Internal Revenue Service

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Department of the Treasury

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Washington, DC 20224

Person to Contact:

Refer Reply To:
CC:INTL:Br1-PLR-122597-97
Date:
June 10, 1999

TY:

A =

Country B =

Date C =

Country D =

Date E =

Year 1 =

Year 2 =

Year 3 =

Date F =

Dear

This is in response to a letter dated December 15, 1997, from your authorized representative requesting a ruling under section 877(c) of the Internal Revenue Code of 1986 ("Code") that A's loss of long-term resident status (expatriation) did not have for one of its principal purposes the avoidance of U.S. taxes under subtitle A or subtitle B of the Code. Additional information was submitted in letters dated March 12 and May 4, 1999. The information submitted for consideration is substantially as set forth below.

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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 rulings, it is subject to verification on examination.

A was born in Country B on Date C. A's wife was born in Country D on Date E. A is a citizen of Country B and A's wife is a citizen of Country D. A is employed by a Country D company. In Year 1, A was transferred by the company to the United States. A and his wife obtained lawful permanent resident status thereafter. In Year 2, A was transferred to Country D. In Year 3, A and his wife decided to reside permanently in Country D. On Date F, A surrendered his green card (expatriated) at the U.S. consulate in Country D. On the date of A's expatriation, his net worth exceeded $500,000. A is subject to Country D tax on his worldwide income.

Section 877 generally provides that a citizen who loses U.S. citizenship or a 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 subject to the special rules of section 877(d) for such taxable year, unless such loss or cessation 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 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 it principal purposes the avoidance of U.S. taxes. See sections 877(c)(1), 2107(a)(2)(B), and 2501(a)(3)(C).

Under Notice 98-34, 1998-27 I.R.B. 30, modifying Notice 97-19, 1997-1 C.B. 394, a former long-term resident whose net worth or average tax liability exceeds the applicable thresholds will not be presumed to have a principal purpose of tax avoidance if that 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.

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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 98-34 because he became fully liable to tax on his worldwide income in Country D, the country in which his wife was born.

A submitted all of the information required to be submitted by Notice 97-19, as modified by Notice 98-34, including additional information requested by the Service after review of the submission.

Accordingly, based solely on the information submitted and the representations made, it is held that A has made a complete and good faith submission in accordance with section 877(c)(1)(B) and Notice 97-19, as modified by Notice 98-34. Therefore, A will not be presumed under section 877(a)(2) to have as one of his principal purposes for expatriating the avoidance of U.S. taxes. It is further held that A will not 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 the lack of a principal purpose to avoid taxes under subtitle A or B of the Code.

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 the taxable years prior to expatriation or his U.S. tax liability for periods after his expatriation 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 (whether or not A is otherwise required to file a return).

This ruling is directed only to the taxpayer requesting it. Section 6110(j)(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 representative.

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Sincerely yours,

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