

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact: _____, ID No.

Telephone Number:

Refer Reply To:
CC:INTL:B01
PLR-120634-13
Date:
August 30, 2013

TY:

Legend

Taxpayer =

RRSP =

Tax Preparer =

Tax Years =

Date 1 =

Date 2 =

Year 1 =

Year 2 =

Year 3 =

Year 4 =

Year 5 =

Year 6 =

Year 7 =

Dear :

This letter revokes and replaces a private letter ruling dated _____ issued to Taxpayer. This letter responds to Taxpayer's letter dated _____, 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 Taxpayer and accompanied by a penalty of perjury statement executed by Taxpayer. 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 was born in Canada and was a resident of Canada until Date 1, when he moved to the United States. He became a lawful permanent resident of the United States on Date 2.

Taxpayer established RRSP in Year 1 and made annual contributions to RRSP from Year 1 through Year 2. As of the date of this ruling request, Taxpayer has not received any distributions from RRSP.

Taxpayer does not have any U.S. income tax-related education, skills, or training. He engaged Tax Preparer to prepare his U.S. income tax returns for Years 3, 4, and 5. Although Taxpayer provided Tax Preparer with information about RRSP, Tax Preparer did not advise Taxpayer of the requirement to make an election under Article XVIII(7) of the United States-Canada Income Tax Convention (the "Treaty") to defer recognition of undistributed income accrued by RRSP.

Taxpayer prepared his own U.S. income tax return for Year 6, with the aid of tax preparation software. The software that Taxpayer used to prepare his Year 6 return did not prompt him to file Form 8891 (U.S. Information Return for Beneficiaries of Certain Canadian Registered Retirement Plans). While preparing his Year 7 U.S. income tax return, Taxpayer discovered, with the aid of the software, that he was required to file Form 8891 to make a valid election under Article XVIII(7) of the Treaty.

As of the date of the ruling request, the Internal Revenue Service has not communicated with Taxpayer in any way regarding RRSP.

RULING REQUESTED

Taxpayer requests the consent of the Commissioner of Internal Revenue 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 by RRSP during Tax Years, as provided for by 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, 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 § 4.07 of Rev. Proc. 2002-23, once the election is made it cannot be revoked, except with the consent of the Commissioner. For open Tax Years, Taxpayer must file amended U.S. income tax returns and attach Form 8891 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 the U.S. income tax return for the year in which Taxpayer obtained the ruling and should be associated with the amended returns for open 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, Branch 1
Office of Associate Chief Counsel
(International)

Enclosure:
Copy for 6110 purposes