

Trust Territory

3rd
November 23, 1971

Mr. David R. Garner
Executive Officer
Peace Corps
Post Office Box 336
Saipan, Mariana Islands 96950

Dear Dave:

I have reviewed your August 4 letter, and the Attorney General's Opinion 30-71 of July 29, 1971, relating to the effect of the three percent tax upon all wages and salaries received by all employees. According to the terms of the law as interpreted by the Attorney General's office, the obligation to withhold the tax falls on the Peace Corps, which is required to make quarterly payments as prescribed by regulation. The Attorney General's opinion holds that Peace Corps Volunteers are liable for the tax upon their "wages and salaries."

We have initially decided not to contest the imposition of the tax, but instead to work for an amendment to the tax law during the next year. We realize that an unhealthy precedent is being established by our acceptance of this tax, but, though we disagree with its imposition, it is difficult to find legal reasons why it may not be applied. Unfortunately, the November 16, 1966, Memorandum of Agreement between the Trust Territory and the Peace Corps does not shield Volunteers from the imposition of such a tax.

We do note, however, that the Attorney General's Opinion does not address itself to the issue of whether the Peace Corps' readjustment allowance is taxable under PL 4C - 2. We will assume, unless otherwise notified by you, that the readjustment allowance is not to be so taxed.

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Enclosed is a copy of Sections 901 and 904 of Title 26 of the United States Code Annotated and the Federal Tax Regulations pertinent to those sections, which give United States citizens the right to apply income taxes paid to "any foreign country or to any possession of the United States" as a credit on his United States income tax. We checked with the Internal Revenue Service and were advised that this is applicable to taxes paid to the Trust Territory of the Pacific. I have asked for a written confirmation of this advice and will forward it to you when it is received.

Assuming, however, a Volunteer receives \$100 as a monthly allowance, he will be "earning" \$1200 a year and will pay \$36 as tax to the Trust Territory. His United States tax will probably be nothing. If this is the case, and the tax paid to the Trust Territory exceeds the tax paid for the same year as United States income tax, the Volunteer is eligible to have the excess tax (Trust Territory tax less United States tax) applied as a credit for the second preceding taxable year (probably calendar year 1969), the first preceding taxable year (probably calendar year 1970), and in the first, second, third, fourth, and fifth succeeding taxable years until the unused foreign tax is absorbed.

Further information on the procedures for Volunteers to follow will be forthcoming as tax time approaches.

I would appreciate it if you would draft a letter for Mr. Blatchford's signature objecting to the imposition of this law and giving the reasons why an amendment would be appropriate which exempted Peace Corps Volunteers from having to pay any tax. The letter might be addressed to more than one person and should, among other things, detail the support items which we received from the Trust Territories. We would compare these to the support we receive from other EAP countries.

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We would also appreciate any tactical suggestions you might offer concerning the best approach to take in amending the tax law.

Chin up.

Sincerely yours,

Philip H. Lilienthal
Office of the General Counsel

cc: Mr. Larry Johnson
PCD/Micronesia

Mr. Tom Warren
Deputy Dir./Micronesia

Enclosures

Clearances:

OD:MK Najarian _____

NANEAP:Wolson _____

NANEAP:CShorter (draft)

A&F/A/VS:~~XXXXXXXX~~ W Ward (draft)

GC:KCKammerer (draft)

cc: those clearing
GC subj
GC read
PHL-chron

GC:PHLilienthal:smn 11/23/71

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