

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:Br1-PLR-148078-02

Date:

January 24, 2003

DO:

TY:

Dear :

This is in response to the your letter dated August 29, 2002, on behalf of Taxpayer requesting a ruling under section 877(c) of the Internal Revenue Code of 1986 ("Code") that Taxpayer's 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 the material submitted in support of the request for rulings, it is subject to verification on examination.

Taxpayer was born on Date A in Country B. Taxpayer's spouse and parents were born in Country B. Taxpayer's spouse started Company C in Country B during Year D. Company E subsequently bought Company D and Taxpayer's spouse continued on as CEO until Year F, when he was transferred to the United States. Taxpayer accompanied her spouse to the United States in Year F and obtained a green card in Year G. Her spouse continued in various management positions with Company E until his retirement on Date H. Taxpayer and her spouse left the United States permanently to reside in Country B on Date I. Taxpayer relinquished hers green card on Date J. Taxpayer has always maintained close ties with Country B and intended to return there upon her spouse's retirement.

Taxpayer has a condominium in Florida where she plans to spend 70 to 80 days during the winter season and she anticipates visiting the United States to see one of her daughters and grandchildren on occasion.

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)

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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. 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 97-19 because on the date of her expatriation, Taxpayer was a citizen of the country in which she, her spouse, and her 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.

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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 Taxpayer's U.S. tax liability for taxable periods prior to Taxpayer's loss of U.S. permanent resident status or for taxable periods after Taxpayer's loss of U.S. permanent resident status under sections of the Code other than sections 877, 2107, and 2501(a)(3).

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.

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

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to you and the original to your authorized representative.

Sincerely,

W. Edward Williams
Senior Technical Reviewer, Branch 1
Office of the Associate Chief Counsel
(International)

cc: