

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL:B01
PLR-127343-13

Date:
August 21, 2013

TY:

Legend

Taxpayer =

Spouse =

RRSP 1 =

RRSP 2 =

RRSP 3 =

Tax Preparer =

Tax Years =

Year 1 =

Year 2 =

Year 3 =

Year 4 =

Dear _____ :

This responds to a letter from your representative, dated _____, requesting an extension of time under Treas. Reg. § 301.9100-3 for Taxpayer and Spouse to elect the provisions of Rev. Proc. 2002-23, 2002-1 C.B. 744, with respect to Tax Years.

The ruling contained in this letter is based upon information and representations submitted by Taxpayer and Spouse 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 and Spouse were both born in Canada. They moved to the United States in late Year 1 and became lawful permanent residents of the United States during Year 2. Prior to moving to the United States, Taxpayer and Spouse established RRSP 1, RRSP 2, and RRSP 3 (collectively, "RRSPs"). As of the date of this ruling request, neither Taxpayer nor Spouse has received any distributions from RRSPs.

Taxpayer and Spouse have filed a joint U.S. income tax return since moving to the United States and have filed their U.S. returns on a timely basis for each of the Tax Years. Neither Taxpayer nor Spouse has any U.S. income tax-related education, skills, or training. After moving to the United States, Taxpayer and Spouse engaged different certified public accountants ("CPAs") to prepare their U.S. income tax returns. Although they provided the CPAs with information regarding RRSPs, none of the CPAs advised Taxpayer and Spouse 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 RRSPs.

Taxpayer and Spouse engaged Tax Preparer to prepare their Year 3 return and provided Tax Preparer with information regarding RRSPs. During Year 4, while preparing the Year 3 return, Tax Preparer informed Taxpayer and Spouse of the requirement to make an 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 and Spouse in any way regarding RRSPs.

RULING REQUESTED

Taxpayer and Spouse request 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 RRSPs 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 and Spouse an extension of time, provided that they 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, Taxpayer and Spouse 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 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 and Spouse must file amended U.S. income tax returns to which they attach a separate Form 8891 for each RRSP. For each subsequent year through the year in which a final distribution has been made from each RRSP, Taxpayer and Spouse must attach to their U.S. income tax return a Form 8891 for each RRSP from which a final distribution has not been made.

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 and Spouse obtained the ruling and should be associated with the amended returns for open 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.

Sincerely,

Elizabeth U. Karzon
Chief, Branch 1
Office of Associate Chief Counsel
(International)

Enclosure:
Copy for 6110 purposes

cc: