

Internal Revenue Service

Department of the Treasury

Number: **200211015**
Release Date: 3/15/2002
Index Number: 877.00-00

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:Br.1-PLR-135471-01

Date:

December 7, 2001

TY:

Dear _____ :

This is in response to your letter dated June 18, 2001, and subsequent submission dated November 8, 2001, on behalf of A concerning a request for 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 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 statement executed 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's father was born in Country C and A's mother was born in Country D. On Date B, A was born in the United States and became a citizen of both the United States and Country C at birth. A and his family moved back to Europe in Year G when A was a boy. A has not lived or attended school in the United States since that time. Since graduation from college, A has been living and working in Country F. A was married to a citizen of Country E and they reside in Country F. A has no direct family or personal ties in the United States apart from business related interactions with contacts here. A has never been employed in the United States, voted in an election, or registered to vote in the United States. A has never had a U.S. drivers license. All of A's family and social ties are located in Country F, Country C and Country E. A's personal possessions and real estate are in Country F, and A administers his bank accounts from there and holds a drivers license from there. A is fully liable to tax as a resident in Country F. Although A is liable to tax in Country C on income from sources within Country C, the tax is eliminated by foreign tax credit under the treaty between Country C and Country F. A has represented that A will not relinquish his Country C citizenship for a period of at least five years following A's expatriation from the United States.

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

PLR-135471-01

taxable year will be taxed under section 877(b) and the special rules of 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 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.

A is eligible to request a ruling pursuant to Notice 97-19 because A became a citizen at birth of the United States and a citizen of Country C and continues to be a citizen of Country C. See section 877(c)(2)(A)(i).

A 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 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

PLR-135471-01

to have a principal purpose of tax avoidance under sections 877(a)(1), 2107(a)(1), or 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 A's loss of U.S. citizenship or for taxable periods after A's loss of U.S. citizenship 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 your representative.

Sincerely,
Senior Technical Reviewer, Branch 1
Office of the Associate Chief Counsel
(International)