

Tax Treaties Mostly Useless to Americans Abroad!

A week rarely goes by that I don't receive a phone call from someone in a complete panic because of bad tax advice they received. Sometimes the advice came from a friend or a family member, but sadly, it most often comes from a tax advisor who, like most, don't know much about international tax.

Well, this week was no different than most in that respect. A U.S. citizen, let's call him Hans, who is a retired UN employee residing in Austria, where he lived and worked his entire adult life, contacted us with questions about how the U.S.-Austria tax treaty applied to him. Hans had been told by his tax advisor that he didn't have to pay U.S. or Austrian income tax on his UN pension; i.e. his UN pension was tax-free! The reason for this, Hans had been told, was that pursuant to the U.S.-Austria tax treaty he only had to pay income tax on his UN pension in his country of residence, Austria. And, since UN pensions are tax-free in Austria, he wouldn't have to pay any income tax on his UN pension. Sound too good to be true? It might be.

Almost every U.S. tax treaty contains a "Savings Clause." Simply put, the savings clause states that each country retains its right to tax its citizens and residents as if the treaty didn't exist, which totally undermines the effectiveness of the treaty.

In this case, for example, by invoking the savings clause the U.S. could tax Hans' UN pension, despite the treaty. This is because, through the savings clause, the U.S. retained its right to tax its citi-

zens and residents as if the treaty didn't exist; and, if the treaty didn't exist, Hans would have to pay U.S. income tax on his UN pension.

The savings clause doesn't prevent Hans from claiming his UN pension is tax-free pursuant to the treaty, but is it worth the risk? If the U.S. invokes the savings clause, Hans could be subject not only to U.S. tax on his pension, but also penalties and interest!

The moral of the story is, make sure your tax advisor understands the intricacies of international tax. If not, you pay the price (in this case the tax, interest, and penalties), not the advisor!



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President, Jimmy Sexton, L.L.M., consults as an expert in the field of international taxation, with an emphasis on expat tax issues. He has presented to American expats at groups that include: American Women's Clubs throughout Europe, eBay, UN Vienna, AmCham, Austro-American Society, and the American German Business Club Stuttgart. In addition he has been interviewed and quoted by several news organization, most notably, CNN and the Washington Post.