

Internal Revenue Service

Number: **200603011**

Release Date: 1/20/2006

Index Number: 2101.00-00, 2209.00-00

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL:BR1

PLR-132732-05

Date:

October 12, 2005

TY:

Legend:

A =

Date 1 =

Dear :

This is in response to your authorized representative's letter of March 7, 2005, as supplemented by a letter dated August 22, 2005, requesting a ruling on whether A will be treated as a nonresident not a citizen of the United States for purposes of applying sections 2101 and 2209 of the Internal Revenue Code.

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.

The facts and representations submitted are summarized as follows. On the date of her death, Date 1, A was a U.S. citizen and resident of Puerto Rico. A's executor is seeking this ruling for purposes of administering A's estate.

Section 2101(a) imposes a tax, except as provided in section 2107, on the transfer of the taxable estate (determined as provided in section 2106) of every decedent nonresident not a citizen of the United States.

Section 2208 provides that a decedent who was a citizen of the United States and a resident of a possession thereof at the time of his death shall, for purposes of the estate

tax, be considered a "citizen" of the United States unless he acquired his United States citizenship solely by reason of (1) his being a citizen of such possession of the United States, or (2) his birth or residence within such possession of the United States.

Section 2209 provides that a decedent who was a citizen of the United States and a resident of a possession thereof at the time of his death shall, for purposes of the estate tax, be considered a "nonresident not a citizen of the United States" but only if such person acquired his United States citizenship solely by reason of (1) his being a citizen of such possession of the United States, or (2) his birth or residence within such possession of the United States.

Treasury Regulation section 20.2209-1 provides that the term "nonresident not a citizen of the United States" includes a U.S. citizen domiciled in a possession of the United States who acquired his U.S. citizenship solely by reason of (1) his being a citizen of such possession of the United States, or (2) his birth or residence within such possession of the United States.

Under section 7 of the Foraker Act, 31 Stat. 77, 79 (1900) current version at 48 U.S.C. 733 (1988), all Spanish subjects who resided in Puerto Rico on April 11, 1899, and continued to reside there through April 12, 1900, and their children born subsequent thereto, who did not file a declaration of Spanish allegiance prior to April 11, 1900, were deemed to be citizens of Puerto Rico. Section 5 of the Jones Act (also known as the Second Organic Act of Puerto Rico), 39 Stat. 951, 953 (1917), conferred United States citizenship to all persons who became citizens of Puerto Rico under the Foraker Act.

A became a Puerto Rican citizen under the Foraker Act, and a U.S. citizen by operation of the Jones Act. Therefore, A derives U.S. citizenship solely from being a citizen of a possession of the United States, and is considered a "nonresident not a citizen of the United States" for purposes of applying sections 2209 and 2101.

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.

The 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 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).

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to A's authorized representative.

Sincerely,

Karen A. Rennie
Senior Technical Reviewer, Branch 1
(International)