



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

OFFICE OF THE CHIEF COUNSEL

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Reference: Request for information regarding Article 19 (Government Service) of the U.S.-Germany Income Tax Treaty

Dear :

This letter responds to your recent request for information regarding application of Article 19 (Government Service) of the U.S.-Germany Income Tax Treaty (the "Treaty")¹ to individuals residing in the United States who are hired by a U.S.-based German government office to perform services for that office in the United States.

Article 19 of the Treaty provides, in relevant part:

1. Notwithstanding the provisions of Articles 15 (Dependent Personal Services), 16 (Directors' Fees), and 17 (Artistes and Athletes):
 - a) salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision, local authority or an instrumentality thereof to an individual in respect of services rendered to that Contracting

¹ CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE FEDERAL REPUBLIC OF GERMANY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL AND TO CERTAIN OTHER TAXES, SIGNED ON AUG. 29, 1989, AS AMENDED BY THE PROTOCOL SIGNED ON June 1, 2006, *reprinted in* 3 Tax Treaties (CCH) ¶ 3203.

State or a political subdivision, local authority or an instrumentality thereof shall, subject to the provisions of subparagraph b), be taxable only in that State;

- b) such remuneration, however, shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - aa) is a national of that State; or
 - bb) did not become a resident of that State solely for the purpose of rendering the services.

- 5. In this Article, the term "instrumentality" means any agent or entity created or organized by a Contracting State, one of its states or a political subdivision or local authority thereof in order to carry out functions of a governmental nature which is specified and agreed to in letters exchanged between the competent authorities of the Contracting States.

Pursuant to paragraph 1(b)(bb) of Article 19, an individual who is a resident of the United States at the time he or she is hired by a U.S.-based German government office to perform services for that office in the United States is not eligible for the exemption from U.S. federal income tax provided in paragraph 1(a) of Article 19. This is because the individual is already a resident of the United States at the time of employment by the German government office and, therefore, did not become a resident of the United States solely for purposes of performing services for the German government office.

This information letter calls attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See Rev. Proc. 2013-1, §2.04, 2013-1 I.R.B. 1 (Jan. 2, 2013).

If you have any additional questions, please contact _____ at _____.

Sincerely,

By: _____
M Grace Fleeman
Senior Technical Reviewer, Branch 1
(International)