

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:ITA:5
PLR-116231-20
Date: January 19, 2021

Taxpayers A&B =
Taxpayer A =
Buyer =
Date 1 =
Date 2 =
Date 3 =
Year =
\$w =
Months =
Interest Rate =
Payment =
Accountant =

Dear _____ :

This letter refers to the Taxpayers A&B’s request for a private letter ruling for permission to revoke their election out of the installment method for the sale of certain properties under § 453 of the Internal Revenue Code (Code) and § 15a.453-1(d)(4) of the Income Tax Regulations (Regulations).

On Date 1, Taxpayer A sold all assets in his business to Buyer. Buyer assumed all business liabilities and signed a promissory note in the amount of \$w. The promissory note obligated Buyer to make Payment at Interest Rate over a period of Months. Taxpayers A&B’s preparer who regularly prepared and filed their annual Federal Income Tax returns became sick, and on Date 2, Taxpayer A met with new Accountant for the first time. Taxpayer A provided Accountant with the information necessary to prepare Taxpayers A&B’s federal income tax return for Year with an expectation that the installment method for the sale of business will be used. Inadvertently, Accountant did not report the gain from the sales on the installment method under § 453 of the Code, but instead reported the entire amount as gain on Taxpayers A&B’s Year Federal

Income Tax return. Accountant attempted to correct the mistake by filing an amended Federal Income Tax Return for Year. The Internal Revenue Service examined Taxpayers A&B's original Federal Income Tax Return and the amended Federal Income Tax Return for Year and completed the exam on Date 3. As soon as the exam was completed and Taxpayers A&B became aware of the appropriate procedure for requesting a revocation of the election, they requested this ruling.

LAW AND ANALYSIS

Section 453(a) of the Code provides that income from an installment sale shall be taken into account under the installment method. Section 453(d)(1) provides that § 453(a) shall not apply to any sale if the taxpayer elects not to have § 453(a) apply to the sale.

Section 453(d)(2) of the Code provides that, except as otherwise provided by regulations, an election under § 453(d)(1) with respect to a sale may be made only on or before the due date prescribed by law (including extensions) for filing the taxpayer's return for the taxable year in which the sale occurs. Such an election shall be made in the manner prescribed by the regulations.

Section 453(d)(3) of the Code provides that an election under § 453(d)(1) with respect to any sale may be revoked only with consent of the Secretary.

Section 15a.453-1(d)(4) of the Regulations states that an election out of the installment method may be revoked only with consent of the Internal Revenue Service. A revocation will not be permitted when one of its purposes is the avoidance of federal taxes, or when the taxable year in which any payment was received is closed.

In this case, the information submitted indicates that Taxpayers inadvertently elected out of the installment method. Additionally, Taxpayers did not use hindsight in requesting relief, and this request is not motivated by an intent to avoid federal taxes. Further, the Taxpayers' taxable year in which the sale took place is not closed. Accordingly, based on the information submitted, Taxpayers may revoke their election out of the installment method of reporting under § 453(d)(3) of the Code, and report the gain on the sale of business using the installment method.

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.

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. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

Sincerely,

Erika C. Reigle
Assistant to the Branch Chief, Branch 5
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: