

Internal Revenue Service
memorandum

CC:INTL:FREV-248679-96
Br3:MGFleeman

date: OCT 25 1996

to: Robert Uhar
Chief, Support and Services Branch
CP:IN:D:C:SS:QMS

from: Bernard T. Bress
Chief, CC:INTL:Br3

subject: Singapore Central Provident Fund

This memorandum confirms our oral response to your inquiry as to whether our 1988 memorandum (copy attached) still represents the Service's position with respect to the taxability of contributions to the Central Provident Fund ("Fund") and the earnings thereon.

Summary of 1988 Advice. Our 1988 memorandum reached the following conclusions:

1. The employer's contributions to the Fund are includible in the employees' gross income by reason of section 402(b). Pursuant to section 911(b)(1)(B)(iii), such amounts do not constitute "foreign earned income" within the meaning of section 911(b)(1)(A) and are not eligible for exclusion from the employees' gross income under section 911(a)(1).

2. Amounts that are withheld from an employee's wages and contributed to the Fund are includible in the employee's gross income by reason of section 61 (rather than section 402(b)). Such amounts constitute "foreign earned income" that is eligible for exclusion under section 911(a)(1) (subject to the limitation in section 911(b)(2)).

3. Interest earned by the Fund that is attributable to contributions held in trust for an employee is includible in the employee's gross income when distributed or made available to the employee.

Changes to 1988 Advice. As Grace Fleeman of this office advised you on October 3, 1996, our 1988 memorandum should be updated in two respects.

1. CC:EBO has advised us that amounts withheld from an employee's wages and contributed to the Fund can be treated as employer contributions that are includible in the employee's gross income by reason of section 402(b) (rather than section 61). The significance of this change of position is that the amounts in question will not constitute "foreign earned income" within the meaning of section 911(b)(1)(A) and that no portion

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if the amounts contributed to the Fund will be eligible for exclusion from the employee's gross income under section 911(a)(1).

2. Under section 402(b)(4), if the Fund does not satisfy certain nondiscrimination rules, employees who are "highly compensated" generally must include the interest attributable to contributions held in trust for them in gross income each year as it is earned. Because interest is not earned income, it is not eligible for exclusion from gross income under section 911(a)(1). It appears to CC:EBEO that section 402(b)(4) will apply to employees covered by the Fund only in rare cases.

~~If you have any questions, please contact Grace Fleeman at 202 622-3850.~~

Attachment (1988 memorandum)

cc: Linda S. Marshall, CC:EBEO:Br1