

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

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Person to Contact:

Telephone Number:

Refer Reply To:
CC:INTL:Br1-PLR-114758-97
Date:
February 25, 1999

Re:

Tax Year: 1996

A =

Country B =

Date C =

Year D =

Year E =

Date F =

Date G =

H =

Dear :

This is in response to your letter dated July 25, 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. 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

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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 C. He received his Green Card in Year D. He became a naturalized U.S. citizen in Year E. A's wife, who was born in the United States, is a U.S. citizen.

A moved from the United States to Country B in Year E on a foreign assignment and he has been a tax resident of Country B since that date within the meaning of section 911(d)(3) of the Internal Revenue Code. During the years of foreign assignment, Year E to the present, A filed U.S. tax returns claiming the foreign earned income exclusion and the foreign tax credit. However, his permanent home, personal belongings, family and social relations, cultural and business activities, personal banking activities and property interests were in Country B. His days spent in the U.S. during his assignment were less than 20 days in each year. His only tie to the United States was his naturalized citizenship status.

On Date F, A became a Country B national and made a formal renunciation of his U.S. citizenship on Date G.

On the date of his loss of citizenship, A's net worth exceeded \$500,000. A's assets consist primarily of his principal Country B residence, U.S. and foreign marketable securities, foreign real property, and a savings incentive plan. A would be able to get relief from double taxation by a credit for foreign taxes paid on any gain resulting from the sale of the U.S. securities, or the savings incentive plan if section 877 of the Code applied to him.

A's net U.S. income tax liability for each of the of 5 taxable years ending before the date of the loss of his U.S. citizenship was less than \$20,000. A is subject to Country B tax at a rate of H on his worldwide income, a rate that is substantially higher than what would be the applicable top U.S. rate.

Section 877 of the Code generally provides that a citizen who loses citizenship or a long-term resident who ceases to be taxed as a U.S. resident within the 10-year period immediately preceding the close of the taxable year will be taxed on all of his or her U.S. source income (as modified by section 877(d) of the Code) for such taxable year, unless such loss did not have for one of its principal purposes the avoidance of U.S. taxes under subtitle A or subtitle B of the Code. 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 section 877, 2107 and

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2501(a)(3) if the individual's average income tax liability or the individual's net worth on the date of expatriation exceeds 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 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).

Under Notice 98-34, 1998-27 I.R.B. 30, modifying Notice 97-19, 1997-1 C.B. 394, an eligible former 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 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 under section 877 because he fits into one of the statutory categories of individuals eligible to submit ruling requests. A became a citizen of Country B, the country in which he was born. See section 877(c)(2)(A)(ii)(I).

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's expatriation did not have as one of its principal purposes 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 addition, no opinion is expressed as to A's U.S. tax liability for the taxable years prior to expatriation or his U.S. tax liability for periods after his surrender of his Green Card 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).

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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.

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

Sincerely yours,

Allen Goldstein
Reviewer
Office of the Associate Chief Counsel
(International)