M E M O R A N D U M

FROM: Tax Partner

TO: Tax Associate

DATE: Feb. 9, 2009

RE: Jane Doe

Our new client, Jane Doe, is an unmarried former citizen of the United States. In January 2008, Ms. Doe gave notice of an expatriating act, with the requisite intent to relinquish her citizenship, to the Secretary of State. At the same time, she furnished the statement required by § 6039G[1] to the Internal Revenue Service. At the time of her expatriation, Ms. Doe was 50 years old and had a net worth in excess of $10 million. With the exception of a short period prior to her expatriation, Ms. Doe has never been a dual citizen of the United States and another country. Ms. Doe became a citizen of a tax haven country shortly before she renounced her U.S. citizenship, and she has not returned to the United States or been engaged in a trade or business within the United States since her expatriation.

Ms. Doe recently received an offer to purchase her former principal residence, which is located in New Jersey. Ms. Doe owned this home and used it as her principal residence for the four years prior to her expatriation. She purchased the home for $2 million. Given the present economic environment, the $2.2 million offer that she received for the home is more than fair.

[1] Unless otherwise indicated, all section references are to the Internal Revenue Code of 1986, as amended (the "Code"), or to the Treasury Regulations promulgated thereunder.

Ms. Doe wishes to know the tax consequences under the alternative tax regime of § 877 of the anticipated sale of her former principal residence.

A few weeks ago, Ms. Doe heard at a cocktail party that a like-kind exchange might be an effective means for escaping the tax imposed on tax expatriates. She is presently considering the possibility of an exchange of an investment property that she owns in Florida for an investment property of equal value that is located in Belize. Ms. Doe wishes to be advised about the advantages, if any, of such an exchange from the perspective of the alternative tax regime of § 877.

At that same cocktail party, someone suggested that Ms. Doe create a foreign, nongrantor trust to which she could contribute stock in U.S. corporations that she is considering selling over the next few years. Once the trust is created, the trustees, as legal owners of the stocks, could then sell the stocks when they saw fit and either reinvest the proceeds or make distributions to the trust's beneficiaries. Ms. Doe was told that this technique also might be an effective means for escaping the tax imposed on tax expatriates. Ms. Doe wishes to be advised about the advantages, if any, of such a transfer from the perspective of the alternative tax regime of § 877.

Finally, Ms. Doe owns a painting by a well-known artist that is now on display in her New Jersey home. The painting is currently worth $1 million, and she purchased it several years ago for $600,000. Ms. Doe would like to have the painting shipped to her new home for display there. She wishes to know the tax consequences under the alternative tax regime of § 877, if any, of removing the painting from the United States.

Please research the questions described above and prepare a memorandum for me explaining your findings. In researching these issues and writing your memorandum, please ignore the general tax regime applicable to nonresident alien individuals, with which I am adequately familiar, and focus your attention solely on issues arising under the alternative tax regime of § 877. The memorandum should be double-spaced and no longer than five pages. I have promised Ms. Doe an answer to her questions no later than February 25, 2009. Please have your memorandum prepared and on my desk by 2:30 p.m. on that date.

A.C.I.