

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Date:
November 27, 2012

TY:

Legend

Taxpayer =
Country A =
Employer 1 =
Employer 2 =
Year 1 =
Year 2 =
Year 3 =
Year 4 =

Dear

This is in response to a letter received in this office on October 11, 2012, in which a ruling is requested to permit you to reelect the foreign earned income exclusion under section 911 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.

Taxpayer was employed in Country A prior to Year 1 and elected the foreign earned income exclusion under section 911(a). In Year 1, she determined that the foreign earned income exclusion under section 911(a) was no longer beneficial to her, and she therefore filed a statement revoking her election effective for Year 1. She worked for Employer 1 in Country A at the time of the revocation.

Taxpayer stopped working at Employer 1 in December, Year 2. She received her final compensation from Employer 1 in March, Year 3. In Year 4, she found employment with Employer 2. Under the law of Country A, compensation paid by Employer 2 is exempt from income tax. The change of employer and related change in tax rates on her compensation make an election under section 911(a) beneficial. She therefore requests permission to reelect the foreign earned income exclusion under section 911(a) for Year 4 and subsequent taxable years.

Section 911 permits certain taxpayers to elect to exclude from gross income their foreign earned income and housing cost amounts. Under Treas. Reg. Section 1.911-7(a)(1), the election applies to the taxable year for which it is made and for all subsequent taxable years, unless revoked by the taxpayer. Treas. Reg. § 1.911-7(b)(1) prescribes a method by which a taxpayer may revoke an election to exclude foreign earned income, i.e., by filing a statement revoking any previously made elections. Section 911(e)(2) provides that once revoked, the election may not be made again by the taxpayer until the sixth taxable year after the year in which the revocation was made unless the Commissioner consents to the reelection.

Treas. Reg. § 1.911-7(b)(2) provides that if an individual revokes an election under Treas. Reg. § 1.911-7(b)(1), and desires to reelect the same exclusion within the next five years, the individual must obtain permission by requesting a ruling. The Service may permit the taxpayer to reelect the foreign earned income exclusion before the sixth year after considering any facts and circumstances that may be relevant to the determination. Treas. Reg. § 1.911-7(b)(2) provides that relevant facts and circumstances may include a period of United States residence, a move from one foreign country to another foreign country with differing tax rates, a substantial change in tax laws of the foreign country of residence or physical presence, and a change of employer.

Accordingly, based solely on the information and representations set forth above, it is held that Taxpayer may reelect the section 911 exclusion for Year 4 and subsequent taxable years.

Except as otherwise expressly provided herein, no opinion is expressed as to whether Taxpayer otherwise satisfies the requirements of section 911 for excluding foreign earned income and housing cost amounts from gross income. Furthermore, no opinion is expressed or implied concerning the tax consequences of any aspect of any other transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this

requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

Jeffery G. Mitchell
Branch Chief, Branch 2
(International)