

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC:ITA:4 – PLR-117367-02
Date:
April 11, 2003

LEGEND:

B =

C =

D=

Dear _____ :

This letter is in response to your request for a private letter ruling requesting permission to revoke an election out of the installment method for the sale of certain stock under § 453 of the Internal Revenue Code and § 15a.453-1(d)(4) of the Temporary Income Tax Regulations.

In year B, you and your spouse sold certain stock to an unrelated third party under a note that required the principal amount to be paid in year D. Through inadvertence, the entire gain on the sale of the stock was reported on your year B income tax return that was prepared by your accountant.

In year C you first became aware of the error. You subsequently requested this ruling.

Section 453(a) 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) 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.

PLR-117367-02

Section 453(d)(3) 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) states the general rule that an election out of the installment method is irrevocable. An election 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 your desire to revoke your election out of the installment method is due to inadvertence rather than hindsight or a purpose of avoiding federal taxes. Accordingly, based on the information submitted, you may revoke your election out of the installment method of reporting under § 453(d)(3).

In accordance with a power of attorney on file in 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. We enclose a copy of the letter for this purpose. Also enclosed is a copy of the letter ruling showing the deletions proposed to be made in the letter when it is disclosed under § 6110 of the Internal Revenue Code.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any item discussed or referenced in this letter. This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely,

Michael J. Montemurro
Senior Technician Reviewer
Office of Associate Chief Counsel
(Income Tax & Accounting)

Enclosures
Copy for section 6110 purposes

cc: