

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
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Date:
June 15, 2012

TY:

Legend

Taxpayer =

Spouse =

Financial Institution =

RRSP 1 =

RRSP 2 =

RRSP 3 =

Year 1 =

Year 2 =

Year 3 =

Date A =

Tax Years =

Dear _____ :

This is in reply to a letter dated _____, and additional information submitted on _____, requesting an extension of time under Treas. Reg. § 301.9100-3 for Taxpayer and Spouse (the "Taxpayers") to elect the provisions of Rev. Proc. 2002-23, 2002-1 C.B. 744, for Tax Years.

The rulings contained in this letter are based upon information and representations submitted by the Taxpayers and accompanied by a penalty of perjury statement executed by the appropriate parties. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination. The information submitted for consideration is substantially as set forth below.

FACTS

The Taxpayers are married and filed joint U.S. Federal income tax returns for Tax Years. Taxpayer is a Canadian citizen who became a U.S. resident in Year 3. Spouse is a U.S. citizen who lived in Canada, and returned to live in the United States in Year 3. Taxpayer and Spouse established Canadian Registered Retirement Savings Plans (RRSPs), RRSP 1, RRSP 2, and RRSP 3, in Year 1 and Year 2. These RRSPs are currently held with Financial Institution. Since Taxpayer and Spouse have moved to the United States in Year 3, neither individual has contributed any money to the RRSPs nor has either individual withdrawn any money from the RRSPs.

Taxpayer and Spouse self-prepared and filed joint U.S. income tax returns for all Tax Years using tax preparation software. Taxpayer and Spouse were not aware of the need to make an election pursuant to paragraph 7 of Article XVIII of the U.S. Canada income tax treaty (the "Treaty") in order to defer U.S. tax on income accrued in their RRSPs.

On Date A, Taxpayer and Spouse read a newspaper article about IRS enforcement of RRSP reporting for U.S. citizens. After reading the article, they consulted a tax specialist requesting additional information and guidance.

Taxpayer and Spouse represent that the Internal Revenue Service has not previously corresponded with them regarding their RRSPs, and that no return is currently under examination by the Internal Revenue Service, before Appeals, or before a Federal court.

RULING REQUESTED

Taxpayer and Spouse request 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 RRSP 1, RRSP 2, and RRSP 3, 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 the Taxpayers an extension of time, provided that the Taxpayers satisfy the standards set forth in Treas. Reg. § 301.9100-3(a).

Based solely on the information submitted and representations made, we conclude that Taxpayer and Spouse satisfy the standards of Treas. Reg. § 301.9100-3. Accordingly, the Taxpayers are 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 the Taxpayers are 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 and Spouse must file amended U.S. income tax returns to which they attach Form 8891 (U.S. Information Return for Beneficiaries of Certain Canadian Registered Retirement Plans) for RRSP 1, RRSP 2, and RRSP 3. For each subsequent tax year through the tax year in which a final distribution is made from each of their three RRSPs, Taxpayer

and Spouse must attach a Form 8891 for each RRSP from which a final distribution has not been made to their 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 and Spouse's U.S. income tax return for the year in which Taxpayer and Spouse obtained the ruling and should be associated with Taxpayer and Spouse's amended returns for Tax Years.

This letter ruling is directed only to the taxpayers 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)