

December 19, 1997
L-97-53

TO : The Board

FROM : Catherine C. Cook
General Counsel

SUBJECT : Taxation of Railroad Retirement Benefits - Nonresident Aliens - Canada

Effective January 1, 1996, a modification in the Tax Convention between the United States and Canada resulted in a net withholding of 25.5% of railroad retirement social security equivalent benefits (SSEB) paid to Canadian residents. Prior to 1996, SSEB benefits paid to Canadians were exempt from withholding by virtue of treaty.

On October 31, 1997, the Senate ratified a protocol which amended the aforementioned Tax Convention so as to provide that social security and railroad retirement SSEB benefits paid to Canadians are taxable only in the recipient's resident country. The protocol is effective retroactive to January 1, 1996. Thus, Canadians who have asserted a Treaty exemption will no longer have any withholding with respect to the SSEB portion of their annuity. Since the protocol is given retroactive effect, Canadian annuitants may be due refunds of taxes withheld by the Board. Under the protocol the Canadian government will apply and receive any refunds of taxes withheld on SSEB benefits due on behalf of its citizens. Refunds are payable by the Internal Revenue Service and not by the Board. Finally, there is no change with respect to the taxation of the non-SSEB portion of the annuity paid to Canadians who have asserted a treaty exemption. Withholding remains at 15% of the non-SSEB paid.

This office and the Office of Programs have been following the development of this new protocol since March of this year, and we notified field offices in May advising them of the expected changes.

cc: Director of Programs
Director of Legislative Affairs