

## Internal Revenue Service

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Department of the Treasury  
Washington, DC 20224

Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:INTL:B02  
PLR-110824-17

Date:  
July 27, 2017

TY:

### Legend

Taxpayer =  
TIN =

Year 1 =  
Year 2 =  
Year 3 =  
Year 4 =

Country A =  
Country B =

Dear :

This is in response to a letter dated March 22, 2017, in which a ruling is requested to permit Taxpayer to reelect the foreign earned income exclusion under section 911 of the Internal Revenue Code (the Code).

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement 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.

Taxpayer was employed in a job based in Country A and elected to exclude his foreign earned income under section 911(a) of the Code for Year 1 and Year 2. In Year 3, Taxpayer's tax return preparer advised him that his U.S. tax liability would be lower if he claimed foreign tax credits rather than the section 911 foreign earned income exclusion.

In Year 4, Taxpayer accepted a job offer from a new employer in Country B requiring him to move from Country A to Country B to begin work in April of Year 4. Taxpayer's income earned in Country B will be subject to a significantly lower rate of tax than it was in Country A. Taxpayer requests permission to reelect the foreign earned income exclusion pursuant to section 911 of the Code for Year 4 and subsequent taxable years.

Section 911 of the Code permits certain taxpayers to elect to exclude from gross income their foreign earned income and housing cost amounts. Under Treas. Reg. § 1.911-7(a)(1), the election applies to the taxable year for which it is made and for all subsequent taxable years, unless revoked by the taxpayer. Treas. Reg. § 1.911-7(b)(1) prescribes a method by which a taxpayer may revoke an election to exclude foreign earned income (*i.e.*, filing a statement revoking any previously made elections). It does not, however, purport to provide the exclusive method for revoking such an election. Section 911(e)(2) provides that once revoked, the election may not be made again by the taxpayer until the sixth taxable year after the year in which the revocation was made unless the Commissioner consents to the reelection.

Treas. Reg. § 1.911-7(b)(2) provides that if an individual revokes an election under Treas. Reg. § 1.911-7(b)(1) and desires to reelect the same exclusion within the next five years, the individual must obtain permission by requesting a ruling. The Service may permit the taxpayer to reelect the foreign earned income exclusion before the sixth year after considering any facts and circumstances that may be relevant to the determination. Treas. Reg. § 1.911-7(b)(2) provides that relevant facts and circumstances may include a period of United States residence, a move from one foreign country to another foreign country with differing tax rates, a substantial change in tax laws of the foreign country of residence or physical presence, and a change of employer.

Taxpayer effectively revoked the foreign earned income exclusion for Year 3 by claiming the foreign tax credit. See Rev. Rul. 90-77, 1990-2 C.B. 183. Taxpayer desires to reelect the exclusion for Year 4, which is within five years of Year 3. Therefore, Taxpayer is requesting permission to reelect the foreign earned income exclusion. Taxpayer has represented that he changed employers and moved from Country A to Country B in Year 4. Also, he represented that the tax rates with respect to his income differ between Country B and Country A.

Accordingly, based solely on the information and representations set forth above, it is held that Taxpayer may reelect the section 911 exclusion for Year 4 and subsequent taxable years.

Except as otherwise provided herein, no opinion is expressed as to whether Taxpayer otherwise satisfies the requirements of section 911 for excluding foreign earned income and housing cost amounts from gross income. 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.

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

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

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

Sincerely,

Jeffery G. Mitchell  
Chief, Branch 2  
(International)

cc: