

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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**LEGEND**

Taxpayers =  
Year 1 =  
Year 2 =  
Asset =

Dear :

This letter responds to your request for a private letter ruling requesting consent to revoke an election out of the installment method, pursuant to § 453(d)(3) of the Internal Revenue Code and § 15A.453-1(d)(4) of the Temporary Income Tax Regulations, associated with Taxpayer husband's sale of Asset.

**FACTS**

Taxpayers are husband and wife, and use the calendar year and the cash method of accounting. Taxpayer husband owned Asset but sold Asset in Year 1. In return for his sale of Asset, Taxpayer husband received a cash payment of thirty percent of the selling price, along with a promissory note for the remaining seventy percent of the selling price to be paid to Taxpayer husband over twelve years.

In Year 2, Taxpayers' accountant completed Taxpayers' Year 1 federal return. The accountant, however, erroneously computed Taxpayers' taxable income for Year 1. Based on this faulty computation, Taxpayers' accountant erroneously concluded that

use of the installment method under § 453 would not be beneficial to Taxpayers. Accordingly, on Taxpayers' Year 1 federal return, they reported all the gain from the sale of Asset in Year 1, effectively electing out of the installment method under § 453.

Taxpayers' accountant provided an affidavit indicating that the accountant's erroneous computation and subsequent decision to not elect the installment method under § 453 was made solely by the accountant, and that Taxpayers were unaware that the return for Year 1 elected out of the installment method. Taxpayers also provided affidavits indicating that they did not plan or participate in the decision to elect out of the installment method under § 453, and that their accountant's action was the sole reason the installment method was not used.

Subsequently, Taxpayers' accountant realized his mistake when preparing Taxpayers' Year 2 federal return. Taxpayers and their accountant immediately took action to request consent from the Internal Revenue Service to revoke their election not to use the installment method.

## LAW AND ANALYSIS

Section 453(a) provides that, generally, a taxpayer shall report income from an installment sale under the installment method. Section 453(b) defines an installment sale as a disposition of property for which at least one payment is to be received after the close of the taxable year of the disposition.

Section 15A.453-1(b)(3)(i) defines "payment" to include amounts actually or constructively received in the taxable year under an installment obligation.

Section 453(d)(1) and section 15A.453-1(d)(1) provide that a taxpayer may elect out of the installment method in the manner prescribed by the regulations. Section 15A.453-1(d)(3) provides that a taxpayer who reports an amount realized equal to the selling price including the full face amount of an installment obligation on a timely filed tax return for the taxable year in which the installment sale occurs is considered to have elected out of the installment method.

Except as otherwise provided in the regulations, section 453(d)(2) requires a taxpayer who desires to elect out of the installment method to do so on or before the due date (including extensions) of the taxpayer's federal income tax return for the taxable year of the sale. Section 15A.453-1(d)(4) provides that an election under section 453(d)(1) is generally irrevocable. An election may be revoked only with the consent of the Internal Revenue Service. Section 15A.453-1(d)(4) provides that revocation of an election out of the installment method is retroactive and will not be permitted when one of its purposes is the avoidance of federal income taxes.

In the instant case, Taxpayers' accountant erroneous computation when preparing Taxpayers' Year 1 federal return lead the accountant to elect out of the installment method under § 453. Taxpayers were not aware of the accountant's action. When the accountant realized his erroneous computation, he and Taxpayers filed a request for consent to revoke the election out of the installment method. The information submitted indicates that Taxpayers' desire to revoke the election is due to the accountant's oversight rather than hindsight by Taxpayers or a purpose of avoiding federal income taxes.

## CONCLUSION

Based on careful consideration of all of the information submitted and the representations made, Taxpayers are granted permission to revoke the election out of the installment method for the Year 1 sale of Asset. Permission is granted for the period that ends 75 days after the date of this letter. In order to revoke their election out of the installment method, Taxpayers must file an amended federal income tax return for Year 1 and any other previously filed returns on which a portion of the gain from the sale is reportable under the installment method. A copy of this letter ruling must be attached to each of the amended returns.

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, including the computation of gain to be reported under the installment method.

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

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

The rulings contained in this letter are based upon information and representations submitted by Taxpayers and their accountant and accompanied by a penalty of perjury statement executed by appropriate parties. 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.

Sincerely,

Seoyeon Sharon Park  
Assistant to the Branch Chief, Branch 5  
(Income Tax & Accounting)