourced’ is generally of no moment to either United States citizens or United States corporations, for such persons are subject to tax under I.R.C. section 1 and I.R.C. section 11, respectively, on their worldwide income” and that “[l]ikewise, the income of a resident alien individual is taxed under I.R.C. section 1 without regard to source”).

The source rules do not operate to exclude from U.S. taxation income earned by United States persons from sources within the United States, *Williams v. Commissioners*, 114T.C. 136 (2000) (rejecting the claim that income was not subject to tax because it was not from any of the sources listed in Treas. Reg. sec. 1.861-8(a)); *Aiello v. Commissioner*, T.C. Memo. 1995-40 (1995) (rejecting the claim that section 861 lists the only sources of income relevant for purposes of section 61).

Every person liable for any tax imposed by the Code shall make a return (sections 6001 and 6011 of the Code). In addition, section 6012 of the Code provides that every individual whose gross income equals or exceeds certain amounts shall make a federal income tax return. “Shall” as used in sections 6001, 6011, and 6012, means “must”; “must” means “to be required to.” Who is required by the Code to file a return is explained in the instructions for Form 1040 under the heading “Filing Requirements.”

The positions raised have been the subject of numerous court decisions, which held these positions to be contrary to existing law. See for example, *United States v. Hilgeford*, 7 F.3d 1340 (7th Cir. 1993), *United States v. Jugim*, 978 F.2d 1032 (8th Cir. 1992). In addition, the courts have often imposed sanctions on taxpayers who raise these types of arguments in litigation. For example, in *Coleman v. Commissioner*, 791 F.2d 68,69 (7th Cir. 1986), the court stated:

Some people believe with great fervor preposterous things that just happen to coincide with their self-interest. Certain individuals have convinced themselves that wages are not income, that only gold is money, that the Sixteenth Amendment is unconstitutional, and so on. These beliefs all lead to the elimination of their obligation to pay taxes. The government may not prohibit the holding of these beliefs, but it may penalize people who act on them.

See also, *Connor v. Commissioner*, 770 F.2nd 17, 20 (2nd Cir. 1985) (The argument that wages are not income “has been rejected so frequently that the very raising of it justifies the imposition of sanctions); *Crain v. Commissioner*, 737 F.2d 1417, 1717 (5th Cir. 1984) (“We perceive no need to refute these arguments with somber reasoning and copious citation of precedent; to do so might suggest that these arguments have some colorable merit.”)

I hope this information is helpful. If we can be of further assistance, please call me at (202) 622-3850 or also at (202) 622-3850.

Sincerely,

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