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Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Refer Reply To:
CC:INTL:Br1-PLR-122593-97
Date:
June 16, 1999

TY:

A =

Date B =

Country C =

Date D =

Dear :

This is in response to a letter dated December 10, 1997, requesting a ruling under section 877(c) of the Internal Revenue Code of 1986 ("Code") that A's proposed loss of U.S. citizenship (expatriation) 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 March 11 and May 14, 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 became a U.S. citizen by reason of her birth in the United States on Date B to U.S. citizens. A's husband was born and raised in Country C. A became a citizen of Country C on Date D. On the date of A's expatriation, her net worth will exceed $552,000.

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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 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. 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 98-34, 1998-27 I.R.B. 30, modifying Notice 97-19, 1997-1 C.B. 394, an eligible 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.

A is eligible to request a ruling under section 877 because she is a citizen of Country B, where her husband was born.

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, as modified 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, and therefore, A's expatriation will not be presumed to have a principal purpose of tax avoidance.

However, because the information submitted does not clearly establish the existence or lack of a principal purpose to avoid taxes under subtitle A or B of the Code, no opinion is expressed as to whether A's expatriation will have for one of its principal purposes the avoidance of such taxes. While this ruling rebuts the presumption of tax avoidance under section 877(a)(2), it is not conclusive as to whether A subsequently may be found to have a principal purpose of tax avoidance under sections 877(a)(1), 2107(a)(1), and 2501(a)(3)(A) based on all the facts and circumstances. See section 877(c)(1). 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 taxable periods prior to or after her loss of citizenship under sections of the Code other than section 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.

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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 Technician Reviewer, Branch 1
Office of Associate Chief Counsel
(International)