

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-105871-09

Date:

May 26, 2009

Taxpayer =
Date 1 =
Date 2 =
Year 1 =
Year 2 =

Dear :

This letter refers to your request for a private letter ruling that your election not to use the installment method for the sale of various properties on Date 1 under § 453(d)(3) of the Internal Revenue Code and § 15a.453-1(d) of the Temporary Regulations under the Installment Sales Revision Act of 1980 be considered timely made under the authority contained in § 301.9100-3 of the Regulations on Procedure and Administration.

On Date1, you sold various properties to an unrelated person. The proceeds from the sale of the properties on Date 1 were to be paid in four installments of principal plus interest. The first payment was due on Date 2 and each subsequent payment was due on each subsequent annual anniversary of the sale date. You represent that you were unaware that you could elect not to use the installment method for the sale of the various properties on Date 1 and report the entire gain in Year 1 at the time you engaged the tax return preparer who prepared the tax return for Year 1. You first became aware that you could elect not to use the installment method for the sale of properties on Date 1 after you engaged a new return preparer for Year 2. 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) for 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. An election shall be made in the manner prescribed by regulations.

The information submitted and your representations indicate that your request to elect not to use the installment method for the sale on Date 1 is due to inadvertence and not due to hindsight or a purpose of avoiding federal taxes. Accordingly, based on the information submitted and your representations made, you may elect not to use the installment method for reporting the sale of the various properties sold on Date 1.

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 from the sale of the various properties on Date 1.

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,

Donna Welsh
Senior Technician Reviewer
Office of Chief Counsel
(Income Tax and Accounting)

cc: