

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:ITA:B04

PLR-133075-08

Date:

December 17, 2008

Year 1 =
Year 2 =
Property B =
\$C =
\$D =
\$E =
F =

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 Property B under § 453(d)(3) of the Internal Revenue Code and § 15a.453-1(d)(4) of the Temporary Regulations under the Installment Sales Revision Act of 1980.

In Year 1, you sold Property B to an unrelated person for \$C, receiving cash of \$D and a promissory note for \$E payable in F years. You wished to report the sale on the installment method. Inadvertently, your return preparer did not report the gain from the sale on the installment method, but instead reported all of the gain on your Year 1 federal income tax return. You first became aware of the error after you engaged an accounting firm to prepare your Year 2 federal income tax return. You 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 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.

You have represented that your return preparer did not prepare your Year 1 federal income tax return in accordance with your intent to report the sale of Property B on the installment method. Your return preparer represents that she should have reported the sale of Property B on the installment method. Soon after you discovered the mistake, you requested this ruling seeking the Service's consent to revoke your election out of the installment method.

The information submitted indicates that your request to revoke your 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, you may revoke your election out of the installment method for reporting the sale of Property B, but only if you revoke the election during the period ending 75 days after the date of this letter.

Except as expressly provided in the preceding paragraph, 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 amount of gain on the sale of Property B that is eligible to be reported on the installment method.

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.

You must attach a copy of this letter to any income tax return to which it is relevant. If you file your returns electronically, you may satisfy this requirement by attaching a statement to the returns that provide the date and the control number of this letter ruling.

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. Attached is a copy of the letter showing the deletions proposed to be made when it is released under § 6110.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Michael J. Montemurro
Branch Chief
Office of Chief Counsel
(Income Tax and Accounting)

cc: