

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: _____, ID No.

Telephone Number:

Refer Reply To:
CC:INTL:B01
PLR-139676-12

Date:
May 17, 2013

TY:

LEGEND

Taxpayer =

Spouse =

Tax Years =

Year 1 =

Year 2 =

Year 3 =

Year 4 =

Year 5 =

Financial Institution =

RRSP Account =

Date 1 =

\$A =

Dear :

This is in reply to a letter from your representative dated requesting an extension of time under Treas. Reg. § 301.9100-3 for Taxpayer to elect the provisions of Rev. Proc. 2002-23, 2002-1 C.B. 744, with respect to 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 request for rulings, it is subject to verification on examination.

FACTS

Taxpayer was born and raised in Canada. In Year 2, Taxpayer moved to the United States in connection with his employment and eventually became a lawful permanent resident of the United States. In Year 3, Taxpayer married Spouse, a U.S. citizen, and in Year 4, Taxpayer became a U.S. citizen as well.

In Year 1, while still a Canadian citizen and resident, Taxpayer established and contributed to a Canadian registered retirement savings plan (RRSP) with Financial Institution, hereinafter referred to as his RRSP Account. Taxpayer continued to maintain his RRSP Account with Financial Institution after moving to the United States. As of Date 1, the amount held in Taxpayer's RRSP Account was \$A.

Taxpayer represents that, other than with respect to treatment of the accrued earnings in his RRSP Account, he has complied with U.S. Federal income tax laws since moving to the United States. With respect to Tax Years, Taxpayer and Spouse filed joint U.S. income tax returns. Taxpayer self-prepared those returns using commercially available tax preparation software. Taxpayer represents that prior to Year 5 he was not aware of the need to file Form 8891, "U.S. Information Return for Beneficiaries of Certain Registered Retirement Plans," to defer current income taxation on the earnings in his RRSP Account pursuant to Article XVIII(7) of the U.S.-Canada Income Tax Treaty (the "Treaty"). In Year 5, Taxpayer learned, as the result of a news story, of his obligation to file Form 8891 and the need to make an election pursuant to the Treaty.

Taxpayer represents that the Internal Revenue Service has not communicated with Taxpayer or Spouse concerning his RRSP Account. Taxpayer represents that he has not made withdrawals or received any distributions from his RRSP Account.

RULING REQUESTED

Taxpayer requests 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 pursuant to Rev. Proc. 2002-23 to defer U.S. federal income taxation on income accrued in the RRSP Account, as provided for in Article XVIII(7) of the Treaty.

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

Based solely on the information submitted and representations made, we conclude that Taxpayer satisfies the standards of Treas. Reg. § 301.9100-3. Accordingly, Taxpayer is granted an extension of time until 60 days from the date of this ruling letter to make an election under Rev. Proc. 2002-23 for his RRSP Account for Tax Years. As provided in Treas. Reg. § 301.9100-1(a), the granting of an extension of time is not a determination that Taxpayer is 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 open Tax Years, Taxpayer and Spouse must file amended U.S. income tax returns to which they attach Forms 8891 for Taxpayer's RRSP Account. For each subsequent tax year through the year in

which a final distribution is made from the RRSP Account, Taxpayer and Spouse must attach a Form 8891 for Taxpayer's RRSP Account to their U.S. income tax return.

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.

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.

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

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

M Grace Fleeman
Senior Technical Reviewer, Branch 1
(International)