

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person to Contact:

Telephone Number

Refer Reply to:

PLR-115469-98

Date:

January 11, 1999

Re:

Tax year:

A =

Country B =

Town C =

Date D =

Dear

This is in response to your letter dated July 30, 1998, requesting a ruling under section 877(c) of the Internal Revenue Code of 1986 ("Code") that A's termination of long-term U.S. 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. 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 rulings, it is subject to verification on examination.

A, a long-term resident of the United States within the meaning of section 877(e), was born in Country B. A first came to the United States to work as an employee for a manufacturer located in Town C. Prior to moving to the U.S., A worked for the majority owner of the manufacturer for 12 years. When the owner decided to move to the U.S. to carry on the business in the United States, he asked A to accompany him. A has had an alien registration card since 1991. The owner has told A that due to ill health he wishes to retire from the business and return to Country B. Until he came to the U.S., A had spent his entire life in Country B. His wife and all three of his children are citizens of Country B, and

his two older children live in Country B. A's parents are citizens of Country B. A's wife is a resident of the U.S. and intends to repatriate along with her husband. A plans to relinquish his U.S. lawful permanent resident status ("expatriated") on Date D by returning his green card to a U.S. consulate in Country B. On the date of A's expatriation, his net worth will exceed \$552,000 and his average annual tax liability for the five-year period prior to expatriation will exceed \$110,000.

Section 877 generally provides that a citizen who loses U.S. citizenship or a U.S. long-term resident who ceases to be taxed as a lawful permanent resident (individuals who "expatriate") within the 10-year period immediately preceding the close of the taxable year will be taxed on U.S. source income (as modified by section 877(d)) for such taxable year, unless such loss did not have for one of its principal purposes the avoidance of U.S. taxes. Sections 2107 and 2501(a)(3) provide special estate and gift tax regimes, respectively, for individuals who expatriate with a principal purpose to avoid U.S. taxes.

A former citizen or former long term-resident will be treated as having expatriated with a principal purpose to avoid U.S. taxes for purposes of sections 877, 2107 and 2501(a)(3) if the individual's average income tax liability or the individual's net worth on the date of expatriation exceed certain thresholds. See sections 877(a)(2), 2107(a)(2)(A) and 2501(a)(3)(B).

A former U.S. citizen whose net worth or average tax liability exceeds these thresholds, however, will not be presumed to have a principal purpose of tax avoidance if that former citizen is described within certain statutory categories and submits a request for a ruling within one year of the date of loss of U.S. citizenship for the Secretary's determination as to whether such loss had for one of its principal purposes the avoidance of U.S. taxes. See sections 877(c)(1), 2107(a)(2)(B), and 2501(a)(3)(C).

Under Notice 98-34, 1998-27 I.R.B. 40, 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 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.

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 is eligible to request a ruling pursuant to Notice 98-34 because he is described in three categories of individuals eligible to submit ruling requests. First, on the date of A's expatriation, A was, and continues to be, a resident fully liable to income tax in Country B,

the country where A was born. Second, A is also eligible to submit a request because his spouse was born in Country B. Third, A is also eligible to submit a request because his parents were born in Country B.

A submitted all the information required by Notice 98-34, including any additional information requested by the Service after review of the submission.

Accordingly, based solely on the information and representations submitted, it is held that A has made a complete and full faith submission in accordance with section 877(c)(1)(B) and Notice 97-19, as modified by Notice 98-34. It is further held that A will not be treated under section 877(a)(2) as having as one of his principal purposes for expatriating the avoidance of U.S. taxes because the information submitted clearly establish the lack of a principal purpose to avoid tax 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 the taxable years prior to expatriation or his United States tax liability for periods after his loss of permanent resident status under sections of the Code other than sections 877, 2107, and 2501(a)(3).

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 yours,

W. EDWARD WILLIAMS
Senior Technical Reviewer, Branch 1
Office of the Associate Chief Counsel
(International)

cc: Assistant Commissioner (International)
Chief, International District Operations