

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

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CC:INTL
PLR-143878-10
Date: April 21, 2011

TY:

Legend

A =

B =

Company 1 =

Company 2 =

Tax Years =

Year 1 =

Year 2 =

Year 3 =

Dear :

This is in reply to a letter dated October 14, 2010, requesting an extension of time under Treas. Reg. § 301.9100-3 for A and B to elect the provisions of Rev. Proc. 2002-23, 2002-1 C.B. 744, for Tax Years.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer 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 rulings, it is subject to verification on examination. The information submitted for consideration is substantially as set forth below.

FACTS

A and B became residents of the United States in Year 1. Prior to Year 1, A and B were residents of Canada. While a resident of Canada, A established three Canadian Registered Retirement Savings Plans (RRSPs), one with Company 1 and two with Company 2. While a resident of Canada, B established two RRSPs, one with Company 1 and one with Company 2.

At all times during A's and B's ownership of their RRSPs, they were unaware of the need to make an election pursuant to Article XVIII(7) of the United States – Canada Income Tax Convention to defer U.S. taxation on income accrued in their RRSPs. In Year 3, A and B engaged a tax expert who discovered the failure to make the election. A and B state that the Internal Revenue Service has not communicated with them in any way regarding their RRSPs.

RULING REQUESTED

A and B request the consent of the Commissioner of the Internal Revenue Service for an extension of time under Treas. Reg. § 301.9100-3 to make an election for Tax Years under Rev. Proc. 2002-23 to defer U.S. federal income taxation on income accrued in their RRSPs.

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

Based solely on the information submitted and representations made, we conclude that A and B satisfy the standards of Treas. Reg. § 301.9100-3. Accordingly, A and B 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 A and B are otherwise eligible to make the above-described election.

Pursuant to section 4.07 of Rev. Proc. 2002-23, the election once made cannot be revoked except with the consent of the Commissioner. For Year 2, and each subsequent tax year until the tax year in which a final distribution is made from each RRSP, A and B must file Form 8891 for each RRSP for which the election is made and 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 A's and B's U.S. income tax return for the year in which A and B obtained the ruling and should be associated with A's and B's amended returns for 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.

Pursuant to a power of attorney on file with this office, a copy of this letter will be sent to your authorized representatives.

Sincerely,

M. Grace Fleeman
Senior Technical Reviewer, Branch 1
Office of Associate Chief Counsel
(International)

Enclosure:
Copy for 6110 purposes