



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

OFFICE OF  
CHIEF COUNSEL

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November 9, 2005

**Via Air Mail**

Dear \_\_\_\_\_ :

This is in response to your letter dated October 14, 2005, regarding the application of the Convention Between the Government of the United States of America and the Government of the Republic of Italy for the Avoidance of Double Taxation with Respect to Taxes on Income and the Prevention of Fraud and Fiscal Evasion, signed at Rome on April 17, 1984 (the "Treaty"), as amended by the Protocol signed at Rome on April 17, 1984 (the "Protocol"), to U.S. Social Security benefits received by a U.S. citizen resident in Italy. We regret that we never received your letter dated March 31, 2005.

Article 18(1) of the Treaty provides that pensions and other similar remuneration beneficially derived by a resident of a Contracting State in consideration of past employment shall be taxable only in that State. Article 1(14) of the Protocol provides that social security payments and similar public pensions not covered by Article 19 (Government Service) of the Treaty are covered by Article 18(1).

Article 1(2) of the Treaty provides, however, that notwithstanding any provision of the Treaty (with the exception of Article 1(3)), a Contracting State may tax its citizens as if there were no Treaty. Article 1(2)(a) of the Protocol provides that the provisions of Article 1(2) of the Treaty shall not affect the benefits conferred by a Contracting State under Article 1(14) of the Protocol to residents of the other Contracting State who are nationals of that other State, even if they are also nationals of the first-mentioned State. Accordingly, under Article 1(2) of the Treaty, the United States may tax U.S. social security benefits paid to a U.S. citizen who is a resident of Italy but not a national of Italy as if there were no Treaty. The United States may not, however, tax U.S. social security benefits paid to a U.S. citizen who is both a resident of Italy and a national of Italy.

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.

Please call \_\_\_\_\_ if you have any further questions.

Sincerely,

M. Grace Fleeman  
Senior Counsel  
Office of Associate Chief Counsel  
(International)