
Interim Guidance on Sections 877, 1494, 6039F, and 6048

Notice 96-60

This notice provides guidance for taxpayers affected by the penalty provision of section 1494 and the filing requirements of section 6048(a) of the Internal Revenue Code (“Code”), as amended by the Small Business Job Protection Act of 1996 (“SBJPA”). This notice also provides guidance for taxpayers affected by the ruling request provision of section 877 of the Code, as amended by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and the information reporting requirements of section 6039F of the Code, as added by HIPAA.¹

BACKGROUND

Section 877, as amended by HIPAA, generally provides that a former U.S. citizen who renounces his citizenship after February 5, 1995, or a former long-term lawful permanent resident who ceases to be taxed as a lawful permanent resident after that date, who had as a principal purpose for such renunciation or cessation the avoidance of U.S. taxes, will be taxed on all of his U.S. source income for the succeeding 10-year period. An individual who meets a tax liability or net worth test is

¹There are currently two provisions of the Code designated as section 6039F. The Service intends to seek a technical correction to HIPAA to redesignate section 6039F of the Code, as added by HIPAA, as section 6039G.

considered to be tax motivated. A former citizen who satisfies certain criteria will not be subject to these tests if he submits a ruling request within one year of renunciation of U.S. citizenship for a determination by the Secretary as to whether such renunciation had as one of its principal purposes the avoidance of U.S. taxes. However, the statute provides that in no event will this one-year period expire before November 19, 1996 (the date that is 90 days after the enactment of HIPAA).

Section 6039F, as added by HIPAA, requires each individual who relinquishes U.S. citizenship after February 5, 1995, to provide an information statement to the U.S. Department of State, a diplomatic or consular officer of the United States, or a federal court at the time of expatriation. Any individual who ceases to be taxed as a lawful permanent resident after February 5, 1995, must provide a similar information statement with his U.S. tax return for that year. However, the statute provides that in no event will this information statement be required to be filed before November 19, 1996.

Section 1491 generally imposes an excise tax on the transfer of property by a U.S. person to a foreign corporation as paid-in surplus or as a contribution to capital, to a foreign estate or trust, or to a foreign partnership. Current regulations under section 1494 require a U.S. transferor to file a return on the date such a transfer is made. Section 1494(c), as added by SBJPA, imposes a penalty for the failure to file a required return with respect to any transfer described in section 1491 that occurs after August 20, 1996 (the date of enactment of SBJPA).

Section 6048(a), as amended by SBJPA, generally requires any U.S. person who transfers property to a foreign trust after August 20, 1996, to file an information return. The statute provides that this return must be filed no later than 90 days after the transfer (or such later date as the Secretary may prescribe).

INTERIM GUIDANCE

The Service intends to issue detailed guidance in these areas before the end of 1996. The forthcoming guidance will not require the submission of a ruling request under section 877, an information statement under section 6039F, or an information return under section 6048(a) before a date that is at least 60

days after the issuance of that guidance. Any such ruling request, information statement, or information return submitted within the time period set forth in the forthcoming guidance will be considered filed in a timely manner. In addition, no penalty will be imposed under section 1494(c) if a return required with respect to a section 1491 transfer is filed no later than 60 days after the issuance of the forthcoming guidance (or such later date specified in that guidance).

The principal author of this notice is Michael Kirsch of the Office of the Associate Chief Counsel (International). For further information regarding sections 877 or 6039F, contact Michael Kirsch or Trina Dang, for information regarding section 1494 contact Wendy Stanley, and for information regarding section 6048 contact Leslie Cracraft. Each of these individuals may be reached at (202) 622-3860 (not a toll-free call).
