

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-109839-16

Date:
June 20, 2016

Legend

Date 1 =
x =
Employer =
Date 2 =

Dear :

This letter is in response to your request, dated February 2, 2016, in which you asked for consent to revoke elections you made under § 83(b) of the Internal Revenue Code (Code). The facts, as represented, are as follows.

On Date 1, you exercised compensatory stock options granted to you by Employer, and received in exchange x shares of Employer common stock, subject to a substantial risk of forfeiture. On Date 2, you filed elections under § 83(b) of the Code with the Internal Revenue Service Center where you file your individual tax return. The § 83(b) elections referenced x shares of common stock received from Employer on Date 1. On February 8, 2016, less than 30 days after Date 1, you sent a letter to this office requesting consent to revoke your § 83(b) elections.

Section 83 of the Code sets forth the rules for transfers of property in connection with the performance of services. Section 83(a) provides that the excess of the fair market value of the property transferred, at the time the property becomes substantially vested, over the amount (if any) paid for the property, shall be included as compensation in the service provider's gross income for the taxable year in which the property becomes substantially vested. Property is substantially vested when it is either transferable or no longer subject to a substantial risk of forfeiture.

Section 83(b) of the Code and § 1.83-2(a) of the Income Tax Regulations (Regulations) permit the service provider to elect to include in gross income the excess (if any) of the fair market value of the property at the time of transfer over the amount (if

any) paid for the property, as compensation for services. Under § 83(b)(2) of the Code, an election made under § 83(b) must be made in accordance with the regulations thereunder and must be filed with the Internal Revenue Service no later than 30 days after the date that the property is transferred to the service provider.

Section 83 of the Code and § 1.83-2(f) of the Regulations provide that an election under § 83(b) may not be revoked without the consent of the Commissioner. Section 1.83-2(f) provides that consent to revoke an election under § 83(b) will be granted only in a case where the transferee is under a mistake of fact as to the underlying transaction and must be requested within 60 days of the date on which the mistake first became known to the person who made the election. The Service has recognized the principle that an election made under the Code or Regulations may be revoked on or before the due date for making the election. Section 2.08 of Rev. Proc. 2006-31, 2006-2 C.B. 32, provides that a request for consent to revoke a § 83(b) election will generally be granted if the request is filed on or before the due date for making that § 83(b) election.

In the instant case, you filed your request to revoke your § 83(b) elections within the 30 day time period allowed under § 83(b) for making the elections. Based solely on the representations provided and the information and documents submitted, consent to revoke your § 83(b) elections is granted.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2016-1, 2016-1 I.R.B. 1, § 7.01(15)(b). This office has not verified any of the material submitted in support of the request for ruling, and such material is subject to verification on examination. The Associate office will revoke or modify a letter ruling and apply the revocation retroactively if there has been a misstatement or omission of controlling facts; the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based; or, in the case of a transaction involving a continuing action or series of actions, the controlling facts change during the course of the transaction. See Rev. Proc. 2016-1, § 11.05.

Except as specifically ruled above, no opinion is expressed as to the federal tax consequences of the transaction described above under any other provision of the Code. Specifically, no opinion is expressed concerning other tax consequences of § 83 and its applicability to the transaction described above.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. A copy of this letter should be attached to your income tax return for .

Sincerely,

CATE LIVINGSTON FERNANDEZ
Chief, Executive Compensation Branch
Office of the Associate Chief Counsel
(Tax Exempt and Government Entities)

cc: