

# Moore Stephens Member Update

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## IRS Reverses Position Resulting in U.S. Taxation of German Resident Partners of Cross-Border Law Firm

A recent IRS private letter ruling (P.L.R. 200420012) revoked a 1993 P.L.R. which interpreted the U.S.-Germany tax treaty with respect to German residents who are partners of a German law partnership.

The 1993 P.L.R. held that such partners need not pay U.S. taxes on their partnership income attributable to the services of a partner who performs services only at the partnership's New York branch office, reasoning that the partners who are German residents do not perform any services in the United States.

In revoking the 1993 ruling, the IRS now holds that the partners who are German residents are taxable in the United States on their distributive shares of partnership taxable income attributable to the U.S. partner's performance of independent personal services at the New York office (effectively a U.S. branch of the German firm), without regard to whether the partners who are German residents perform services in the United States.

Law firms and their partners who have excluded such taxable income from U.S. taxation should act quickly to evaluate their existing entity structures to attempt to minimize the adverse effects of the IRS position. Our Global Services Group professionals can provide timely advice and assist with implementing solutions.

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