

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201210009**
Release Date: 3/9/2012

Third Party Communication: None
Date of Communication: Not Applicable
Person To Contact:

Index Number: 9100.22-00, 9114.03-06

, ID No.
Telephone Number:

Refer Reply To:
CC:INTL:B01
PLR-127107-11
Date:
November 29, 2011

Legend

A =

RRSP =

Tax Years =

Year 1 =

Year 2 =

Year 3 =

Dear :

This is in reply to a letter dated June 24, 2011, requesting an extension of time under Treas. Reg. § 301.9100-3 for A to elect the provisions of Rev. Proc. 2002-23, 2002-1 C.B. 744, for Tax Years.

The ruling contained in this letter is 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 requested rulings, it is subject to verification on examination. The information submitted for consideration is substantially as set forth below.

FACTS

A was born and raised in Canada. While a Canadian citizen and resident, A established and contributed to RRSP. A's employer transferred him to the United States in Year 1. A married a U.S. citizen the following year and became a U.S. citizen in Year 2.

A has no tax-related education, skills or training. Given his belief that his tax and financial issues were relatively straightforward, he prepared his own Forms 1040 each year until Year 3.

In Year 3, A retired and became eligible to receive benefits from two Canadian pension plans. In addition, A's mother, a Canadian citizen and resident, passed away in Year 3. Because of these two events, A started doing independent research on various tax issues and he consulted a local accounting firm. At this point, A first learned of the potential tax issues concerning RRSPs, including the need to make an election to defer U.S. taxation on income accruing in an RRSP pursuant to Article XVIII(7) of the United States-Canada Income Tax Convention (the "Treaty").

In an effort to become and remain fully compliant, A retained tax attorneys with experience in international issues.

As of the date of the ruling request, the Internal Revenue Service had not communicated with A or his representatives about RRSP.

RULING REQUESTED

A requests the consent of the Commissioner for an extension of time under Treas. Reg. § 301.9100-3 to make an election pursuant to Rev. Proc. 2002-23 to defer U.S. federal income taxation on income accrued in RRSP, as provided for in Article XVIII(7) of the Treaty for Tax Years .

LAW AND ANALYSIS

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in Treas. Reg. § 301.9100-3, to make a regulatory election under all subtitles of the Internal Revenue Code, except subtitles E, G, H, and I.

Treas. Reg. § 301.9100 -1(b) provides that an election includes an application for relief in respect of tax, and defines a regulatory election as an election whose due date is

prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

In the present situation, the election provided in Rev. Proc. 2002-23 is a regulatory election within the meaning of Treas. Reg. § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant A an extension of time, provided that A satisfies the standards set forth in Treas. Reg. § 301.9100-3(a).

Based solely on the information submitted and representations made, we conclude that A satisfies the standards of Treas. Reg. § 301.9100-3. Accordingly, A is granted an extension of time until 60 days from the date of this ruling letter to make an election under Rev. Proc. 2002-23. As provided in Treas. Reg. § 301.9100-1(a), the granting of an extension of time is not a determination that A is otherwise eligible to make the above-described election.

Pursuant to section 4.07 of Rev. Proc. 2002-23, the election, once made, cannot be revoked except with the consent of the Commissioner. For Tax Years, A must file amended U.S. income tax returns to which he attaches Forms 8891 for RRSP. For each subsequent tax year through the tax year in which a final distribution is made from RRSP, A must attach a Form 8891 for RRSP to his U.S. income tax return.

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.

A copy of this letter must be attached to A's U.S. income tax return for the year in which A obtained the ruling and should be associated with A's amended returns for Tax Years.

This letter ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter will be sent to your authorized representatives.

Sincerely,

M. Grace Fleeman
Senior Technical Reviewer, Branch 1
(International)

Enclosure:
Copy for 6110 purposes

cc: