



State of Florida
Department of Revenue
Intangible Personal Property Tax
Technical Assistance Advisements

SUMMARY

QUESTION: Are Canadian Registered Retirement Savings Plans exempt from intangible tax?

ANSWER - Based on Facts Below: No. Canadian Registered Retirement Savings Plans, although very similar to U.S. Individual Retirement Accounts, do not meet the requirements for exemption under section 408(a) of the Internal Revenue Code. Therefore, they are not exempt from intangible tax.

Jun 26, 2002

Re: Technical Assistance Advisement No. 02C2-006
 Intangible Tax
 Exemption from Florida Intangible Tax for Canadian Citizens
 Registered Retirement Savings Plan
 Sections 199.032 and 199.185(1)(e), F.S.
 XXX ("Taxpayers")

Dear :

This is in response to your request for a Technical Assistance Advisement in which you ask if your investments in Canadian Registered Retirement Savings Plans ("RRSP's") are exempt from Florida intangible tax. The specific facts for which advice has been requested are presented below.

Facts Presented by Petitioner

Taxpayers are Canadian citizens that relocated permanently to Florida in September 2000. Prior to their immigration to the United States in 2000, they made investments in Canadian Registered Retirement Savings Plans ("RRSP's") that they still hold today.

An RRSP is the Canadian equivalent of the U.S. Individual Retirement Account ("IRA"), a government sanctioned tax deferral mechanism. The RRSP allows Canadian individual taxpayers to deduct, from the income subject to tax, specified amounts contributed to the Plan (up to 18% of a taxpayers prior year's earned income, to a maximum of \$13,100 Canadian dollars or approximately US \$9,000 annually). These amounts are invested

gains depending on the Plan chosen by the taxpayer. These earnings accumulate in the Plan free of current tax, enabling the savings to grow more rapidly. As with the U.S. IRA, the RRSP merely provides a deferral of tax. When the funds are eventually withdrawn, the full amount of the withdrawal is subject to income tax. The U.S. Internal Revenue Service, through its treaty with Canada, recognizes the Canadian RRSP as a tax deferral mechanism; and earnings within the taxpayer's RRSP are not subject to U.S. current tax.

Requested Ruling by the Petitioner

Since the Canadian RRSP mirrors the U.S. IRA, and the IRA is exempt for purposes of the intangible tax, you feel that RRSP is also exempt. At the time of preparing the intangible tax returns for years January 1, 2001, and January 1, 2002, you chose to treat your Canadian RRSP investments as non-exempt (thereby paying intangible tax on these investments), since you did not have an official and binding answer to their treatment for tax purposes.

You seek the Department's confirmation that Canadian RRSP's are exempt for purposes of the intangible tax, and you would appreciate guidance on how you should proceed in amending the 2001 and 2002 tax returns that you have already filed with the Department of Revenue.

Law and Discussion

Section 199.032, F.S., imposes the annual intangible tax on the just valuation of all intangible property that has a taxable situs in this state subject only to the exemptions and credits allowed by law. Section 199.185(1)(e), F.S., provides that intangible personal property held in trust pursuant to any stock bonus, pension, or profit sharing plan or any individual retirement account which is qualified under s. 530, s. 401, s. 408, or s. 408A of the United States Internal Revenue Code, 26 U.S.C. ss. 530, 401, 408, and 408A, as amended, is exempt from intangible tax.

Conclusion

Although Canadian registered retirement savings plans are similar to individual retirement accounts (IRA's), they do not meet the requirements for qualification as IRA's under section 408(a) of the Internal Revenue Code. As a result, the earnings of such a plan are currently includable in the gross income of the beneficiary of the plan for United States income tax purposes. The beneficiary of such a plan may elect to defer United States federal income tax on certain current-year earnings of the plan that are not distributed to the beneficiary.

Canadian RRSP's, as stated above, although very similar to U.S. IRA's, do not meet the requirements for exemption under section 408(a) of the Internal Revenue Code. Therefore, your

tax returns are properly filed, and there is no need to amend these returns.

This response constitutes a Technical Assistance Advisement under s. 213.22, F.S., which is binding on the Department only under the facts and circumstances described in the request for this advice as specified in s. 213.22, F.S. Our response is predicated on those facts and the specific situation summarized above. You are advised that subsequent statutory or administrative rule changes or judicial interpretation of the statutes or rules upon which this advise is based may subject similar future transactions to a different treatment than expressed in this response.

You are further advised that this response, your request and related backup documents are public records under Chapter 199, F.S., and are subject to disclosure to the public under the conditions of s. 213.22, F.S. Confidential information must be deleted before public disclosure. In an effort to protect confidentiality, we request you provide the undersigned with an edited copy of your request for Technical Assistance Advisement, the backup material and this response, deleting names, addresses and any other details which might lead to identification of the taxpayer. Your response should be received by the Department within 15 days of the date of this letter.

Sincerely,

Baldan E. Sulker
Senior Tax Specialist
Technical Assistance & Dispute Resolution
Office of General Counsel

BES/mh