

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200416007**

Release Date: 4/16/04

Index Number: 911.11-03

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC: INTL: B02 – PLR-156397-03

Date: January 7, 2003

DO:SBSE, Area 15 TY:

LEGEND

Taxpayer =

Bank Y =

Country A =

Country B =

C percent =

D percent =

Dear :

This is in response to a letter dated September 18, 2003, submitted on your behalf by your authorized representative, requesting permission to reelect the provisions of section 911 of the Internal Revenue Code ("Code") for tax year and subsequent tax years. Additional information was submitted on November 18, 2003 and December 19, 2003.

The ruling contained in this letter is 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 worked in Country A in 1997, and she excluded her foreign earned income under section 911. Due to the high rate of tax in Country A in comparison to the U.S. tax rate, Taxpayer revoked her section 911 foreign earned income election on her 1998 federal income tax return by taking a credit for the amount of the foreign taxes paid. Taxpayer represents that she has not taken foreign tax credits attributable to income excluded under section 911 and applied them to income earned in 1998 or subsequent taxable years.

On or about August 14, 2002, Taxpayer moved to Country B and began employment with a new employer, Bank Y. Bank Y is an international organization, of which the U.S. is a member. As such, Taxpayer has diplomatic status and pays no income tax to Country B. The U.S. owns C percent share of the capital and holds D percent of the voting power of Bank Y. Taxpayer wants to reelect the section 911 foreign earned income exclusion for tax year 2002 and subsequent tax years.

Treas. Reg. §1.911-7(b) provides that if an individual revoked an election to exclude foreign earned income under section 911(a) and within five taxable years the individual wishes to reelect the exclusion, then the individual may apply for consent to the reelection by requesting a ruling from the Associate Chief Counsel (International). In determining whether to consent to a reelection, the Associate Chief Counsel (International) or his delegate may consider any facts and circumstances relevant to the determination. Relevant facts and circumstances may include a move from one foreign country to another foreign country with differing tax rates, and a change of employer.

Accordingly, based solely on the information and representations set forth above, it is held that Taxpayer may reelect the section 911 foreign earned income exclusion for tax year 2002 and subsequent tax years.

No opinion is expressed as to whether Taxpayer satisfied the requirements for the exclusion provided under section 911(a) of the Code. In particular, no opinion is expressed about whether Taxpayer is employed by the U.S. government and thus, is not eligible to exclude her salary under section 911.

A copy of this ruling letter should be attached to Taxpayer's federal income tax return for the relevant year.

A copy of this letter is being sent to the Taxpayer's authorized representative.

This ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely,

Phyllis E. Marcus
Branch Chief, Branch 2
Office of the Associate Chief
Counsel (International)