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INTERNAL REVENUE SERVICE
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OFFICE OF
CHIEF COUNSEL

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Dear _____ :

This letter responds to your request for information dated September 27, 2004. In your letter, you requested certain information regarding section 871(c) of the Internal Revenue Code (the "Code").

Section 871(c) provides that:

For purposes of this section, a nonresident alien individual who (without regard to this subsection) is not engaged in trade or business within the United States and who is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), (M), or (Q) of section 101(a)(15) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(15)(F), (J), (M), or (Q)), shall be treated as a nonresident alien individual engaged in trade or business within the United States, and any income described in the second sentence of section 1441(b) which is received by such individual shall, to the extent derived from sources within the United States, be treated as effectively connected with the conduct of a trade or business within the United States.

Generally, section 871(c) provides that a nonresident alien who is not otherwise engaged in a U.S. trade or business within the United States will be considered engaged in a trade or business in the United States, if the nonresident alien is temporarily present in the United States as a nonimmigrant under an "F," "J," "M," or "Q" visa.

Section 871(b) imposes tax on a nonresident alien individual engaged in a U.S. trade or business during the taxable year on income that is effectively connected to a U.S. trade or business. Such income will generally be taxed at the same graduated rates that apply to U.S. citizens and residents. The taxable part of any scholarship or fellowship grant that is U.S. source income is treated as effectively connected with a trade or business in the United States. See Treas. Reg. section 1.871-9(b).

Section 873 provides, in general, that in the case of a nonresident alien individual, the deductions shall be allowed only for purposes of section 871(b) and only if and to the extent that they are connected with income which is effectively connected with the conduct of a U.S. trade or business.

Section 162 allows as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on a U.S. trade or business, including traveling expenses while away from home in the pursuit of a trade or business.

In addition, you may find it useful to review I.R.S. Publication 519, U.S. Tax Guide for Aliens. The tax guide will provide a useful explanation of the taxation of U.S. resident and nonresident aliens.

This information letter is advisory only and has no binding effect on the Internal Revenue Service. It is intended for informational purposes only and does not constitute a ruling. If you would like a definitive determination concerning a particular set of facts, you must comply with the requirements for obtaining a private letter ruling that are set forth in Revenue Procedure 2005-1, 2005-1 I.R.B. 1.

If you have any additional questions, please contact our office at .

Sincerely,

Karen A. Rennie
Senior Technical Reviewer, Branch 1
(International)