

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL:BR1
PLR-139557-11

Date:
December 31, 2012

TY:

Legend

Taxpayer =

RRSP =

Year 1 =

Year 2 =

Year 3 =

Tax Years =

Dear :

This is in reply to a letter dated September 6, 2011, and supplemented by letters dated October 18, 2012 and November 28, 2012, 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. 7444, for Tax Years.

The rulings contained in this letter are 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 request for rulings, it is subject to verification on examination.

FACTS

Taxpayer is a Canadian resident and a citizen of the United States. In Year 1, Taxpayer moved to the United States and in Year 2, she returned to live in Canada. Taxpayer established RRSP during her residency in Canada prior to Year 1. All contributions to the RRSP were made while a resident of Canada and not while a resident of the United States. Taxpayer timely filed all U.S. federal income tax returns for Tax Years and was not aware of the rules regarding the U.S. taxation of Canadian retirement plans or the need to make an election to defer taxation of income accruing in an RRSP under Article XVIII(7) of the Treaty.

In Year 3, Taxpayer engaged a CPA firm to prepare her 20 U.S. income tax return and was informed that she needed to make an election to benefit from XVIII(7) of the Treaty. She immediately took action to request an extension of time to file an election to defer U.S. income tax on income earned in RRSP.

RULING REQUESTED

Whether Taxpayer may receive 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.

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 Taxpayers an extension of time, provided that 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 Taxpayers satisfy the standards of Treas. Reg. § 301.9100-3. Accordingly, 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 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 each year of Tax Years, Taxpayer must file amended U.S. income tax returns and attach a 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 the final distribution is made from RRSP, Taxpayer must attach a Form 8891 for the RRSP to her 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.

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.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of this letter ruling.

Sincerely,

Quyen Huynh
Senior Counsel, CC:INTL:Br1
Office of the Associate Chief Counsel (In
(International)

Enclosure (1)
Copy for §6110 purposes

cc: