

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200350005**

Release Date: 12/12/2003

Index Number: 9100.22-00, 877.08-00

Person To Contact:

, ID No.

Telephone Number:

In Re:

Refer Reply To:

CC:INTL – PLR-155739-02

Date:

September 08, 2003

LEGEND

Wife =

Husband =

Individual A =

CPA Firm =

Country X =

Year One, Year Two =

Date A =

Dear :

This replies to a letter dated October 4, 2002, in which Wife requests an extension of time under Treas. Reg. § 301.9100-3 to submit a ruling request under § 877 as provided by Section IV of Notice 97-19, as modified by Notice 98-34. The information submitted for consideration is substantially as set forth below.

PLR-155739-02

The ruling contained in this letter is predicated upon facts and representations submitted by Wife and accompanied by a penalty of perjury statement executed by Wife. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

Husband and Wife were born in and are citizens of Country X. Husband and Wife are both former residents of the United States. Husband and Wife permanently relocated back to Country X in Year One, and have lived there continuously ever since.

Individual A is a senior manager with CPA Firm, which has prepared the tax returns for Husband and Wife for several years. Around the fall of Year Two, which was after Date A, Individual A had a conversation with Husband regarding some year-end tax planning. Husband mentioned at some point in the conversation that Husband and Wife had relinquished their green cards. This disclosure prompted a discussion of the tax ramifications of relinquishing a green card. Later, Husband and Wife decided to request rulings under § 877. CPA Firm was then contracted by Husband's employer to prepare the ruling requests.

CPA Firm, Husband and Wife began collecting information and documentation to file the ruling requests when it was discovered that Wife had relinquished her green card on Date A. At the time of this discovery, the one-year period for filing Wife's ruling request had already expired.

The affidavits of Individual A and Wife, and the facts submitted indicate that Wife relied upon CPA Firm to handle her U.S. tax matters. However, CPA Firm did not advise Wife of the tax ramifications of surrendering her green card until after the green card had been surrendered.

Treas. Reg. § 301.9100 -1(b) provides that an election includes an application for relief in respect of tax, and defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

PLR-155739-02

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the standards set forth in § 301.9100-3, to make a regulatory election under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

In the present situation, Section IV of Notice 97-19 fixes the time for an individual to submit a ruling request under I.R.C. § 877. Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Wife an extension of time, provided that Wife satisfies the standards set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Wife satisfies § 301.9100-3(a). Accordingly, Wife is granted an extension of time until 45 days from the date of this ruling letter to submit a ruling request under § 877 as provided by Section IV of Notice 97-19, as modified by Notice 98-34.

No ruling has been requested, and none is expressed, as to the application of any other section of the Code or regulations to the facts presented. Specifically, no opinion is expressed as to the tax consequences under I.R.C. § 877.

A copy of this ruling letter should be associated with the ruling request filed pursuant to Notice 97-19.

This ruling is directed only to the taxpayer who requested it. I.R.C. § 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to Wife and the other representative.

Sincerely,

Associate Chief Counsel (International)

PLR-155739-02

By:/s/ Allen Goldstein

Allen Goldstein

Reviewer

Enclosure

Copy for 6110 purposes