

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

PLR-122572-10

Date: September 21, 2010

A =

Tax Year =

Plan Custodian =

Account 1 =

Account 2 =

Dear :

This is in reply to a letter dated April 30, 2010, requesting an extension of time under Treas. Reg. § 301.9100-3 for A to elect the provisions of Rev. Proc. 2002-23, 2002-1 C.B. 744, for Tax Year. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations submitted by A and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

A is a Canadian citizen who became a resident of the United States in Tax Year. A hired an accounting firm in Canada to prepare her U.S. tax return for Tax Year, the first U.S. tax return filed by A. During Tax Year, A had two Canadian Registered Retirement Savings Plan (RRSP) accounts with Plan Custodian with account numbers Account 1

and Account 2. The accounting firm did not inform A, nor was she aware, that she had to make an election, pursuant to paragraph 7 of Article XVIII of the U.S.-Canada income tax treaty, on Form 8891 to defer U.S. tax on income accrued in her RRSP accounts, until her current tax preparer recently discovered the failure to file Form 8891.

A represented that, as of the date of the ruling request, the Internal Revenue Service has not communicated with her regarding her RRSP accounts.

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, a 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 A an extension of time, provided that A satisfies the standards set forth in Treas. Reg. § 301.9100-3(a).

Based on the information submitted and representations made, we conclude that A satisfies the standards of Treas. Reg. § 301.9100-3. Accordingly, A is granted an extension of time until 60 days from the date of this ruling letter to elect the provisions of Rev. Proc. 2002-23 for Tax Year.

Pursuant to section 4.07 of Rev. Proc. 2002-23, the election once made cannot be revoked except with the consent of the Commissioner. A must file Form 8891 for Tax Year and all subsequent tax years until the year in which a final distribution is made from each of the RRSP accounts covered by this ruling letter.

As provided in Treas. Reg. § 301.9100-1(a), the granting of an extension of time is not a determination that A is otherwise eligible to make the above-described election.

No ruling has been requested, and none is expressed, as to the application of any other section of the Code or regulations to the facts presented.

A copy of this ruling letter should be associated with A's amended tax return for Tax Year.

This ruling is directed only to the taxpayer who has requested it. I.R.C. § 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely,

M. Grace Fleeman
Senior Technical Reviewer
CC:INTL:Br1

Enclosure:
Copy for 6110 purposes