

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200414032**

Release Date: 4/2/04

Index Number: 877.00-00

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL:BR1 – PLR-130009-03

Date:

December 19, 2003

Taxpayer =
Tax ID =
Number
Country A =
Group B =
Company C =
Company D =
Company E =
State F =
State G =
Year H =
Year I =

DO =

TY:

Dear :

This is in response to letters from your authorized representative dated May 8, 2003, and October 29, 2003, on your behalf requesting a ruling under section 877(c) of the Internal Revenue Code of 1986 ("Code") that your loss of U.S. permanent resident status 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 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.

PLR130009-03

Taxpayer and his wife were born in Country A. Taxpayer, his wife, and parents are all citizens of Country A. In Year H, Taxpayer joined the Group B companies working for Company C in Country A. In Year I, Taxpayer was transferred to the United States to work for Company D in State F. He then obtained his green card for the convenience of his employer. He subsequently was transferred to Company E in State G. Taxpayer will retire from employment with the Group B companies at the end of 2003, and plans to permanently return to Country A with his wife. Upon his return to Country A, Taxpayer plans to relinquish his green card, and he will be subject to tax in Country A on his worldwide income.

The Taxpayer plans to place his home in State G and rental real estate in State F for sale prior to his retirement. He has no other significant assets or financial interests in the United States. Taxpayer has a State G driver's license that he will surrender prior to his retirement.

The Taxpayer's wife is a dual citizen of Country A and the United States and she also plans to expatriate. Taxpayer has two daughters who are also dual citizens of Country A and the United States and have reached the age of majority. Aside from their daughters, most of the Taxpayer's family is in Country A, including his elderly parents who are requiring more assistance. Most of Taxpayer's personal property, as well as his primary banking arrangements are located in Country A. He holds a Country A drivers license.

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 under section 877(b) and 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 or former long term-resident 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.

PLR130009-03

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), 2107(a)(2)(B) and 2501(a)(3)(C).

Under Notice 98-34, 1998-2 C.B. 29, 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.

Taxpayer is eligible to request a ruling pursuant to Notice 98-34 because on the date of his expatriation, Taxpayer was a citizen of the country in which he, his wife, and his parents were born. See section 877(c)(2)(A)(ii) and (e).

Taxpayer 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, we conclude that Taxpayer has made a complete and good faith submission in accordance with section 877(c)(1)(B) and Notice 98-34, and therefore, Taxpayer will not be presumed to have expatriated with a principal purpose of tax avoidance. It is further held that Taxpayer will not be 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 establishes the lack of such a principal purpose to avoid tax 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.

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(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 your authorized representative.

PLR130009-03

A copy of this letter must be attached to any income tax return to which it is relevant.

Sincerely,

W. Edward Williams
Special Counsel
Office of the Associate Chief Counsel
(International)

cc: