

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:
CC:INTL:PLR-112522-99
Date:

In re:

December 21, 1999

LEGEND

Taxpayer =

Country Y =

Dear :

This replies to a letter dated July 9, 1999, requesting that Taxpayer 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 Notice 97-19, 1997-1 C.B. 394, as modified by Notice 98-34, I.R.B. 1998-27. 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 Taxpayer and accompanied by a penalty of perjury statement executed by Taxpayer. 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.

In 1993, Taxpayer left the United States to live in Country Y. Taxpayer relinquished her "Green Card" on January 26, 1996, and thus terminated her status as a U.S. resident.

Notice 97-19 provides that an individual subject to § 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. However, because Taxpayer was not residing in the United States at the time that Notice 97-19 was issued on February 24, 1997, she was unaware of the need to file, and thus has not yet filed, a timely expatriation ruling request.

Taxpayer relinquished her "Green Card" on January 26, 1996, which was after February 5, 1994, and before July 8, 1996. Thus, Taxpayer is requesting relief to submit a ruling request after the due date set by Notice 97-19. Taxpayer is requesting

CC:INTL:PLR-112522-99

relief before the Service has discovered her failure to make an expatriation ruling request. At the present time, Taxpayer's returns for the taxable years that would have been affected by the expatriation ruling request are not under examination by the Service, and they are not being considered by an Appeals Office or by a Federal Court.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the standards set forth in § 301.9100-3 to make a regulatory election under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-1(b) defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-3 provides standards for extensions of time for making regulatory elections when the deadline for making the election is other than a due date prescribed by statute.

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 § 301.9100-3(e)) 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.

In the present situation, Notice 97-19 fixes the time for an individual to 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 under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 30 days from the date of this ruling letter to submit a ruling request provided by Notice 97-19 as modified by Notice 98-34.

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. Specifically, no opinion is expressed as to the tax consequences under § 877 of the Code.

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

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

CC:INTL:PLR-112522-99

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

Sincerely,

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