

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact: _____, ID No.

Telephone Number:

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Date:
July 31, 2013

TY:

LEGEND

Taxpayers =

Taxpayer Husband =

Taxpayer Wife =

Tax Years =

Year 1 =

Year 2 =

Year 3 =

Year 4 =

Accounting Firm =

RRSP Accounts =

Dear _____ :

This is in reply to your letter dated _____ requesting an extension of time under Treas. Reg. § 301.9100-3 for Taxpayers to elect the provisions of Rev. Proc. 2002-23, 2002-1 C.B. 744, with respect to 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 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

Taxpayers are former Canadian citizens and residents. In Year 1, Taxpayers moved to the United States in connection with a transfer by Taxpayer Husband's employer. In Year 2, Taxpayer Husband became a U.S. citizen. In Year 3, Taxpayer Wife became a U.S. citizen.

Prior to moving to the United States in Year 1, Taxpayers established multiple Canadian registered retirement savings plans (RRSP Accounts). Taxpayers continued to maintain their RRSP Accounts after moving to the United States.

Taxpayers represent that they have timely filed U.S. income tax returns for Year 1 and all subsequent years. Prior to Year 4, they retained the same U.S. accountant to prepare their returns. Taxpayers represent that they made full disclosure of their financial affairs to their U.S. accountant and relied on his advice in complying with their U.S. tax filing requirements. Taxpayers represent that their accountant did not inform

them of the need to file Form 8891, "U.S. Information Return for Beneficiaries of Certain Registered Retirement Plans," to defer current income taxation on the undistributed earnings in their RRSP Accounts pursuant to Article XVIII(7) of the U.S.-Canada Income Tax Treaty (the "Treaty").

In Year 4, Taxpayers retained Accounting Firm to help with their filing obligations because they felt their U.S. accountant had provided them with contradictory advice regarding their state income taxes. Accounting Firm informed Taxpayers of the need to file Form 8891 in order to defer U.S. tax on the earnings in their RRSP Accounts. After Taxpayers became aware of the need to make the election under Article XVIII(7) of the Treaty, they asked Accounting Firm to submit this request so that they might obtain an extension to file Form 8891 out of time. Taxpayers represent that prior to Year 4 they were not aware of their U.S. tax filing obligations with respect to their RRSP Accounts.

As of the date of this ruling request, Taxpayers had not received any distributions from their RRSP Accounts.

RULING REQUESTED

Taxpayers 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 for Tax Years pursuant to Rev. Proc. 2002-23 to defer U.S. federal income taxation on income accrued in their RRSP Accounts, as provided for in Article XVIII(7) of the Treaty.

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 under Rev. Proc. 2002-23 for RRSP Accounts for Tax Years. 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 open Tax Years, Taxpayers must file amended U.S. income tax returns to which they attach Forms 8891 for their RRSP Accounts. For each subsequent tax year through the year in which a final distribution is made from their RRSP Accounts, Taxpayers must attach a Form 8891 for each RRSP Account from which a final distribution has not been made to their U.S. income tax return.

This ruling is directed only to the taxpayers requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, copies of this letter are being 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 the letter ruling.

Sincerely,

M. Grace Fleeman
Senior Technician Reviewer, Branch 1
(International)

Enclosure (1)