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From:
Sent: Friday, August 10, 2012 10:10:17 AM
To:
Cc:
Subject: RE: United States- Israeli Tax Treaty Article 3, Section 2(a)

This is in response to your inquiry concerning the application of Article 3(2) (the so-called "tie-breaker rule") of the U.S.-Israel income tax treaty to an individual who is a citizen of both the United States and Israel. We agree that a U.S. citizen who has a permanent home in Israel may be deemed to be a resident of Israel solely for purposes of the treaty under Article 3(2)(a). Under the "saving clause" in Article 6(3), however, we generally retain the right (subject to limited exceptions in Article 6(4)) to tax our citizens as if the treaty had not come into effect.

It has been suggested that a U.S. citizen who is treated as a resident of Israel under the tie-breaker rule of the treaty may be treated as a nonresident alien (NRA) for purposes of computing his U.S. income tax liability. This rule is found in section 301.7701(b)-7 of the regulations, which applies only to alien individuals and not to U.S. citizens. The first sentence of the section of the regulations provides that "[t]he application of this section shall be limited to an alien individual who is a dual resident taxpayer pursuant to a provision of a treaty that provides for resolution of conflicting claims of residence by the United States and its treaty partner" (emphasis added).

A U.S. citizen who is treated as a resident of another country under an income tax treaty would still be required to file a Form 1040 (assuming his income meets the filing thresholds) and would still be subject to U.S. tax on his worldwide income (except to the extent one of the exceptions to the saving clause applies).