

Internal Revenue Service

Department of the Treasury

Index Number: 877.01-00

Washington, DC 20224

Number: **199927032**
Release Date: 7/9/1999

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:Br.1-PLR-113891-97

Date:

April 13, 1999

Dear :

This responds to your client's letter dated July 8, 1997, requesting a ruling under section 877(c) of the Internal Revenue Code of 1986 ("Code") that A's loss of U.S. citizenship did not have for one of its principal purposes the avoidance of U.S. taxes under subtitle A or subtitle B of the Code. Additional information was submitted in letters dated November 3, 1997, and January 27, 1999. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by penalty of perjury statements executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

A was born in Country B on Date U. He left as a refugee in Year P. Shortly thereafter he moved to the United States where he attended college and graduate school and worked. A became a U.S. citizen in Year Q, partially in order to be able to travel more freely. He remained in the United States for seven years and his company transferred him to Country C in Year R. A has not lived in the United States since Year R and has lived in country C with his wife and children ever since, except for a period of 10 months when he lived in Country D. A is now a citizen of both Country B and Country C and has paid taxes in Country C, a high tax jurisdiction, since Year R. A has not spent more than 30 days in the United States in the past ten years.

A has no U.S. source income or assets except for an Individual Retirement Account with a value of less than \$10,000 and a bank account with a minimal balance. A has no further ties to the United States. A's business and social activities are all based in Country C, where he owns his own home. A has a Country C drivers license and conducts all routine banking in Country C. All of the investments are administered in Country C.

A does not own any interests in any partnerships or trusts. A anticipates no significant

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changes in assets or liabilities in the next ten years. A's average net U.S. income tax for the five taxable years prior to the date of expatriation did not exceed \$100,000.

On Date V, after the effective date of section 877 (as amended by the Health Insurance Portability and Accountability Act of 1996), A voluntarily relinquished his U.S. citizenship. A's net worth on the date of loss of citizenship exceeded \$500,000.

On the date of A's expatriation, A's assets primarily consisted of cash, money market funds, stocks and bonds, foreign real estate and an individual retirement account. A's current assets are generally representative of the assets he owned for the period that began five years prior to the date on which A lost U.S. citizenship and ending on the date A's ruling request was submitted, with one exception.

In Year S, A sold the stock he owned in two foreign corporations. A received cash for these sales and made various foreign investments which are included on his balance sheet. These sales were reported on both A's Form 1040 and Country C tax returns and income taxes were paid to both tax authorities.

Section 877 generally provides that a citizen who loses U.S. citizenship or a U.S. long-term resident who ceases to be taxed as a lawful permanent resident (individuals who "expatriate") within the 10-year period immediately preceding the close of the taxable year will be taxed on U.S. source income (as modified by section 877(d)) for such taxable year, unless such loss did not have for one of its principal purposes the avoidance of U.S. taxes. Sections 2107 and 2501(a)(3) provide special estate and gift tax regimes, respectively, for individuals who expatriate with a principal purpose to avoid U.S. taxes.

A former citizen or former long term-resident will be treated as having expatriated with a principal purpose to avoid U.S. taxes for purposes of sections 877, 2107 and 2501(a)(3) if the individual's average income tax liability or the individual's net worth on the date of expatriation exceed certain thresholds. See sections 877(a)(2), 2107(a)(2)(A) and 2501(a)(3)(B).

A former U.S. citizen whose net worth or average tax liability exceeds these thresholds, however, will not be presumed to have a principal purpose of tax avoidance if that person is described within certain statutory categories and submits a request for a ruling within one year of the date of loss of U.S. citizenship for the Secretary's determination as to whether such loss had for one of its principal purposes the avoidance of U.S. taxes. See sections 877(c)(1), 2107(a)(2)(B), and 2501(a)(3)(C). The rule also applies to an individual subject to new section 877 who expatriated after February 5, 1994, but on or before July 8, 1996, and who submitted a ruling request by July 8, 1997, pursuant to Notice 97-19, 1997-1 C.B. 394.

Under Notice 97-19, as modified by notice 98-34, 1998-27 I.R.B. 30, an eligible former

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citizen will not be presumed to have a principal purpose of tax avoidance if that former citizen submits a complete and good faith request for a ruling as to whether such loss had for one of its principal purposes the avoidance of U.S. taxes.

Notice 97-19, as modified by Notice 98-34, requires that certain information be submitted with a request for a ruling that an individual's expatriation did not have for one of its principal purposes the avoidance of U.S. taxes.

A is eligible to request a ruling pursuant to Notice 97-19, as modified by Notice 98-34, because A's net worth on the date of expatriation exceeded the threshold and because for each year in the ten-year period ending on the date of A's loss of United States citizenship, A was present in the United States for 30 days or less. See section 877(c)(2)(B), 2107(a)(2)(A) and 2501(a)(3)(B).

A submitted all the information required by Notice 97-19, as modified by Notice 98-34, including any additional information requested by the Service after review of the submission.

Accordingly, based solely on the information submitted and the representations made, it is held that A has made a complete and good faith submission in accordance with section 877(c)(1)(B) and Notice 97-19, as modified by Notice 98-34. It is further held that A will be not treated under section 877(a)(2) as having as one of his principal purposes for expatriating the avoidance of U.S. taxes because the information submitted clearly established the lack of a principal purpose to avoid taxes under subtitle A or B of the Code.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. In particular, no opinion is expressed as to A's U.S. tax liability for taxable periods prior to his loss of U.S. citizenship or for taxable periods after his loss of U.S. citizenship under sections of the Code other than sections 877, 2107, and 2501(a)(3).

A copy of this letter must be attached to A's United States income tax return for the year in which A obtained the ruling (whether or not A is otherwise required to file a return).

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.

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In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to the taxpayer.

Sincerely yours,

Reviewer
Office of the Associate Chief Counsel
(International)