

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:  
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Refer Reply To:  
CC:INTL  
PLR-135949-11  
Date:  
December 16, 2011

Legend

Taxpayer =

Financial Institution =

RRSP =

Tax Years =

Year 1 =

Year 2 =

Year 3 =

Tax Preparer 1 =

Tax Preparer 2 =

Dear

This is in reply to a letter dated August 24, 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 became a resident of the United States in Year 1. Before becoming a U.S. resident, Taxpayer established a Canadian registered retirement savings plan (RRSP) with Financial Institution. Taxpayer has no tax-related education, skills, or training. He believed that RRSPs are conceptually similar to IRA accounts in the United States in that any built-up gain inside an RRSP would be taxed only upon distribution.

After becoming a U.S. resident, Taxpayer relied on Tax Preparer 1 to prepare his U.S. income tax returns and provide general tax advice. Tax Preparer 1 knew that Taxpayer was Canadian, but did not advise Taxpayer prior to Year 3 that he might have special U.S. filing, reporting, or payment obligations with respect to his RRSP.

In Year 3, Tax Preparer 2 acquired Tax Preparer 1. Tax Preparer 2 required all new clients to review and sign a statement regarding foreign accounts, gifts and entities. During this process, Taxpayer's RRSP was discovered.

Until this issue arose in Year 3 in connection with the preparation of Taxpayer's Year 2 return, Taxpayer had been unaware of the need to make an election under Article XVIII(7) of the United States-Canada Income Tax Convention (the "Treaty") to defer U.S. taxation of income accruing but not distributed by Taxpayer's RRSP.

Taxpayer states that the Internal Revenue Service has not communicated with him in any way regarding his RRSP accounts.

## 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 pursuant to Rev. Proc. 2002-23, to defer U.S. federal income taxation on income accrued in his 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 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 an election 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 (U.S. Information Return for Beneficiaries of Certain Canadian Registered Retirement Plans) for RRSP. For each subsequent tax year through the tax year in which a final distribution is made from RRSP, Taxpayer 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 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  
Office of Associate Chief Counsel  
(International)

Enclosure:  
Copy for 6110 purposes