

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:  
, ID No.  
Telephone Number:

Refer Reply To:  
CC:INTL:B03  
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Date:  
April 21, 2016

TY:

Legend

Taxpayer A =

Taxpayer B =

Corp C =

Year 1 =

Amount X =

Year 2 =

Amount Y =

Dear :

This is in response to your letter dated October 30, 2015, requesting permission to revoke an election under Treas. Reg. §301.7701(b)-4(c)(3) for Year 1.

The ruling contained in this letter is based upon information and representations submitted by Taxpayer A and Taxpayer B and accompanied by a penalty of perjury statement executed by them. 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.

Taxpayer A was a resident of the United States for Year 1 under the substantial presence test of section 7701(b)(2) of the Internal Revenue Code. Taxpayer B, Taxpayer A's spouse, did not meet the substantial presence test for Year 1. Taxpayer B elected to be treated as a resident under Treas. Reg. § 301.7701(b)-4(c)(3) for Year 1 and complied with the election procedure requirements set forth in Treas. Reg. §301.7701(b)-4(c)(3)(v), including attaching the statement described in paragraph (C) of

Treas. Reg. §301.7701(b)-4(c)(3)(v) to Form 1040 for Year 1 which was filed jointly with Taxpayer A. Treas. Reg. §301.7701(b)-4(c)(3)(v)(A) provides that the election made by Taxpayer B to be treated as a resident under Treas. Reg. §301.7701(b)-4(c)(3) for Year 1 may not be revoked without the approval of the Commissioner or his delegate.

In Year 1, Taxpayer A and Taxpayer B each owned 50% of Corp C, a foreign corporation. Taxpayer B performed personal services for Corp C. After the election, because both Taxpayer A and Taxpayer B were residents of the United States for Year 1 they were United States shareholders under section 957(b) of the Code and Corp C was a controlled foreign corporation under section 957(a). Taxpayers A and B reported on their Form 1040 as joint filers for Year 1 a subpart F inclusion pursuant to section 951(a) in Amount X.

In Year 2, both Taxpayer A and Taxpayer B were residents of the United States under the substantial presence test of section 7701(b)(2) of the Code. Taxpayers A and B received in Year 2 a distribution from Corp C in Amount Y, an amount in excess of Amount X. Taxpayers A and B jointly filed Form 1040 for Year 2, on which they reported the receipt of previously taxed income under section 959 in Amount X and a taxable distribution from Corp C in the amount of the excess of Amount Y over Amount X.

Taxpayers A and B represent that with approval granted to Taxpayer B to revoke the election to be treated as a resident under Treas. Reg. § 301.7701(b)-4(c)(3) for Year 1:

1. Taxpayer A and Taxpayer B will file an amended Form 1040 as joint filers for Year 2 reporting Amount Y, the entire amount of the distribution that they received in Year 2 from Corp C as taxable income and none as previously taxed income under section 959 of the Code.
2. Taxpayer A will file an amended Form 1040 for Year 1 to change status from joint return to married filing separately reporting all required taxable income, and
3. Taxpayer B will file, if needed, a Form 1040NR for Year 1 to report taxable U.S. source income, if any.

Based solely on the information submitted and the representations made approval is granted to Taxpayer B to revoke the election to be treated as a resident under Treas. Reg. § 301.7701(b)-4(c)(3) for Year 1.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any item discussed or referenced in this letter.

This ruling is directed only to Taxpayers A and B. 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 your authorized representatives.

A copy of this letter must be attached to the amended Form 1040 as joint filers for Year 2 which Taxpayers A and B will file; the amended Form 1040 married filing separately which Taxpayer A will file for Year 1; and the Form 1040NR which Taxpayer B will file for Year 1 if needed, as referenced above.

Sincerely,

Richard L. Chewning  
Senior Counsel, Branch 3  
Office of Associate Chief Counsel (International)

cc: