



February 5, 2009

John D. Northcut
607-5900 Armstrong
Montréal QC
H4W 2Z5

Dear Mr. Northcut,

In a letter that was sent to you by Mary-Pat Baldwin of our Agency on October 8, 2008, she made reference to guidelines concerning the information required to calculate the portion of your United Nations Joint Staff Pension Fund (UNJSPF) annuity payments that would be exempt under the Canada – United States tax treaty.

Our plan is that we will be outlining the information requirements to individual taxpayers in response to their adjustment requests, but we have elected to provide this information to you directly at this time given that you have already been corresponding with the Agency with respect to your particular situation. This reply was already being drafted at the time that you submitted an "Access to Information" request to Ken Medland of our section on the same subject; we trust that this letter will provide the information that you are seeking, and so, as agreed in our telephone conversation, we are returning your request form and the accompanying cheque to you.

To address the substance of your request, the following information is required to establish the non-taxable portion of a taxpayer's UNJSPF annuity payments:

- The taxpayer's date of birth
- An indication of whether the taxpayer had a spouse at the annuity starting date.
If so:
 - Will the spouse be eligible for survivor benefits under the plan?
 - What is the spouse's DOB?
- The taxpayer's country of residence during the years that services were performed
 - If the taxpayer resided in a country other than Canada, was the remuneration exempt from taxation in the other country?
- An indication of whether the taxpayer was a citizen of the United States
- Years of service (from xxxx to yyyy)
- The starting date of the annuity
- The name of the employer at the time that contributions were withheld
- The amount of employee contributions to the UNJSPF
- The amount of any transfers from the UNJSPF to an RRSP
- A completed copy of Worksheet A from IRS Publication 575
- The exchange rate used to include the pension income for each year

The cost or investment in the plan and the appropriate factor to be used on Publication 575 – Worksheet A is to be established for the first year in which the taxpayer receives the annuity. Once this amount is established, it will not vary from year to year. The factor which is found at the bottom of the worksheet only impacts the period over which the cost in the plan will be amortized. (For additional information, refer to the portion of IRS Publication 575 entitled "Taxation of Periodic Payments". This publication is currently available online at www.irs.gov/pub/irs-pdf/p575.pdf.)

Whether or not a taxpayer qualifies for an exemption under subparagraph 110(1)(f)(i) of the Income Tax Act can be determined as follows:

- Where a taxpayer (other than a U.S. citizen) was a resident of Canada throughout the period during which contributions were made to the plan, the calculation of the exempt portion of the annuity is generally straightforward: The cost or investment in the plan for the purpose of calculating the exempt portion of pension payments is the total of the employee and employer contributions.
- Where the taxpayer was a resident or a citizen of the U.S. at the time of the contributions, only the employee contributions are to be considered in the cost of the plan, because the employer contributions are already considered to have been excluded from the taxpayer's U.S. income in the year that the employment income was earned.
- For all other individuals, eligibility for exemption will depend on the tax treatment of the employment income in the country where they resided while they earned that income:
 1. If the employment income was not subject to tax in the third country, then the following additional test must be verified before establishing if there is a cost (exempt portion):
 - (a) if the employee and employer contributions would not have been taxed in the third country or the United States if they had been paid in cash to the individual at the time the employment services were performed, then the employee and employer contributions are to be considered in the cost of the plan.
 - (b) Otherwise, there will be no cost.
 2. If the compensation from the U.N. was subject to tax in the third country, then the employee contributions enter in the cost.

Note that in cases where the taxpayer has received a lump-sum payment from the UNJSPF on or before the annuity starting date and has transferred this lump sum to an RRSP, the cost (or investment in the plan) must be reduced proportionately.

The following information may also be of assistance:

- Individuals who participate in the UNJSPF receive statements from the pension plan indicating the amounts of their contributions in the pension fund (possibly covering the entire contribution period). The statements show only the employee contributions (the portion considered to be the cost in the plan for U.S. tax purposes), but the employer contributions can be easily determined as they are twice the employee's contribution.
- If taxpayers have not retained the relevant statements, this information can be obtained from the UNJSPF.

I trust that the above information addresses the questions which you had posed to us. If you have any follow-up questions on this matter, please [REDACTED]

That said, my understanding from our conversation is that you are currently in contact with a number of other taxpayers who are in a similar situation, and that you may elect to share portions of the information above with your colleagues. Given that my section is not normally in a position to respond to general enquiries from individual taxpayers, any questions that they might have are best directed either to the Agency's General Enquiries line, or where applicable, to the designated contact number provided in correspondence from the Agency.

Yours sincerely,



Robert Mann
Acting Manager, T1 Adjustments Section
Individual Returns and Payments Processing Directorate
Headquarters
Canada Revenue Agency
[REDACTED]

Attachment: "Access to Information" request (withdrawn)