

Part I

Section 861.—Income From Sources Within the United States

(Also § 7805(b), Rev. Rul. 2004-75)

Rev. Rul. 2004-97

Rev. Rul. 2004-75, 2004-31 I.R.B. 109, issued on July 12, 2004, addresses the U.S. tax treatment of certain payments made to nonresident alien individuals or bona fide residents of Puerto Rico under life insurance or annuity contracts issued by foreign or Puerto Rican branches of U.S. life insurance companies. Revenue Ruling 2004-75 holds that income as determined under section 72 of the Internal Revenue Code received by nonresident alien individuals under life insurance or annuity contracts issued by a foreign branch of a U.S. life insurance company is U.S.-source fixed or determinable annual or periodical income that is subject to 30-percent tax and withholding under sections 871(a) and 1441. The revenue ruling also holds that income as determined under section 72 received by bona fide residents of Puerto Rico under life insurance or annuity contracts issued by a Puerto Rican branch of a U.S. life insurance company is U.S.-source income that is subject to the tax imposed by section 1.

Pursuant to the authority contained in section 7805(b) of the Internal Revenue Code, Rev. Rul. 2004-75 will not be applied to payments that are made to nonresident

alien individuals or bona fide residents of Puerto Rico under life insurance or annuity contracts issued by foreign or Puerto Rican branches of U.S. life insurance companies, as described in Rev. Rul. 2004-75, before January 1, 2005, provided that such payments are made pursuant to binding life insurance or annuity contracts issued by such branches on or before July 12, 2004. The Internal Revenue Service will carefully review the treatment of payments to which Rev. Rul. 2004-75, as amplified by this ruling, does not apply, including, in particular, payments on life insurance or annuity contracts that are issued by a U.S. life insurance company without the substantial involvement of a foreign or Puerto Rican branch (which involvement is contemplated by Rev. Rul. 2004-75).

EFFECT ON OTHER REVENUE RULING(S)

Rev. Rul. 2004-75 is amplified.

DRAFTING INFORMATION

The principal author of this revenue ruling is Gregory A. Spring of the Office of Associate Chief Counsel (International). For further information regarding this revenue ruling, contact Mr. Spring at (202) 622-3870 (not a toll-free call).