

Internal Revenue Service

Department of the Treasury

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Person to Contact:
j
Telephone Number:

Refer Reply To:
CC:INTL:BR1:PLR-115359-98
Date:
November 30, 1998

LEGEND

Individual A =

Individual B =

Dear

This replies to a letter dated July 22, 1998, requesting that Individual A be granted an extension of time under Treas. Reg. § 301.9100-3 to submit a ruling request provided by I.R.C. § 877(c) and Section IV of Notice 97-19, 1997-1 C.B. 394, as modified by Notice 98-34, I.R.B. 1998-27, 30. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations submitted by Individual A and accompanied by a penalty of perjury statement executed by Individual A. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

Individual B has served as a tax advisor to Individual A and her husband for approximately eight years. Individual B is an attorney specializing in taxation and related matters and a partner in a law firm. The law firm had prepared tax returns for Individual A and her husband for several years and had provided them with tax and estate planning advice on an ongoing basis.

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At the time that Individual A expatriated from the United States and renounced her United States citizenship on December 15, 1995, Individual B states that he was aware that she did so and was aware that she was a citizen of a foreign country, the country of her husband's birth. Individual B states that he did not inform Individual A about the 1996 amendment to I.R.C. § 877 and her ability to submit a ruling request for a determination that she did not expatriate with a tax avoidance motive until January 1998, which was well after the July 8, 1997 deadline for submitting such a request under Notice 97-19.

Notice 97-19 provides that an individual subject to new § 877 who expatriated after February 5, 1994, but on or before July 8, 1996, and who wishes to submit a ruling request as to whether such expatriation had for one of its principal purposes the avoidance of U.S. taxes must do so by July 8, 1997.

Individual A renounced her United States citizenship on December 15, 1995, which was after February 5, 1994, and before July 8, 1996. However, Individual A did not submit her ruling request before July 8, 1997 because Individual B failed to inform her of the July 8, 1997 deadline. Thus, Individual A is requesting relief to submit a ruling request after the due date set by Notice 97-19.

Treas. Reg. § 301.9100-3 provides rules for extensions of time for making regulatory elections when the deadline for making the election is other than a due date prescribed by statute. A regulatory election means an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice or announcement. § 301.9100-1(b).

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in paragraph (e) of § 301.9100-3) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the government.

Treas. Reg. § 301.9100-3(b)(1) provides that, subject to § 301.9100-3(b)(3)(i) through (iii), a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer-- (v) Reasonably relied on a qualified tax professional and the tax professional failed to make, or advise the taxpayer to make, the election.

In the present situation, Section IV of Notice 97-19 fixes the time for an individual to

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submit a ruling request for a determination as to whether such expatriation had for one of its principal purposes the avoidance of U.S. taxes. Therefore, the Commissioner has discretionary authority pursuant to § 301.9100-3 to grant Individual A an extension of time, provided that Individual A acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

Based on the facts and circumstances of this case, we conclude that Individual A acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government. Accordingly, Individual A is granted an extension of time under § 301.9100-3 until 30 days from the date of this ruling letter to submit a ruling request provided by Section IV of Notice 97-19 as modified by Notice 98-34. Individual A should submit the information required by Section III of Notice 98-34 (Content of ruling request submission) when submitting a request under § 877(c).

No ruling has been requested, and none is expressed, as to the application of any other section of the Code or regulations to the facts presented.

A copy of this ruling letter should be associated with the ruling request to be filed pursuant to Section IV of Notice 97-19 as modified by Notice 98-34.

This ruling is directed only to the taxpayer who requested it. I.R.C. § 6110(j)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Associate Chief Counsel
(International)

By: _____
Allen Goldstein
Reviewer