

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact: _____, ID No. _____

Telephone Number: _____

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February 13, 2023

LEGEND

- Taxpayer =
- Advisors =

- Date 1 =
- Date 2 =
- Date 3 =
- Date 4 =
- Date 5 =
- Month 1 =
- Month 2 =
- Month 3 =
- Year 1 =
- Partners =

- Property =
- Corporation =
- Buyer Sub =
- Buyer =
- \$A =
- \$B =
- C =
- Interest Rate =

Dear _____ :

This letter refers to Taxpayer’s request for a private letter ruling, submitted on _____, requesting permission to revoke its election out of the installment method for the sale of certain property under section 453 of the Internal Revenue Code (Code) and section 15a.453-1(d)(4) of the Income Tax Regulations (Regulations).

This letter ruling is being issued electronically in accordance with Rev. Proc. 2022-1, 2022-1 I.R.B. 1. A paper copy will not be mailed to Taxpayer.

FACTS

Taxpayer was a partnership for federal income tax purposes, which was owned by Partners. On Date 1, Taxpayer sold Property to Buyer Sub, a limited liability company which was wholly owned by Buyer. In consideration for Property, Taxpayer received from Buyer \$A in cash and four promissory notes in the aggregate principal amount of \$B. The promissory notes each obligated Buyer to make C equal annual payments of principal and interest at Interest Rate.

Taxpayer subsequently liquidated and distributed the promissory notes to Partners, via four separate assignments executed on Date 2. On Date 3, the interest rate on the promissory notes was modified and the payments frequency was changed from annual to quarterly.

Taxpayer's advisors on tax matters, Advisors, provided Taxpayer with tax advice relating to the sale of Property before and after the close of the transaction. Advisors also supervised the preparation and filing, on Date 4, of Taxpayer's Year 1 Form 1065, *U.S. Return of Partnership Income*. Partners periodically consulted with Advisors regarding tax matters relating to the sale, including the expected use of long-term promissory notes as part of the consideration.

At least one year prior to the close of the transaction, Advisors advised Taxpayer regarding the benefits of reporting the gain on the sale of Property using the installment method under section 453 of the Code. During Month 1, Advisors provided Taxpayer with computations comparing the estimated gain on the sale of Property with and without the installment method. After reviewing the computations, Partners communicated to Advisors that they wished to use the installment method with respect to the promissory note consideration.

In Month 2, Partners were presented with updated computations and confirmed their desire to use the installment method for the promissory note consideration. Partners used the installment sale computations to calculate and remit their fourth quarter estimated tax payments for Year 1. In Month 3, Advisors prepared Taxpayer's Form 1065, but erroneously reported all of the gain from the sale of Property in Year 1 due to an inadvertent error. On Date 5, this error was discovered by Advisors while working on one of the Partners' Year 1 Form 1040, *U.S. Individual Income Tax Return*.

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 section 453(a) shall not apply to any sale if the taxpayer elects not to have section 453(a) apply to the sale.

Section 453(d)(2) of the Code provides that, except as otherwise provided by regulations, an election under section 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 section 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 Taxpayer inadvertently elected out of the installment method. Additionally, Taxpayer did not use hindsight in requesting relief, and this request is not motivated by an intent to avoid federal taxes. Further, the Taxpayer's taxable year in which the sale took place is not closed.

CONCLUSION

Based on the facts and information submitted and the representations made, we conclude that Taxpayer may revoke its election out of the installment method of reporting under section 453(d)(3) of the Code and report the gain on the sale of business using the installment method.

This ruling is based upon facts and representations submitted by Taxpayer 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. However, as part of an examination process, the Service may verify the factual information, representations, and other data submitted

This ruling addresses the granting of permission to revoke an election out of the installment method under sections 453(d)(3) of the Code and 15a.453-1(d)(4) of the Regulations. 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, including the amount of gain from the sale of Property.

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.

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 representatives.

Sincerely,

Mon L. Lam
Senior Counsel, Branch 4
(Income Tax & Accounting)

cc: