

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:

Telephone Number:

Refer Reply To:
CC:TEGE:EB:EC
PLR-122742-13
Date: October 22, 2013

LEGEND:

Company X =

Date 1 =

Date 2 =

Year 1 =

Dear _____ :

This is in response to a request for a private letter ruling, dated May 13, 2013, submitted on your behalf by your authorized representative, requesting a ruling under section 83(b) of the Internal Revenue Code (Code). Specifically, you request an extension of time to file with your Year 1 tax return a copy of an election made pursuant to section 83(b) of the Code. The facts, as represented, are as follows.

On Date 1, you purchased restricted shares of Company X common stock, subject to the terms of a Confidential Offering Memorandum (memorandum). At the time of the purchase, you were employed by Company X. The memorandum required you to make an election pursuant to section 83(b) of the Code.

Your tax preparer assisted you with filing the election. On Date 2, you timely filed the election by mailing a statement to the Internal Revenue office with which you file your tax returns. The statement met the content requirements of section 1.83-2(e) of the Income Tax Regulations (Regulations). You provided a copy of the statement to Company X. In preparing your tax return for Year 1, your tax preparer failed to attach a copy of the election to the tax return. As a result, a copy of the statement was not

submitted with your Year 1 tax return. Your Year 1 and subsequent tax returns have been filed in a manner consistent with making a valid election.

Section 83 of the Code provides rules for the taxation of property transferred to an individual in connection with the performance of services. Section 83(a) of the Code provides that if, in connection with the performance of services, property is transferred to any person other than the person for whom such services are performed, the fair market value of the property (less the amount paid for the property) shall be included in the gross income of the recipient in the first taxable year in which the recipient's interest in the property is not subject to a substantial risk of forfeiture.

Section 83(b)(1) of the Code provides that any person who performs services in connection with which property is transferred may elect to include in gross income for the taxable year of the transfer the excess of the fair market value of the property over the amount paid for it. Section 83(b)(2) of the Code provides that an election made pursuant to section 83(b)(1) shall be made in the manner prescribed by the Secretary and shall be made not later than 30 days after the date of the transfer.

Section 1.83-2(c) of the Regulations provides that a section 83(b) election is made by filing one copy of a written statement with the Internal Revenue office with whom the taxpayer files his return. In addition, one copy of such statement shall be submitted with the income tax return for the year of transfer.

Section 1.83-2(d) of the Regulations provides that the person who performed the services shall also submit a copy of the statement to the person for whom the services are performed.

Section 1.83-2(e) of the Regulations provides that the statement shall be signed by the person making the election and shall indicate that it is being made under section 83(b) of the Code, and shall contain the following information: the name, address and taxpayer identification number of the taxpayer; a description of each property with respect to which the election is being made; the date or dates on which the property is transferred and the taxable year for which such election was made; the nature of the restriction or restrictions to which the property is subject; the fair market value at the time of transfer of each property with respect to which the election is being made; the amount (if any) paid for such property; and, with respect to elections made after July 21, 1978, a statement to the effect that copies have been furnished to other persons as provided in section 1.83-2(d) of the Regulations.

Based on the representations made and after consideration of the provisions of sections 83(b) of the Code and 1.83-2 of the Regulations we have determined that you fulfilled the requirements for a valid election under section 83(b) when your statement was mailed to the Internal Revenue office on Date 2. Failure to submit a copy of the statement with your Year 1 tax return did not affect the validity of the election. We

therefore conclude that, to the extent that your purchase of Company X stock on Date 1, constituted a transfer of property under section 83 of the Code, your election under section 83(b) with respect to that stock remains in effect.

We ask that you now forward a copy of the statement to the Internal Revenue office with which you file your tax returns to be associated with your Year 1 tax return.

Except as expressly provided herein, no opinion is expressed or implied as to the federal tax consequences of the facts described above under any other provision of the Code.

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

A copy of this letter must be attached to any income tax return to which it is relevant.

This ruling is based on the information and representations submitted by your authorized representative and accompanied by a penalty of perjury statement executed by you. 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.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Catherine L. Fernandez
Branch Chief,
Executive Compensation Branch
Office of Division Counsel / Associate Chief
Counsel / Tax Exempt & Government Entities

Enclosures:
Copy of letter
Copy for section 6110 purposes