

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Legend

Taxpayer =

RRSP 1 =

RRSP 2 =

RRSP 3 =

Tax Years =

Year 1 =

Year 2 =

Year 3 =

Year 4 =

Year 5 =

Date 1 =

Country X =

Dear :

This is in reply to a letter dated July 6, 2011, as amended by supplemental information dated November 15, 2011 and December 7, 2011, requesting an extension of time under Treas. Reg. § 301.9100-3 for Taxpayer 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

Taxpayer was born and raised in Country X. He moved to Canada in Year 1 and became a citizen of Canada. While a resident and citizen of Canada, Taxpayer established three registered retirement savings plans, RRSP 1, RRSP 2, and RRSP 3. In Year 2, Taxpayer received a job offer in the United States and moved to the United States. He eventually became a lawful permanent resident of the United States. In Year 4, Taxpayer became a citizen of the United States.

Taxpayer was aware that Canada does not tax income accruing in an RRSP until the income is distributed to the beneficiary of the plan. Taxpayer assumed that the U.S. tax rules regarding RRSPs were identical to Canada's rules. Taxpayer retired in Year 3, but as of Date 1, Taxpayer has not yet received any distributions from his RRSPs.

Taxpayer has complied with U.S. Federal income tax laws since he first moved to the United States by filing Forms 1040 (U.S. Individual Income Tax Return) and paying tax owed in each year. Prior to Year 5, Taxpayer did not know that he needed to make an election under the United States-Canada Income Tax Convention (the "Treaty") in order to defer recognition of income in his RRSPs for U.S. income tax purposes. He also was unaware of the obligation to file Form 8891 (U.S. Information Return for Beneficiaries of Certain Canadian Registered Retirement Plans).

In Year 5, Taxpayer independently learned about the IRS offshore accounts tax compliance initiative by reading a newspaper. Taxpayer performed independent research and became aware of the provision in the Treaty that provides for deferral of U.S. taxation of income accruing in an RRSP until there is an actual distribution of income from the plan. Shortly thereafter, Taxpayer consulted a law firm to confirm his understanding of his U.S. tax obligations with respect to his RRSPs. He was informed that in order to defer U.S. taxation on his RRSPs, an election must be made pursuant to Article XVIII(7) of the Treaty and Rev. Proc. 2002-23. He also was informed about the requirement to file Forms 8891.

Taxpayer retained tax attorneys to assist him in becoming fully compliant with U.S. tax laws with respect to his RRSPs.

RULING REQUESTED

Taxpayer requests the consent of the Commissioner of the Internal Revenue Service for an extension of time under Treas. Reg. § 301.9100-3 to make an election for Tax Years pursuant to Rev. Proc. 2002-23 to defer U.S. federal income taxation on income accrued in RRSP 1, RRSP 2, and RRSP 3, as provided for in Article XVIII(7) of the Treaty.

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 Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth in Treas. Reg. § 301.9100-3(a).

Based solely on the information submitted and representations made, we conclude that Taxpayer satisfies the standards of Treas. Reg. § 301.9100-3. Accordingly, Taxpayer is granted an extension of time until 60 days from the date of this ruling letter to make elections for Tax Years 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 Taxpayer 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, Taxpayer must

file amended U.S. income tax returns to which he attaches Forms 8891 for each RRSP. For each subsequent tax year through the tax year in which a final distribution is made from each RRSP, Taxpayer must attach to his U.S. income tax return a Form 8891 for each RRSP from which a final distribution has not been made.

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 Taxpayer's U.S. income tax return for the year in which Taxpayer obtained the ruling and should be associated with Taxpayer'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