



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

9/13/2001

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Dear **[Redacted Name]**:

This letter responds to your letter received by our office on July 30, 2001, requesting a ruling for the reinstatement of your foreign earned income exclusion for tax year 2000. Your request does not include the necessary information or user fee required to issue a ruling. However, after a review of your letter, we are providing the following general information.

Section 911(a) of the Code allows qualified citizens or residents of the United States living abroad to elect to exclude from gross income the foreign earned income and housing cost amounts of such individuals. Section 911(d)(6) provides that a taxpayer who has made the section 911 election may not deduct or credit foreign taxes paid or accrued with respect to the excluded amounts. Section 911(e)(1) provides that the election applies to the taxable year for which made and to all subsequent taxable years unless the taxpayer revokes them. Section 911(e)(2) of the Code permits such a revocation, but provides that, without the consent of the Secretary, the taxpayer may not make another election before the sixth taxable year after the taxable year for which the revocation was effective.

Treas. Reg. §1.911-7(b) sets forth a procedure for revoking a section 911 election. An election may be revoked by filing a statement with the income tax return or amended income tax return for the taxable year for which the revocation is to take effect. The revocation is effective for that year and all subsequent years. Although the regulations under section 911 of the Code prescribe a method by which a taxpayer may revoke an election to exclude foreign earned income, they do not purport to provide the exclusive method for revoking such an election. For example, an election may also be revoked by claiming a foreign tax credit for foreign taxes paid on foreign earned income. See, Rev. Rul 90-77, 1990-2 C.B. 183 (September 10, 1990).

From your submission, it appears that you made a valid section 911 revocation by claiming a foreign tax credit for foreign taxes paid on your Canadian earned income for tax year 2000. However, you are permitted to file for a claim of refund to amend

your erroneous claim of foreign tax credits and reinstate your section 911 election for year 2000, provided that the statute of limitations for filing the claim has not expired for tax year 2000. Generally, you must file your claim for a refund within 3 years after the date you filed your original return or within 2 years after the date you paid the tax, whichever is later. See IRC sections 6402 and 6511 and the Treasury Regulations thereunder. You may use Form 1040X, *Amended U.S. Individual Income Tax Return*, to correct the return that you have already filed for tax year 2000. See Treasury Regulations § 301.6402-3(a)(2) and IRS Publication 17.

If after considering the above general information, you still desire a ruling, you must comply with the administrative procedures set forth in Rev. Proc. 2001-1, I.R.B. 4 (January 2, 2001). Generally, your ruling request must include the following:

1. A complete statement of facts and other information
2. A statement of supporting authorities
3. A statement about whether the issue is under audit
4. A statement identifying information to be deleted from a copy of the letter ruling for public inspection
5. Penalties of perjury statement
6. User fee (see section 15 and Appendix A of Rev. Proc. 2001-1 for the fee schedule)

If you have any questions, please call Kate Y. Hwa at (202) 622-3840.

Sincerely,

Phyllis E. Marcus
Branch Chief, Branch 2
Office of the Associate Chief Counsel
(International)