

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:Br1-PLR-118315-98

Date:

June 4, 1999

A =

Country B =

Date C =

Year D =

University =

Year E =

Date F =

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This is in response to your letter dated September 17, 1998, requesting a ruling under section 877(c) of the Internal Revenue Code of 1986 ("Code") that A's surrender of his U.S. Alien Registration Card (Green Card) 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 May 4 and January 21, 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.

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A was born in Country B on Date C. His wife and parents were also born in Country B. A has retired from his position in the United States as a tenured professor and will return to Country B in order to be close to his family and become the director of a scientific institute. A has a burial plot in Country B, where his wife is buried. A has four brothers, three sisters and numerous nieces and nephews, all of whom live in Country B.

A first came to the United States in Year D as a graduate student. He subsequently left the United States to study in another country and then returned to the United States five years later. At that time he obtained a Green Card and took a position with a city institute. In Year E, A was employed by University and has been a professor with that institution until recently. A surrendered his Green Card on Date F after retiring from the University. He now has returned to his native land to resume life among his family and to pursue career objectives. A is resident and domiciled in Country B, a jurisdiction with taxes and tax rates comparable to those in the United States, and which will thereafter impose Country B tax on A's worldwide income and capital gains.

On the date of A's expatriation, his net worth exceeded \$543,000. A's primary assets consist of pensions for services performed within the United States. All distributions attributable to A's employment in the United States will be U.S. source income. Pursuant to the income tax treaty between the United States and Country B, A will be subject to tax only by Country B on pension distributions.

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 subject to the special rules of 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 former citizen 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).

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Under Notice 98-34, 1998-27 I.R.B. 30, a former long-term resident whose net worth or average tax liability exceeds the applicable thresholds will not be presumed to have a principal purpose of tax avoidance if that former resident is described within certain categories and 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 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 because on the date of his expatriation, A was, and continues to be, a citizen and resident fully liable to income tax in Country B, the country where he was born.

A submitted all the information required 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 98-34. It is further held that A will not be treated under section 877(a)(1) as having as one of his principal purposes for expatriating the avoidance of U.S. taxes because the information submitted clearly establishes 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 the taxable years prior to expatriation or his United States tax liability for periods after his expatriation 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 U.S. 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 requesting it. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.

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

Sincerely yours,

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W. Edward Williams
Senior Technical Reviewer
CC:INTL:Br1