Internal Revenue Service

Department of the Treasury

Washington, DC 20224

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Person to Contact:

Telephone Number:

Refer Reply To:
CC:INTL:Br3-PLR-113243-97
Date:
December 21st 1998

TY:1996-2006

A =

Date B =

Country C =

Date D =

Business E =

Dear

This responds to your letter dated July 8, 1997, submitted on behalf of A, requesting a ruling pursuant to Notice 97-19, 1997-10 I.R.B. 40, under section 877 of the Internal Revenue Code of 1986 ("Code") that A's termination of long-term residence did not have for one of its principal purposes the avoidance of U.S. taxes under subtitle A or subtitle B of the Code. Additional information was submitted in letters dated November 17, 1997, and December 11, 1998. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by penalty of perjury statements executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for a ruling, it is subject to verification on examination.

A, a former long-term resident of the United States within the meaning of section

877(e), voluntarily relinquished his U.S. lawful permanent resident status ("expatriated") effective on Date B by relinquishing his green card. A was born in, and is a citizen of Country C. As of Date B, A became fully liable to tax in Country C by reason of his residence there. On the date of A's expatriation, A was 36 years old.

A obtained a green card and first entered the United States on Date D. A came to the United States to manage the U.S. operations of a family-owned business (Business E). The primary operations of Business E are conducted in Country C. It was intended that A would gain experience while in the United States that would be helpful to him when he eventually returned to Country C. The day-to-day operations of Business E in Country C were managed by older generation family members of A. In 1995, in view of the age and health of these older generation family members, it was decided that A should return to Country C to assume management responsibilities with respect to Business E's operations there. Accordingly, A expatriated to Country C on Date B.

A's net worth on Date B (the date that he expatriated) exceeded $500,000. On such date, A's assets consisted of his ownership interest in a personal residence located in the United States, interests in U.S. and foreign bank accounts, an individual retirement account, an interest in an employee benefit plan attributable to services performed in the United States, ownership of debt instruments issued by United States obligors and ownership of stock in domestic and foreign corporations. In addition, A was a beneficiary of two trusts. A's gross assets, determined in accordance with the provisions of Notice 97-19, have a fair market value in excess of $10,000,000. A represents that his current assets are representative of the assets he owned for the period that began five years prior to the date on which he expatriated and ending on the date that his ruling request was submitted. A does not expect any significant changes to his balance sheet during the 10-year period following his expatriation. A's average annual net U.S. income tax for the five taxable years prior to his expatriation was less than $100,000.

Under the taxation laws of Country C, A is subject to tax on his worldwide income. Country C's income tax rates are higher than those of the United States and A's total worldwide income tax liabilities for his 1995, 1996 and 1997 taxable years were higher than what his total worldwide income tax liabilities for each of those years would have been had A remained a lawful permanent resident of the United States.

Section 877, as amended by the Health Insurance Portability and Accountability Act of 1996, generally provides that a U.S. citizen who loses citizenship or a long-term resident who ceases to be taxed as a lawful permanent resident of the United States within the 10-year period immediately preceding the close of the taxable year will be taxed on all of his or her U.S. source income (as modified by section 877(d)) for such taxable year, unless such loss or cessation did not have for one of its principal purposes the avoidance of U.S. taxes under subtitle A or subtitle B of the Code. See

sections 877(a)(1) and (e).

Section 2107(a)(1) generally provides that U.S. estate tax will be imposed on the transfer of the taxable estate of every nonresident decedent if the individual lost U.S. citizenship within the 10-year period ending on the date of death, unless such loss did not have for one of its principal purposes the avoidance of U.S. taxes. Section 877(e) provides that a long-term resident who ceases to be taxed as a lawful permanent resident of the United States will be treated in the same manner as a U.S. citizen who lost U.S. citizenship for purposes of section 2107.

Section 2501(a)(1) generally provides that a tax will be imposed for each calendar year on the transfer of property made by gift during such year by any individual, resident or nonresident. Section 2501(a)(3) provides that section 2501(a)(1) will not apply to the transfer of intangible property made by a nonresident not a citizen of the United States. However, section 2501(a)(3)(A) provides that this exception does not apply in the case of a donor who lost U.S. citizenship within the 10-year period ending on the date of the transfer, unless such loss did not have for one of its principal purposes the avoidance of U.S. taxes. Section 877(e) provides that a long-term resident who ceases to be taxed as a lawful permanent resident of the United States will be treated in the same manner as a U.S. citizen who lost U.S. citizenship for purposes of section 2501.

For purposes of the foregoing provisions, a former citizen or former long-term resident is considered to have lost U.S. citizenship or ceased to be taxed as a long-term U.S. resident with a principal purpose under section 877(a)(2) to avoid U.S. taxes if (i) the individual's average annual net U.S. income tax for the five taxable years prior to expatriation is greater than $100,000, or (ii) the individual's net worth on the date of expatriation is $500,000 or more (as modified by post-1996 cost-of-living adjustments). Section 877(a)(2) and (e) of the Code. See also sections 2107(a)(2)(A) and 2501(a)(3)(B) of the Code. Section 877, as amended, is generally effective after February 5, 1995.

Under Notice 98-34, 1998-27 I.R.B. 30, modifying Notice 97-19, 1997-1 C.B. 394, a former long-term resident whose net worth or average tax liability exceeds the applicable thresholds will not be presumed to have a principal purpose of tax avoidance under section 877(a)(2) if that former resident is described within certain categories and submits a complete and good faith request for a ruling as to whether such loss had for one of its principal purposes the avoidance of U.S. taxes. Although the presumption of tax avoidance under section 877(a)(2) will not apply to such an individual, he may nevertheless be considered to have a principal purpose of tax avoidance under section 877(a)(1) based on facts and circumstances unless he obtains a favorable substantive ruling that his expatriation did not have for one of its principal purposes the avoidance of taxes under subtitle A or subtitle B of the Code.

A is eligible to request a ruling pursuant to Notice 97-19 (as modified by Notice 98-34) because, as of the date of his expatriation, A was a citizen of the country in which he was born (Country C), and became fully liable to tax in Country C by reason of his residence there. Residents of Country C are fully liable to income tax in Country C regardless of whether they are domiciled in Country C.

Notice 97-19, modified by Notice 98-34, requires that certain information be submitted with a request for a ruling that an individual's expatriation did not have for one of its principal purposes the avoidance of U.S. taxes. A submitted all the information required by Notice 97-19, including any additional information requested by the Service after review of the submission.

Based solely on the information submitted and the representations made, it is held that A has made a complete and good faith submission in accordance with section 877(c)(1)(B) and Notice 98-34. It is further held, based solely on the information submitted and the representations made, that A's expatriation did not have for one of its principal purposes the avoidance of U.S. taxes under subtitle A or subtitle B of the Code.

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. In particular, no opinion is expressed as to A's U.S. tax liability for taxable periods prior to his expatriation.

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).

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

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to A.

Sincerely,

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W. Edward Williams
Senior Technical Reviewer, Branch 1
Office of Associate Chief Counsel
(International)