

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200604027**

Release Date: 1/27/2006

Index Number: 9100.22-00; 9114.03-06

Person To Contact:
 , ID No.

Telephone Number:

Refer Reply To:
CC: INTL – PLR-154528-04
Date: October 20, 2005

Tax Years

A = TIN:

B = TIN:

Tax Years =

Year 1 =

Dear :

This is in reply to a letter dated September 22, 2004, requesting an extension of time under Treas. Reg. § 301.9100-3 for A and B to elect the provisions of Rev. Proc. 2002-23, 2002-1 C.B. 744, for Tax Years. 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 taxpayers 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.

A and B are married Canadian citizens who moved to the United States during Year 1. They are now lawful permanent residents of the United States. A and B have established and have been contributing to several Canadian Registered Retirement Savings Plans (RRSPs) over the years. A and B's Canadian accountant informed them of the need to make the election to defer taxation of income accruing in the plans pursuant to Rev. Proc. 2002-23. The Canadian accountant also suggested that A and

In re: PLR-154528-04

B's U.S. accountant should handle making the election. The U.S. accountant agreed to handle the matter but never did so. Accordingly, A and B did not attach statements as provided by Rev. Proc. 2002-23 to their timely filed IRS Forms 1040 for Tax Years.

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

Based on the facts and circumstances of this case, we conclude that A and B satisfy the standards of § 301.9100-3. Accordingly, A and B are granted an extension of time until 45 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 and B 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 A and B are 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.

In re: PLR-154528-04

A copy of this ruling letter should be associated with A and B'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.

Sincerely,

M. Grace Fleeman
Senior Counsel
CC:INTL:Br1

Enclosure:
Copy for 6110 purposes

CC: