

Deduction For IRA Transfer.

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REFDATE 030825

Please note that the following document, although believed to be correct at the time of issue, may not represent the current position of the CCRA.

PRINCIPAL ISSUES:

- 1) Can an individual claim a deduction under subparagraph 60(j)(ii) for an amount transferred to an RRSP from an IRA where the amount was previously transferred to the IRA from a 401(k) plan?
- 2) For purposes of the foreign tax deduction, is the total amount received from the IRA used in the calculation in 126(1)(b)(i) without adjustment for the deduction taken pursuant to subparagraph 60(j)(ii)?

POSITION: 1) Yes 2) Yes

REASONS: 1) Consistent with prior ruling. The Act does not prevent it and not offensive from a policy perspective. 2) Consistent with the wording of the Act

2003-018283

August 25, 2003

Dear XXXXXXXXXXXX :

Re: 401(k) transfer to IRA followed by a transfer to RRSP

This is in response to your letter of January 7, 2003 posing several questions about the transfer of a benefit under a US 401(k) plan to an individual retirement account (IRA) and the subsequent transfer of the amount to a registered retirement savings plan ("RRSP").

Written confirmation of the tax implications inherent in particular transactions is given by this Directorate only where the transactions are proposed and are the subject matter of an advance income tax ruling request submitted in the manner set out in Information Circular 70-6R5, Advanced Income Tax Rulings, dated May 17, 2002. Where the particular transactions are completed, the inquiry should be addressed to the relevant tax services office. The following comments are, therefore, of a general nature only and are not binding on the Canada Customs and Revenue Agency ("CCRA"). All publications referred to herein can be accessed on the CCRA website at the following address:
<http://www.ccraadrc.gc.ca/tax/technical/incometax/menu-e.html>.

The Income Tax Rulings Directorate has previously ruled that the deduction permitted by subparagraph 60(j)(ii) of the Income Tax Act ("the Act") is available to any taxpayer when a benefit accrued in a US 401(k) plan by a Canadian resident is transferred to an IRA and then

transferred to an RRSP. The ultimate use the individual would make of the funds once deposited into the RRSP would have no bearing on whether the transfer to the RRSP would be allowed under the Act.

For purposes of subparagraph 126(1)(b)(i) of the Act, the amount to be included in "income from sources", for purposes of calculating the foreign non-business tax credit, is the gross amount of the pension included in income under subparagraph 56(1)(a)(i) of the Act without deducting the amount transferred under paragraph 60(j) of the Act. Subsection 4(2) of the Act indicates that income from a source will not be reduced by deductions permitted by sections 60 to 63 for purposes of paragraph 4(1) (a) of the Act.

We trust that these comments will be of assistance.

Yours truly,

Mickey Sarazin, C.A.
for Director
Financial Industries Division
Income Tax Rulings Directorate
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