Internal Revenue Service

Index Number: 877.08-00

Department of the Treasury
199935072
Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC:INTL:Br.1-PLR-101130-99
Date: JUN - 1999

Dear:

This is in response to a letter dated January 5, 1999, from your authorized representative requesting a ruling on Taxpayer's behalf under section 877(c) of the Internal Revenue Code of 1986 ("Code") that Taxpayer's loss of lawful U.S. resident status 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.

Taxpayer was born in Country A on Date B. His father and mother were citizens of Country A. Taxpayer moved to the United States in Year C and became a lawful permanent resident. He began working in a large bank in Year D and continued to work in banking administration until his retirement in Year G. He had no other business activities in the United States or in Country A after his retirement.

All of Taxpayer's family lives in Country A. He always planned to retire to Country A to be with his family. In Year E, he and his sister bought land on which to build a retirement home in Country A. They began construction in Year F which was completed in Year H. He sold his U.S. home on Date I and immediately moved into his Country A home on Date J.

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On Date K, after the effective date of section 877 (as amended by the Health Insurance Portability and Accountability Act of 1996), Taxpayer voluntarily relinquished his U.S. lawful permanent resident status. He became ill shortly thereafter and died on Date L. The executor of Taxpayer's estate has submitted this request for a ruling. Taxpayer's net worth on the date of loss of citizenship exceeded $500,000.

Taxpayer's U.S. assets consisted exclusively of a small U.S. bank account, an IRA, a 401(k) account, an annuity contract with his employer, and two small life insurance policies. His country A assets included his home and a Country A stock account. Any built-in gain was primarily attributable to his 401(k) TAP account, IRA and retirement annuity.

Section 877, as amended, generally provides that a U.S. 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 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. Sections 2107 and 2501(a)(3) provide special estate and gift tax regimes, respectively, for individuals who expatriate with a principal purpose to avoid 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 exceeds certain thresholds. See sections 877(a)(2), 2107(a)(2)(A) and 2501(a)(3)(B). For purposes of applying the foregoing provisions, a former citizen or former long term-resident is presumed to have expatriated with a principal purpose 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) of the Code. See also sections 2107(a)(2)(A) and 2501(a)(3)(B) 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 citizen 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. See sections 877(c)(1), 2107(a)(2)(B), and 2501(a)(3)(C).

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.

Taxpayer is eligible to request a ruling under section 877 because he is described in a statutory category of individuals eligible to submit ruling requests, inasmuch as Taxpayer became a citizen at birth of Country A. See section 877(c)(2)(A).

Taxpayer submitted all of the information required in Notice 97-19, 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 Taxpayer 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, and therefore, Taxpayer will not be presumed to have expatriated with a principal purpose of tax avoidance. It is further held that Taxpayer will not be treated under section 877(a)(1) as having as one of his principal purposes for expatriating the avoidance of U.S. taxes because the information submitted clearly establishes the lack of such a principal purpose to avoid tax 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 Taxpayer's U.S. tax liability for taxable periods prior to his loss of citizenship or for periods after his loss of citizenship under sections of the Code other than sections 877, 2107, and 2501(a)(3).

A copy of this letter must be attached to Taxpayer's U.S. income tax return for the year in which his executor has obtained the ruling (whether or not Taxpayer 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 the executor of taxpayer's estate.

Sincerely,

Reviewer
Office of the Associate
Chief Counsel (International)

cc: