



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

OFFICE OF THE CHIEF COUNSEL

March 26, 2010

Number: **INFO 2010-0089**
Release Date: 6/25/2010

CONEX-111172-10

UIL: 3121.04-00

The Honorable Charles E. Grassley
United States Senator
120 Federal Courthouse Building
320 6th Street
Sioux City, Iowa 51101

Attention:

Dear Senator Grassley:

I am responding to your inquiry dated March 1, 2010, on behalf of your constituent, [REDACTED]. He asked if wages paid to his wife, [REDACTED], a "green card" holder, who works at the United States Embassy in [REDACTED], are subject to social security taxes.

Wages paid to United States residents for services they perform outside the United States for an American employer are subject to social security and Medicare taxes [section 3121(b) of the Internal Revenue Code (the Code)]. An individual is a resident of the United States for tax purposes if the individual is a lawful permanent resident [section 7701(b) of the Code]. An individual is a lawful permanent resident of the United States at any time if he or she has received the privilege, according to the immigration laws, of residing permanently in the United States as an immigrant. An individual generally has this status if the U.S. Citizenship and Immigration Services (USCIS) (or its predecessor organization, the U.S. Immigration and Naturalization Service) has issued an alien registration card, also known as a green card, to that individual.

United States resident aliens are subject to United States income tax on their worldwide income regardless of where they reside. When an individual is subject to United States taxes as a resident, the individual must furnish his or her employer with a social security number so that the employer may withhold social security and Medicare taxes from the

employee's wages, and the Social Security Administration can credit those taxes to the employee's account. An individual obtains a social security number by submitting a Form SS-5, Application for a Social Security Card; to the Social Security Administration. I have enclosed a copy of Form SS-5 and its instructions. I have also enclosed a copy of IRS Publication 519, *U.S. Tax Guide for Aliens*.

Employers must withhold 6.2 percent of the employee's annual wages for social security tax purposes, and 1.45 percent for Medicare tax purposes [sections 3101(a) and 3111(a) of the Code]. Employers must also contribute an amount equal to 6.2 percent of the employee's annual wages for social security taxes, and 1.45 percent for Medicare taxes, bringing the total annual payment to an amount equal to 15.3 percent of wages [sections 3101(b) and 3111(b) of the Code]. In general, the employer is responsible for making the withholding. The wages subject to withholding are only those wages earned after the USCIS has issued a green card to an individual. The employer reports social security and Medicare tax withholding to the employee annually on a Form W-2, Wage and Tax Statement, or on a Form W-2c, Corrected Wage and Tax Statement.

Your constituent also asked whether failure to comply with United States tax laws will jeopardize his wife's resident status. Unfortunately, I am unable to comment on this question, as the Internal Revenue Service has no jurisdiction over matters of immigration law.

I hope this information is helpful. If you have any questions, please call me at
or at

Sincerely,

Nancy J. Marks
Division Counsel/Associate Chief Counsel
(Tax Exempt & Government Entities)

Enclosures (2)