

Internal Revenue Service

Department of the Treasury
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Date:

January 11, 2005

Taxpayers =
Year A =
B =
C =
\$D =
\$E =
Year F =
Year G =

Dear :

This letter refers to your request for a private letter ruling requesting to revoke an election out of the installment method for the sale of certain properties under § 453 of the Internal Revenue Code and § 15a.453-1(d)(4) of the Income Tax Regulations.

In Year A, Taxpayers sold properties B and C to unrelated third parties. As consideration for each of the properties, Taxpayers received a promissory note. For the sale of B, Taxpayers received a note for \$D, which is required to be paid in Year F. For property C, Taxpayers received a note for \$E, which is required to be paid in Year G. Inadvertently, Taxpayers' accountant did not report the gain from the sales on the installment method but instead reported all of the gain on Taxpayers' Year A income tax return. In Year G, Taxpayers first became aware of the error and subsequently requested this ruling.

Section 453(a) provides that income from an installment sale shall be taken into account under the installment method. Section 453(d)(1) provides that § 453(a) shall not apply to any sale if the taxpayer elects not to have § 453(a) apply to the sale.

Section 453(d)(2) provides that, except as otherwise provided by regulations, an election under § 453(d)(1) with respect to a sale may be made only on or before the due date prescribed by law (including extensions) for filing the taxpayer's return for the

taxable year in which the sale occurs. Such an election shall be made in the manner prescribed by the regulations.

Section 453(d)(3) provides that an election under § 453(d)(1) with respect to any sale may be revoked only with consent of the Secretary.

Section 15a.453-1(d)(4) states that an election out of the installment method may be revoked only with consent of the Internal Revenue Service. A revocation will not be permitted when one of its purposes is the avoidance of federal taxes, or when the taxable year in which any payment was received is closed.

In this case, the information submitted indicates that Taxpayers' desire to revoke their election out of the installment method is due to inadvertence rather than hindsight or a purpose of avoiding federal taxes. Accordingly, based on the information submitted, Taxpayers may revoke their election out of the installment method of reporting under § 453(d)(3), and report the gains on the sales of B and C on the installment method.

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.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(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 your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant.

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 ruling request, it is subject to verification on examination.

Sincerely,

Robert A. Berkovsky
Branch Chief, Branch 4
(Income Tax & Accounting)