Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Index Number: 877.01-00

Number: **199917035**
Release Date: 4/30/1999

Person to Contact:

Telephone Number:

Refer Reply To:
PLR-114627-97
Date:
January 28, 1999

A =

Country B =

Country C =

Company =

Date D =

Dear

This is in response to your letter dated July 4, 1997, requesting a ruling under section 877(c) of the Internal Revenue Code of 1986 ("Code") that A's surrender of her U.S. Alien Registration Card (Green Card) 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 a letter dated November 19, 1997. 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 in Country B. A's parents and her husband were also born in Country B. A resided in the United States from 1975 until 1977 during which time her husband was employed by the Company at its headquarters in the United States.

Previously, her husband had been employed by a Country B subsidiary of the Company when the Company transferred him to its headquarters in the United States.

In 1977, the Company transferred A's husband to Country C where she and her husband resided for four years. In 1981, A and her husband returned to the United States, again in connection with her husband's employment. A obtained her Green Card at that time.

In 1986, they relocated to Country B, where they remained until 1990, when the Company again asked A's husband to return to the United States.

A's husband retired from the Company in 1994. Prior to his retirement, A and her husband had decided that they would return to Country B. In preparation for their return to Country B, they terminated the tenancy on their Country B house and arranged for building works to be undertaken to the home. A returned to Country B (expatriated for gift and estate tax purposes) with the intent to be domiciled there. A surrendered her Green Card (expatriated for income tax purposes) on Date D. A has been treated as resident and domiciled in Country B since her return.

On the date of A's expatriation, her net worth exceeded $500,000. However, the fair market value of her gross assets did not exceed $1,400,000. A's assets consist primarily of Country B real estate, U.S. marketable securities, and gifts received from her husband prior to his death. A is the beneficiary of her husband's estate. A is domiciled in Country B and is fully liable to Country B income tax on the income earned by her assets at Country B tax rates that are comparable to the applicable U.S. rate. A's estate will include all of her own assets and all of the assets received as gifts from her husband or received from her husband's estate. Her estate will be taxed at rates that are comparable to the applicable U.S. tax rate.

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 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.

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 2501(a)(1) of the Code generally provides that a tax will be imposed for each calendar year on the transfer of property by gift during such year by any individual,

resident or nonresident. Section 2501(a)(2) of the Code 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) of the Code provides that this exception does not apply in the case of a donor who, within the 10-year period ending with the date of a transfer, lost U.S. citizenship, unless such loss did not have for one of its principal purposes the avoidance of U.S. taxes.

Section 877(e) of the Code generally provides that any long-term resident who ceases to be a lawful permanent resident of the United States or commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country shall be treated for purposes of this section and sections 2107, 2501 and 6039 [sic 6039G] in the same manner as if such resident were a citizen of the United States who lost United States citizenship on the date of such cessation or commencement.

For purposes of applying the foregoing provisions, a former citizen is considered to have lost U.S. citizenship with a principal purpose to avoid U.S. citizenship if either (i) the individual's average annual net U.S. income tax for the five taxable years prior to expatriation exceeded $100,000 (as modified by post-1996 cost-of-living adjustments); or (ii) the net worth of the individual on the date of expatriation was at least $500,000 (as modified by post-1996 cost-of-living adjustments). Section 877(a)(2) of the Code. See also sections 2107(a)(2)(A) and 2501(a)(3)(B) of the Code.

However, a former citizen will not be considered to have lost citizenship with a principal purpose to avoid U.S. taxes as a result of the individual's tax liability or net worth if he or she qualifies for an exception under section 877(c) of the Code. To qualify for an exception, a former citizen must be described in certain statutory categories and submit a ruling request for a determination by the Secretary as to whether the individual's expatriation had for one of its principal purposes the avoidance of U.S. taxes. Section 877(c)(1) of the Code. See also sections 2107(a)(2)(B) and 2501(a)(3)(C) of the Code.

Under Notice 97-19, 1997-1 C.B. 394, as modified by Notice 98-34, 1998-27 I.R.B. 30, 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 97-19, as 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 is eligible to request a ruling pursuant to Notice 97-19, because she is described in two categories of individuals eligible to submit ruling requests prior to the issuance of Notice 98-34. First, on the date of A's expatriation, A was, and continues to be a citizen and 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 her parents were born in Country B.

A has submitted all of 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 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 her principal purposes for 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 particular, no opinion is expressed as to A's U.S. tax liability for the taxable years prior to expatriation or her United States tax liability for periods after her expatriation 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,

_____

Allen Goldstein
Reviewer
Office of Associate Chief Counsel
(International)