

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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[Third Party Communication:  
Date of Communication: Month DD, YYYY]

Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:INTL:B02  
PLR-115299-23

Date:  
November 16, 2023

TY:

Legend

- Taxpayer = SSN:
- Company A =
- Company B =
- Country X =
- Country Y =
- Year 1 =
- Year 2 =
- Year 3 =
- Year 4 =

Dear :

This is in response to a letter received by our office on August 7, 2023, requesting permission to reelect the foreign earned income exclusion under section 911 of the Internal Revenue Code (the Code) for Year 4.

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.

## FACTS

Taxpayer is a U.S. citizen who lived in Country X from Year 1 through Year 3. He has worked for Company A and Company B since Year 1. For Year 1, on his U.S. income tax return, Taxpayer claimed the foreign earned income exclusion under section 911(a) of the Code. For Year 2, Taxpayer decided to claim a credit for the taxes paid to Country X rather than to elect the foreign earned income exclusion and housing cost amounts. On the last day of Year 3, Taxpayer relocated to Country Y while still working for Company A and Company B. Country Y is a lower income tax jurisdiction than Country X.

## Ruling Requested

Taxpayer requests permission to reelect the foreign earned income exclusion pursuant to section 911 of the Code for Year 4 and subsequent taxable years.

## LAW AND ANALYSIS

Section 911 of the Code permits certain taxpayers to elect to exclude from gross income their foreign earned income and housing cost amounts. The election applies to the taxable year for which it is made and for all subsequent taxable years, unless revoked by the taxpayer. 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.

However, Treas. Reg. § 1.911-7(b)(2) provides that if an individual revokes the election to exclude foreign earned income under Treas. Reg. § 1.911-7(b)(1), and desires to reelect that 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 all of the facts and circumstances. 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 the tax laws of the foreign country of residence or physical presence, and a change of employer.

Taxpayer effectively revoked the foreign earned income exclusion for Year 2 by claiming the foreign tax credit. See Rev. Rul. 90-77, 1990-2 C.B. 183. Taxpayer is seeking permission to reelect the exclusion for Year 4, which is within five years of Year 2, because he relocated from Country X to Country Y with differing tax rates.

## CONCLUSION

Accordingly, based solely on the information submitted and representations made, Taxpayer may reelect the section 911 foreign earned income exclusion for Year

4 and subsequent tax years within 60 days from the date of this ruling letter in accordance with the rules set forth in section 911 and the regulations thereunder.

Except as otherwise expressly provided herein, no opinion is expressed as to whether Taxpayers otherwise satisfy the requirements of section 911 and thus, are eligible to exclude foreign earned income and housing cost amounts from gross income. In addition, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This 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 any income tax return to which it is relevant. Alternatively, if Taxpayer files his return electronically, he may satisfy this requirement by attaching to the return a statement that provides the date and control number of the letter ruling.

Sincerely,

Melinda E. Harvey  
Branch Chief, Branch 2  
(International)

cc: