

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact: _____, ID No.

Telephone Number:

Refer Reply To:
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PLR-143545-11

Date:
June 14, 2012

TY:

Legend

Taxpayer =

Financial Institution =

RRSP =

Tax Years =

Year 1 =

Year 2 =

Date A =

Date B =

Dear

This is in reply to a letter dated Date A 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, with respect to Tax Years. Additional information was submitted in a letter dated Date B.

The ruling contained in this letter is based upon information and representations submitted by 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 ruling, it is subject to verification on examination. The information submitted for consideration is substantially as set forth below.

FACTS

Taxpayer is a Canadian citizen and also a United States permanent resident. Taxpayer lived in Canada until Year 1 when she moved to the United States. While living and working in Canada, Taxpayer established and contributed to a Canadian Registered Retirement Savings Plan with Financial Institution (RRSP).

Taxpayer continued to maintain RRSP with Financial Institution after moving to the United States. At all times relevant to this ruling request, recognition of the accrued earnings in the RRSP has been deferred for U.S. income tax purposes. Taxpayer has not withdrawn any funds or received any distributions from the RRSP.

Taxpayer prepared her U.S. income tax returns for Tax Years using commercially available tax preparation software programs or other online tax preparation tools. Neither the commercial software programs nor the other online guidance alerted Taxpayer that she should elect to defer current U.S. income taxation on the earnings in the RRSP pursuant to Article XVIII(7) of the U.S.-Canada Income Tax Treaty (Treaty) when she prepared her U.S. income tax returns.

Taxpayer became aware of the need to file Form 8891, "U.S. Information Return for Beneficiaries of Certain Registered Retirement Plans," to defer current income taxation of the earnings in the RRSP pursuant to the Treaty only after Taxpayer hired a professional tax advisor in Year 2. The Internal Revenue Service has not communicated with Taxpayer concerning the 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 the 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 an amended U.S. income tax return to which a Form 8891 reporting the RRSP is attached. For each subsequent tax year, a Form 8891 must be attached to Taxpayer's U.S. income tax return through the year in which a final distribution is made from the RRSP.

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 representative.

Sincerely,

Craig R. Gilbert
Special Counsel to the Deputy Associate Chief
Counsel (International Field Service and Litigation)
Office of Associate Chief Counsel (International)

Enclosure:
Copy for 6110 purposes