

IRS SIMPLIFIES TAX REPORTING FOR INDIVIDUALS WITH CANADIAN RETIREMENT PLANS

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Under Article XVIII(7) of the United States-Canada Tax Treaty, a U.S. citizen or resident may elect to defer U.S. income taxation on income accruing under a Canadian registered retirement savings plan (RRSP) or registered retirement income fund (RRIF) until that income is distributed from the plan. Absent this treaty provision, a U.S. citizen or resident who is a beneficiary under an RRSP or RRIF would be subject to current U.S. income taxation on income accrued under the plan, even if that income is not currently distributable to the individual.

In 2004, the Internal Revenue Service (IRS) released Form 8891 (U.S. Information Return for Beneficiaries of Certain Canadian Registered Retirement Plans) for the purpose of satisfying certain reporting requirements for RRSPs and RRIFs, and to allow U.S. citizens and residents to make an election to defer U.S. taxation on income earned in the plans. The IRS recently issued guidance updating the procedures for making such an election and relaxing the reporting requirements associated with these plans.

Election Procedures

Under the IRS guidance, an “eligible individual” who has not previously made an election to defer taxation on the undistributed income of an RRSP or RRIF under Article XVIII(7) will nevertheless be treated as having made such an election as of the first year the beneficiary could have made such an election. An “eligible individual” is a beneficiary of an RRSP or RRIF who:

1. Is or was at any time a U.S. citizen or resident while a beneficiary of the plan;
2. Has satisfied any requirement for filing a U.S. federal income tax return for each taxable year during which the individual was a U.S. citizen or resident;
3. Has not previously reported as gross income on a U.S. federal income tax return the earnings accrued in, but not distributed by, the plan during any taxable year in which the individual was a U.S. citizen or resident; and
4. Has reported any distributions from the plan as if the individual had made an election under Article XVIII(7) for all years during which the individual was a U.S. citizen or resident.

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Beneficiaries who have reported on their U.S. federal income tax returns undistributed income accrued under an RRSP or RRIF in prior years are not eligible to make an Article XVIII(7) election under the new rules. Instead, the undistributed income will continue to be taxed unless they receive consent from the IRS to make an election under Article XVIII(7).

Finally, any taxpayer who previously made an Article XVIII(7) election is not required to file a Form 8891 for taxable years ending after December 31, 2012. Any revocation of a prior election would require the consent of the IRS.

Reporting Procedure

Subject to any future guidance from the IRS, U.S. citizens and residents who are beneficiaries under an RRSP or RRIF (regardless of whether they are “eligible individuals,” as described above) are no longer required to file Form 8891 or Form 3520 with respect to their interests in the plans. In addition, custodians are not required to file Form 3520-A. It should be noted, however, that the IRS guidance does not eliminate other reporting requirements such as the obligation to file Form 8938 (Statement of Foreign Financial Assets) or a Report of Foreign Bank and Financial Account (FBAR). (*Rev. Proc.* 2014-55)