

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:
CC:INTL:Br.1-PLR-121658-97
Date:
July 1, 1999

In re:

Legend

Tax Year =
A =

Year B =
Year C =
Date D =
Country X =

Dear

This is in response to your letter dated November 15, 1997, requesting a ruling under section 877(c) of the Internal Revenue Code of 1986 (the "Code" or "I.R.C.") 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 in your letter of November 15, 1997, and supplemented by your letter of March 19, 1999, and by the discussions we had over the telephone, 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 statements executed under penalty of perjury 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 Year B in the United States. Her parents and her spouse were born in, and are citizens of, Country X. In Year C, she moved with her parents to Country X, where she has been living all her life. A formally renounced her U.S. citizenship on Date D. As of the date of her expatriation, A had dual citizenship in Country X and the United States, and her net worth was in excess of \$500,000, the threshold fixed by the statute for a rebuttable presumption under section 877(a)(2) of the Code.

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 of expatriation will be taxed on U.S. source income (as modified by section 877(d)) for such taxable year, unless such loss or cessation 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. I.R.C. §§ 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. I.R.C. §§ 877(c)(1), 2107(a)(2)(B), and 2501(a)(3)(C).

Under Notice 98-34, 1998-27 I.R.B. 40, modifying Notice 97-19, 1997-1 C.B. 394, an eligible former citizen will not be presumed to have had a principal purpose of tax avoidance for expatriation 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 she was a citizen of both the United States and Country X and continues to be a citizen of Country X, the country in which her husband, and both of her parents were born. See section 877(c)(2)(A)(ii). On the date of expatriation, A's net worth exceeded the threshold fixed by section 877(a)(2).

A submitted all the information required by Notice 98-34, which included any additional information requested by the Service after review of the original 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, and therefore, A will not be presumed to have expatriated with a principal purpose of tax avoidance.

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 A's expatriation had 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 A 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 A's U.S. tax liability for taxable periods prior to her loss of U.S. citizenship or for taxable periods after her loss of U.S. citizenship 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,

W. EDWARD WILLIAMS
Senior Technical Reviewer
Branch No. 1
Office of the Associate Chief Counsel
(International)

cc: Assistant Commissioner (International)
Chief, International District Operations