

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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TYs:

Legend

Taxpayer:

Property:

\$X:

\$Y:

\$Z:

Date 1:

Date 2:

Year 1:

Year 2:

Dear _____ :

This is in reply to your request pursuant to section 453(d)(3) of the Internal Revenue Code and section 15A.453-1(d)(4) of the Temporary Income Tax Regulations for consent to revoke an election out of the installment method.

FACTS

Taxpayer is an S corporation. Taxpayer uses a calendar year accounting period and a cash basis method of accounting. On Date 1, Taxpayer and another entity sold Property. Taxpayer's portion of the sales price attributable to Taxpayer's 50% interest in Property was \$X. The sales contract for Property required the purchaser to pay the purchase price in installments. The note has a term of X years and requires the purchaser to make monthly payments consisting of principal and interest. During Year 1, Taxpayer received sale price payments totaling \$Y.

A return preparer filed Taxpayer's original federal income tax return for Year 1 on approximately Date 2. Taxpayer intended to use the installment method under section 453, but due to a miscommunication between Taxpayer and the return preparer, the return preparer mistakenly elected out of reporting gain on the installment method. In addition, the return preparer reported the sales price of the Taxpayer's interest in the property as only \$Z.

Taxpayer discovered the return preparer's mistake when Taxpayer engaged a different return preparer to prepare Taxpayer's Year 2 income tax return. As soon as Taxpayer realized the error Taxpayer submitted this request for a ruling.

LAW AND ANALYSIS

Section 453(a) provides that, generally, a taxpayer shall report income from an installment sale under the installment method. Section 453(b)(1) defines an installment sale as a disposition of property for which at least one payment is to be received after the close of the taxable year of the disposition.

Section 453(c) provides that, for the purposes of this section, the term "installment method" means a method under which the income recognized for any taxable year from a disposition is that proportion of the payment received in that year which the gross profit (realized or to be realized when the payment is completed) bears to the total contract price.

Section 453(d)(1) provides that a taxpayer may elect out of the installment method. Except as otherwise provided in the Regulations, section 453(d)(2) requires a taxpayer who desires to elect out of the installment method to do so on or before the due date (including extensions) of the taxpayer's federal income tax return for the taxable year of the sale. Section 453(d)(3) provides that an election made pursuant to section 453(d)(1) may be revoked only with the consent of the Secretary.

Section 15A.453-1(d)(3) provides that a taxpayer who reports an amount realized equal

to the selling price including the full face amount of an installment obligation on a timely filed tax return for the taxable year in which the installment sale occurs is considered to have elected out of the installment method.

Section 15aA453-1(d)(4) provides that an election under section 453(d)(1) generally is irrevocable. An election may be revoked only with the consent of the Internal Revenue Service. Section 15A.453-1(d)(4) provides that revocation of an election out of the installment method is retroactive and will not be permitted when one of its purposes is the avoidance of federal income taxes, or when the taxable year in which any payment was received has closed.

In the instant case, Taxpayer represents that its return preparer did not prepare Taxpayer's Year 1 tax return in accordance with Taxpayer's intention to report the sale of its asset under the installment method. As soon as Taxpayer realized the error it promptly submitted this request for a ruling seeking the consent of the Service for the revocation of the Taxpayer's election out of the installment method.

CONCLUSION

Based on careful consideration of all of the information submitted and the representations made, we conclude that Taxpayer will be allowed to revoke its election out of the installment sale method with respect to the sale of Property.

Permission to revoke the election out of the installment method of reporting for the sale of Property is granted for the period that ends 75 days after the date of this letter. If the ruling granted in this letter would have any effect on any amounts reported on Taxpayer's previously filed amended return for Year 1, Taxpayer must file an amended return for Year 1 to reflect the effect of this ruling. If any amended returns are required, a copy of this letter ruling must be attached to each of the amended returns.

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, including the computation of gain to be reported under the installment method.

This ruling is directed only to Taxpayer. Section 6110(k)(3) 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. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by

attaching a statement to their returns that provide the date and control number of the letter ruling.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This ruling is conditioned upon the accuracy of that information and those representations. 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.

Sincerely,

/s/ William A. Jackson

William A. Jackson
Branch Chief, Branch 5
(Income Tax & Accounting)

Enclosures:

Copy of this letter

Copy for § 6110 purposes