

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Date:
February 28, 2012

TY:

Legend

Taxpayer =

RRSP =

Attorney =

Tax Years =

Year 1 =

Year 2 =

Date 1 =

Dear :

This is in reply to your letter dated September 12, 2011, as amended by supplemental information dated February 5, 2012, requesting an extension of time under Treas. Reg. § 301.9100-3 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 you and accompanied by a penalty of perjury statement executed by you. 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 U.S. resident in Year 1. Prior to becoming a U.S. resident, Taxpayer established a Canadian Registered Retirement Savings Plans (RRSP). Since becoming a U.S. resident, Taxpayer has been preparing his own tax returns. He was not aware of the need to make an election to defer U.S. taxation on income accruing in his RRSP pursuant to Article XVIII(7) of the United States-Canada Income Tax Convention (the "Treaty").

In Year 2, Taxpayer became aware of the need to make an election after reading various articles related to the Internal Revenue Service's Offshore Voluntary Disclosure Initiative. After Taxpayer realized the need to make an election, he consulted Attorney, who advised Taxpayer that he should make an election pursuant to the provisions of Rev. Proc. 2002-23.

As of Date 1, Taxpayer represents that he has not received any distributions from his RRSP. Taxpayer also represents that the Internal Revenue Service has not communicated with him in any way regarding his RRSP.

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 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 Form 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.

Sincerely,

M. Grace Fleeman
Senior Technical Reviewer
Office of Chief Counsel (International)

Enclosure:
Copy for 6110 purposes

cc: