

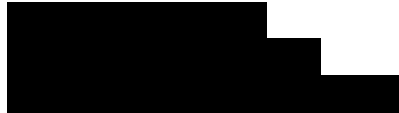


DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

March 20, 2002

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Dear [REDACTED]:

This letter responds to your letter received by our office 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 either election may not deduct or credit foreign taxes paid or accrued with respect to the excluded amounts. Section 911(e)(1) provides that the elections apply 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, we have determined that you have made a valid revocation of your prior section 911 election when you filed an amended income tax return for tax year 1999 and decided to take a credit for the foreign income taxes that you have paid. Treas. Reg. §1.911-7(b)(2) provides that if you revoke an election under Treas. Reg. §1.911-7(b)(1), and desire to reelect the same exclusion within the next five years, you must obtain permission by requesting a ruling. The Service may permit the taxpayer to reelect before the sixth year the foreign earned income exclusion after considering all of the facts and circumstances.

If after considering the above general information, you still desire a ruling, you must comply with the administrative procedures set forth in Rev. Proc. 2002-1, I.R.B. 1 (January 7, 2002) (attached). 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. 2002-1 for the fee schedule)

In your case, please provide the year in which you made a valid section 911 election, confirm 1999 as the year for which you made the revocation, and the year 2000 for which you would like to reelect the exclusion. Also, please provide information, including the tax year, regarding whether you claimed any foreign tax credits for foreign income taxes attributable to income excluded under section 911.

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)

Attachment