

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-118479-01

Date:

October 2, 2001

LEGEND

You =

Deferral Years =

Year X =

Dear

This replies to a letter dated March 23, 2001, submitted on your behalf by your authorized representative, in which You request an extension of time under Treasury Regulation § 301.9100-3 to elect the provisions of Revenue Procedure 89-45, 1989-2 C.B. 596 for the Deferral 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 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 a United States resident in July of Year X, You established and contributed to two Canadian Registered Retirement Savings Plans ("Plans"). No contributions have been made to these Plans since You became a United States resident. In addition, no distributions have been made by these Plans. All United States tax returns have been timely filed, but without an election under Revenue Procedure 89-45 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.

You recently became aware of Revenue Procedure 89-45 and engaged the services of your authorized representative to request an extension of time to file the election for the Deferral Years. You are requesting relief before your failure to make the election has been discovered by the IRS.

In re: PLR-118479-01

Treas. Reg. § 301.9100 -1(b) 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 (including affidavits described in § 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, Revenue Procedure 89-45 provides the procedures that a beneficiary of a Plan must follow to elect to defer United States tax on earnings accrued in the Plan during the taxable year. 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 Revenue Procedure 89-45 for the Deferral 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.

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.

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

Sincerely,

Allen Goldstein
Reviewer
Office of the Associate Chief Counsel (International)