

Internal Revenue Service

Department of the Treasury
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Person to Contact:

Telephone Number

Refer Reply to
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Date:

October 21, 2002

Legend

A =
Date B =
Date C =
Country D =
Date E =
Year F =

Dear :

This is in response to a letter dated B, by A's authorized representative, requesting a ruling under section 877(c) of the Internal Revenue Code of 1986 ("Code") 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 ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by penalty of perjury statements executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for ruling, it is subject to verification on examination. The information submitted for consideration is substantially as set forth below.

A has been a citizen of Country D during his entire life by reason of his birth on Date E in Country D. A became a naturalized U.S. citizen in Year F. A relinquished his U.S. citizenship ("expatriated") on Date C. On the date of A's expatriation, his net worth exceeded the threshold required under section 877(a)(2).

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 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 certain thresholds. See sections 877(a)(2), 2107(a)(2)(A), and 2501(a)(3)(B).

Under Notice 98-34, 1998-2 C.B. 29, modifying Notice 97-19, 1997-1 C.B. 394, a former U.S. citizen or former long-term resident whose net worth or average tax liability exceeds the applicable threshold will not be presumed to have a principal purpose of tax avoidance if that former citizen or former resident is described within certain categories and 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. A is eligible to request a ruling pursuant to Notice 98-34 because A is a citizen of Country D, the country in which A was born.

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 submitted all the information required by Notice 98-34, including any additional information requested by the Service after review of the submission.

Based solely on the information submitted and the representations made, we conclude that A has made a complete and good faith submission in accordance with section 877(c)(1)(B) and Notice 98-34. However, we further conclude that A will, nevertheless, be treated under section 877(a)(1) as having as one of his principal purposes for expatriating the avoidance of U.S. taxes because the information submitted clearly establishes a principal purpose to avoid taxes under subtitle A or B of the Code. Accordingly, A will be subject to the provisions of section 877(b) and section 877(d) and the applicable provisions of sections 2107 and 2501(a)(3).

Because A is treated under section 877(a)(1) as having as one of his principal purposes for expatriating the avoidance of U.S. taxes, he must file a U.S. income tax return (Form 1040NR), with the information described in Notice 97-19, section VII, Annual Information Reporting, for each year in the 10-year period following expatriation if he is liable for U.S. tax under any provision of the Code, as modified by section 877. For purposes of computing the tax due under section 877, A must recognize the realized or unrealized gains as a result of any "exchange" described in section 877(d)(2)(B), (d)(2)(E)(i), or (d)(2)(E)(ii) in the year of the exchange. For further information, A should refer to the Instructions to Form 1040NR, U.S. Nonresident Alien Income Tax Return.

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 his loss of U.S. citizenship or for taxable periods after his

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.

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 A's representative.

Sincerely yours,

W. EDWARD WILLIAMS
Senior Technical Reviewer
Office of Associate Chief Counsel
(International)