Internal Revenue Service

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Department of the Treasury

199935074

Washington, DC 20224

Person to Contact:

Refer Reply To:
CC:INTL:Br1-PLR-103740-98
Date:
June 9, 1999

TY:

A =

Date B =

Year 1 =

Year 2 =

Country C =

Year 3 =

Year 4 =

Year 5 =

D =

Year 6 =

E =

367

PLR-103740-98

Dear

This is in response to a letter dated January 28, 1998, requesting a ruling under section 877(c) of the Internal Revenue Code of 1986 ("Code") that A's proposed loss of U.S. citizenship will 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 3 and December 1, 1998, and April 12, 1999. 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 was born on Date B in the United States. From Year 1 to Year 2, A was stationed by the U.S. Army in Country C. In Year 2, A married a Country C citizen and returned to the United States. After his discharge from the Army in Year 3, A returned to college and received a Masters in Teaching degree with a major in the language of Country C in Year 4. A then returned to Country C to teach the language of Country C. In Year 5, A's wife obtained a restaurant franchise in Country C and opened a restaurant. A left his teaching position and worked as a restaurant manager for D years.

A owns a home in Country C and both of his daughters are Country C citizens. In Year 6, A's wife received an E year renewal of the restaurant franchise, and A and his wife have decided to spend the rest of their lives in Country C.

A has decided to give up his U.S. citizenship and become a Country C citizen in order to vote and to take a more active political role in his community. Under Country C law, it is not possible for A to possess dual citizenship. Accordingly, A will renounce his U.S. citizenship upon the receipt of a favorable ruling.

On the date of A's expatriation, his net worth will exceed $552,000. Most of A's assets consist of Country C real estate, foreign marketable securities and life insurance issued by foreign insurers. A will be taxed by Country C on his worldwide income. Upon his death, A's estate, consisting of his worldwide assets, will be subject to Country C inheritance tax.

Section 877 of the Code 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 subject to the special rules of 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

under subtitle A or subtitle B of the Code. 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 section 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 exceeds 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 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. 30, modifying Notice 97-19, 1997-1 C.B. 394, an eligible former citizen will not be presumed to have a principal purpose of tax avoidance if that former citizen 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 under section 877 because he fits into one of the statutory categories of individuals eligible to submit ruling requests. A was present in the United States for no more than 30 days during each year of the 10-year period which will end on the date of his expatriation. Section 877(c)(2)(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 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 that A will not be treated under section 877(a)(1) as having as one of his principal purposes of expatriating the avoidance of U.S. taxes because the information submitted clearly establishes the lack of a principal purpose to avoid taxes under subtitle A or 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 addition, no opinion is expressed as to A's U.S. tax liability for the taxable years prior to expatriation or his U.S. tax liability for periods after his expatriation under sections of the Code other than sections 877, 2107, and 2501(a)(3).

This ruling is conditioned on the net worth or tax liability tests (thresholds) as described in Section II of Notice 98-34 being met on the date of 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 and his U.S. representative.

Sincerely yours,

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