

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

In Re:

Refer Reply To:
PLR-105602-00/CC:INTL:B1
Date:
March 30, 2001

TY:

Legend

A =

B =

Country C =

Date D =

Year E =

Year F =

County G =

Dear :

This is in response to a letter written by A of your office on behalf of B and dated March 3, 2000, forwarding B's request for a ruling under section 877(c) of the Internal Revenue Code of 1986 (the "Code") that B's loss of 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.

B was born in Country C on Date D. Both B's parents as well as B's current

PLR-105602-00

spouse were also born in Country C. B came to the United States during Year E to be married. The marriage ended in divorce in Year F. Under the Marital Settlement Agreement (the "Agreement"), B's spouse could stop making alimony payments and B would lose custody of the minor child if B and the minor child were not physically present in Country G at least 270 days during a calendar year. In the absence of the restrictions in the Agreement, B would have returned to Country C immediately after the divorce. B has visited Country C as much as permitted under the Agreement and has maintained close ties to Country C. B's child has reached majority and B is now free under the Agreement to return to Country C. B is currently married to a citizen of Country C.

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 on U.S. source income (as modified by 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 exceeds a certain threshold. 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 one of these thresholds, however, will not be presumed to have a principal purpose of tax avoidance if that person 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).

Under Notice 98-34, 1998-2 C.B. 29, modifying Notice 97-19, 1997-1 C.B. 394, an eligible former long-term resident will not be presumed to have a principal purpose of tax avoidance if that former long-term resident is described within certain categories and submits a complete and good faith request for a ruling within one year of the date of loss of long term residency status for the Secretary's determination as to whether such loss had for one of its principal purposes the avoidance of U.S. taxes.

B is eligible to request a ruling pursuant to Notice 98-34, because B is described in three categories of individuals eligible to submit ruling requests. First, on the date of B's expatriation, B was, and continues to be, a citizen and resident fully liable to income tax in Country C, the country where B was born. Second, B is also eligible to submit a

PLR-105602-00

request because B's parents were born in Country C. Finally, B is eligible to submit a request because B's spouse was born in Country C.

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, we conclude that B has made a complete and good faith submission in accordance with section 877(c)(1)(B) and Notice 98-34. However, because the information submitted does not clearly establish the existence or lack of a principal purpose to avoid taxes under subtitle A or B of the Code, no opinion is expressed as to whether B's expatriation will have for one of its principal purposes the avoidance of such taxes. While this ruling rebuts the presumption of tax avoidance under section 877(a)(2), it is not conclusive as to whether B subsequently may be found to have a principal purpose of tax avoidance under sections 877(a)(1), 2107(a)(1), and 2501(a)(3)(A) based on all the facts and circumstances. See section 877(c)(1).

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 B's United States tax liability for taxable periods prior to expatriation or B's U.S. tax liability for periods after expatriation under sections of the Code other than sections 877, 2107, and 2501(a)(3).

A copy of this letter must be attached to B's U.S. income tax return for the year in which B obtained the ruling (whether or not B is otherwise required to file a return).

This ruling is directed only to the taxpayer 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 B.

Sincerely,
Office of the Associate Chief Counsel
(International)