

In re: PLR-158776-04

advise A of the need to make an election pursuant to the U.S. – Canada Treaty in order to defer current U.S. taxation of any income accruing in the plans

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. § 301.9100-1(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. § 301.9100-3(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 § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant A an extension of time, provided that A satisfies the standards set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that A satisfies the standards of § 301.9100-3. Accordingly, A is granted an extension of time until 60 days from the date of this ruling letter to elect the provisions of Rev. Proc. 2002-23 for Tax Years.

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 2004 and all subsequent tax years until the tax year in which a final distribution is made from the RRSP, A must file a Form 8891 (U.S. Information Return For Certain Canadian Registered Retirement Plans) for each RRSP for which the election is made.

As provided in § 301.9100-1(a), the granting of an extension of time is not a determination that Taxpayer is otherwise eligible to make the election for Tax Years.

No ruling has been requested, and none is expressed, as to the application of any other section of the Code or regulations to the facts presented.

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A copy of this ruling letter should be associated with A's amended tax returns for Tax Years.

This ruling is directed only to the taxpayer who has requested it. I.R.C. § 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to Taxpayer's authorized representative.

Sincerely,

M. Grace Fleeman
Senior Counsel
CC:INTL:Br1

Enclosure:
Copy for 6110 purposes

CC: