Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

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TY:
Taxpayer =
State A =
Country B =
Country C =
Country D =
Country E =
Year 1 =
Year 2 =
Year 3 =
Year 4 =
Year 5 =
Date A =
Date B =
Date C =

Dear Mr. :

This letter responds to your letter dated July 8, 1997, on behalf of Taxpayer, requesting a ruling under section 877(c) of the Internal Revenue Code of 1986, as amended ("Code"), that Taxpayer's loss of U.S. citizenship did not have as 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 October 23, 1997, and January 29, 1999. The information submitted for consideration is substantially as set forth below.

The rulings contained in this letter are based upon information and representations submitted by the Taxpayer and accompanied by a penalty of perjury statement 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 the United States on Date A. In year 2, Taxpayer had a successful in State A until he decided to radically change his life. He terminated his and abandoned his principal residence in State A, moving to a residence he had owned since Year 1 in Country B. At that time he decided to seek citizenship in Country C. Taxpayer's mother was born in Country C and his father was born in the United States to parents who were citizens of Country C. In Year 3, Taxpayer explored the possibility of moving to Country C. He was advised that he could apply for citizenship in Country C based on the Country C nationality of his paternal grandfather. However, his application was denied when his grandfather's birth certificate could not be located. He was subsequently advised that he could apply for Country C citizenship as an alien of Country C descent through the Country C consulate of the place of the alien's domicile. He made application through the Country C consulate in Country B and on Date B became a naturalized citizen of Country C. Taxpayer voluntarily gave up his U.S. citizenship on Date C in the mistaken belief that he could not retain his U.S. citizenship after becoming a Country C citizen.

Taxpayer is married to a U.S. citizen and has a who is a dual citizen of the United States and Country C. Taxpayer's wife is not presently eligible for citizenship in Country C and has no plans to expatriate. Taxpayer has not been employed since Year 1, . Since Year 3, Taxpayer has had a vacation residence in Country D where he keeps the majority of his personal belongings. Since Year 4, the year following his expatriation, he also has had a vacation home in the United States. His family ties are primarily in the United States. Taxpayer conducts investment activities and administers property from Country B and Country D and the United States and conducts routine personal banking activities from Country B, Country E and the United States. Taxpayer holds no interests in any partnerships or trusts.

In Year 4, the year following his expatriation, Taxpayer sold U.S. securities representing approximately 49 percent of his net worth and 75 percent of his gain built in at the date of his expatriation. This gain represented approximately 7.5 percent of his net worth. Country B imposes no income tax on such gains. Taxpayer purchased U.S. real estate and foreign marketable securities with the proceeds.

It is possible that,
Taxpayer may in the future become a resident in another country, possibly Country D, Country E, or the United States.

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 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 person 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). The rule also applies to an individual subject to section 877 who expatriated after February 5, 1994, but on or before July 8, 1996, and who submitted a ruling request by July 8, 1997, pursuant to Notice 97-19, 1997-1 C.B. 394.

Under Notice 97-19, as modified by notice 98-34, 1998-27 I.R.B. 30, 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 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 pursuant to Notice 97-19, as modified by Notice 98-34, because his net worth on the date of expatriation exceeded the threshold and because he became a citizen of Country C, the country where his mother was born, at the time of his expatriation. See section 877(c)(2)(A)(ii)(III), 2107(a)(2)(A) and 2501(a)(3)(B).

Taxpayer 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 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. However, it is further held that Taxpayer will, nevertheless, 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 established 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 Taxpayer's U.S. tax liability for taxable periods prior to his loss of U.S. citizenship or for taxable periods after his loss of citizenship under sections of the Code other than sections 877, 2107, and 2501(a)(3).

Because Taxpayer is treated under section 877(a)(1) as having as one of his principal purposes for expatriating the avoidance of U.S. taxes, he must annually file a U.S. income tax return (Form 1040NR), with the information described in Notice 97-19, section VII, Annual Information Reporting, for each year in the 10-year period following expatriation if he is liable for U.S. tax under any provision of the Code, as modified by section 877. For purposes of computing the tax due under section 877, Taxpayer must recognize the realized or unrealized gains as a result of any "exchange" described in section 877(d)(2)(B), (d)(2)(E)(i), or (d)(2)(E)(ii) in the year of the exchange. For further information, Taxpayer should refer to the Instructions to Form 1040NR, U.S. Nonresident Income Tax Return.

A copy of this letter must be attached to Taxpayer's U.S. income tax return for the year in which he obtained this ruling (whether or not Taxpayer is otherwise required to file a return) and to any other return required to be filed during the ten-year period following the date of Taxpayer's expatriation.

This ruling is directed only to the taxpayer(s) 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 taxpayer.

Sincerely yours,

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Reviewer
Office of the Associate Chief Counsel
(International)