

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-163016-01

Date:

April 15, 2003

LEGEND

You =

Deferral Years =

Registered Retirement Savings Plan =

Year X =

Dear :

This replies to a letter dated September 14, 2001, submitted on your behalf by your authorized representative, in which You request an extension of time under Treas. Reg. § 301.9100-3 to elect the provisions of Revenue Procedure 2002-23, 2002-15 I.R.B. 744. Additional information was submitted in letters dated February 25, 2003, and March 12, 2003. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations submitted by the 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. Verification of the factual information, representations, and other data may be required as a part of the audit process.

Prior to becoming United States residents in July of Year X, You established and contributed to Canadian registered retirement savings plans ("Plans"). No contributions have been made to these Plans since You became United States residents. In

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addition, no distributions have been made by these Plans. All United States tax returns have been timely filed, but without elections under Rev. Proc. 2002-23 to defer United States income tax on current earnings of the Plans, and without reporting earnings on these Plans on your annual federal income tax returns for the Deferral Years.

The facts submitted under penalties of perjury describe the circumstances surrounding the failure to file the elections. You are requesting relief before the failure to make the elections have been discovered by the IRS.

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 § 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 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 You an extension of time, provided that You satisfy the standards set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that You satisfy the standards of § 301.9100-3. Accordingly, You are granted an extension of time until 30 days from the date of this ruling letter to elect the provisions of Rev. Proc.2002-23 for the Deferral Years.

As provided in § 301.9100-1(a), the granting of an extension of time is not a determination that You are otherwise eligible to make the elections.

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.

A copy of this ruling letter should be associated with the Deferral Years.

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

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

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein

Allen Goldstein

Reviewer

Enclosure:

Copy for § 6110 purposes