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The Honorable Nick Rahall
Member, U.S. House of Representatives
301 Prince Street
Beckley, WV 25801

Attention:

Dear Congressman Rahall:

I am responding to your inquiry dated April 7, 2010. You asked whether a legal immigrant can open a business in the United States and avoid paying U.S. federal income taxes for seven years. You also asked whether a foreign-born doctor can go back to his or her home country for a period of time during the tax year and not have to pay U.S. taxes on income earned from work in the United States.

U.S. citizens and residents are subject to U.S. tax on their worldwide income. Taxpayers who are not U.S. citizens or residents are generally subject to U.S. income tax on income effectively connected with the conduct of a trade or business within the United States and on certain U.S.-source investment income, unless an applicable tax treaty provides otherwise (see chapters 4 and 9 of the enclosed Publication 519, *U.S. Tax Guide for Aliens*). Subject to a de minimis rule that rarely applies, the performance of services within the United States constitutes the conduct of a trade or business within the United States.

Thus, a legal immigrant who is a U.S. citizen or resident is subject to U.S. tax on his or her worldwide income, including the worldwide income from his or her U.S. business. A legal immigrant who is not a U.S. citizen or resident but who opens a business in the United States must pay U.S. tax on income effectively connected with that business. Consequently, unless a treaty provides otherwise, a legal immigrant who opens a business in the United States cannot legally avoid paying U.S. taxes on the income from his or her U.S. business.

Similarly, a foreign-born doctor who is a U.S. citizen or resident is subject to U.S. tax on his or her worldwide income, including the income earned from the performance of medical services within or outside the United States. A foreign-born doctor who is not a U.S. citizen or resident is generally subject to U.S. tax on income from services performed in the United States and is not subject to U.S. tax on income from services performed outside the United States. Consequently, unless a treaty provides otherwise or the de minimis rule applies, a foreign-born doctor cannot legally avoid paying U.S. taxes on income from services performed in the United States.

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

Sincerely,

Michael J. Montemurro
Chief, Branch 4
Office of Associate Chief Counsel
(Income Tax & Accounting)

Enclosure