

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:ITA:4
PLR-152828-06

Date:
March 15, 2007

TY:

LEGEND

- Taxpayer A =
- Taxpayer B =
- Residence 1 =
- Residence 2 =
- Residence 3 =
- Date 1 =
- Date 2 =
- Date 3 =
- Date 4 =
- Date 5 =
- Date 6 =
- X =

Dear :

This letter is a response to your request for a ruling under section 121(c) of the Internal Revenue Code. Specifically, you have requested a ruling that the gain on the sale of Residence 2 may be excluded under the reduced maximum exclusion in section 121(c).

Facts

On Date 1, Taxpayer A purchased Residence 1. On Date 2, Taxpayer B purchased Residence 2. After the purchase of these residences, Taxpayer A and Taxpayer B met and later married on Date 3. Taxpayer A and Taxpayer B purchased Residence 3 on Date 4 shortly after their marriage. About a month later, Taxpayer A sold residence 1

on Date 5, and Taxpayer B sold Residence 2 on Date 6. Taxpayer B held Residence 2 less than two years, about X months.

Residence 1 and Residence 2 each had three bedrooms. Residence 3 has four bedrooms. Taxpayer A has three children from a previous marriage, and Taxpayer B has two children from a previous marriage. Residence 3 allows Taxpayers A and B to provide suitable bedroom arrangements for their blended family, which includes adolescent children of the opposite sex.

Law and Analysis

Section 121(a) provides that gain from the sale or exchange of property is not included in gross income if, during the 5-year period ending on the date of the sale or exchange, the taxpayer has owned and used the property as the taxpayer's principal residence for periods aggregating two years or more.

Section 121(b)(1) states the general rule for the maximum exclusion of gain. Section 121(b)(3) provides that subsection (a) shall not apply to any sale if, during the 2-year period ending on the date of the sale, there was any other sale or exchange by the taxpayer to which subsection (a) applied.

Section 121(c) provides for a reduced maximum exclusion when a taxpayer fails to satisfy the ownership and use requirements of subsection (a) if the primary reason for the sale is the occurrence of unforeseen circumstances.

The reduced maximum exclusion is computed by multiplying the applicable maximum exclusion by a fraction. The numerator of the fraction is the shortest of the following periods: (1) the period of time that the taxpayer owned the property during the 5-year period ending on the date of the sale; (2) the period of time that the taxpayer used the property as the taxpayer's principal residence during the 5-year period ending on the date of the sale; or (3) the period of time between the date of a prior sale or exchange of property for which the taxpayer excluded gain under section 121 and the date of the current sale. The numerator of the fraction may be expressed in days or months. The denominator of the fraction is 730 days or 24 months (depending on the measure of time used in the numerator).

Section 1.121-3(b) of the Income Tax Regulations provides that all the facts and circumstances of a sale will determine whether the primary reason for the sale is the occurrence of unforeseen circumstances. Factors that may be relevant in determining the primary reason for a sale include the following: (1) the suitability of the property as the taxpayer's residence materially changes; (2) the circumstances giving rise to the sale are not reasonably foreseeable when the taxpayer begins using the property as the taxpayer's principal residence; and (3) the circumstances giving rise to the sale occur

during the period of the taxpayer's ownership and use of the property as the taxpayer's principal residence.

Section 1.121-3(e)(1) provides that a sale is by reason of unforeseen circumstances if the primary reason for the sale is the occurrence of an event that the taxpayer could not reasonably have anticipated before purchasing and occupying the residence.

Section 1.121-3(e)(3) states that the Commissioner may issue rulings addressed to specific taxpayers identifying events or situations as unforeseen circumstances with regard to those taxpayers.

In the present case, based on the facts, representations, and the relevant law, we conclude that the occurrence of unforeseen circumstances was the primary reason for the sale of Residence 2 by Taxpayer B on Date 6. When Taxpayer B purchased and began using Residence 2 as his principal residence, he had not met Taxpayer A. He met and married Taxpayer A during the period of his ownership and use of Residence 2. As a consequence of the marriage, the suitability of Residence 2 as B's principal residence materially changed. Taxpayer A and Taxpayer B needed a larger home with more bedrooms to suitably accommodate their blended family. The occurrence of Taxpayer B's marriage to Taxpayer A and the need to suitably accommodate their blended family were unforeseen circumstances. The occurrence of these unforeseen circumstances was the primary reason for the sale of Residence 2 by Taxpayer B.

Accordingly, the gain on the sale of Residence 2, which Taxpayer B owned and used as a principal residence for less than two of the preceding five years, may be excluded under the reduced maximum exclusion of gain in section 121(c).

Caveats

Except as expressly provided, we express no opinion concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, we are sending a copy of this letter to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, a taxpayer filing a return electronically may satisfy this requirement by attaching a statement to the return that provides the date and control number of the letter ruling.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed

by the taxpayer. While this office has not verified any of the material submitted in support of the request for a ruling, it is subject to verification on examination.

Sincerely,

Donna Welch
Senior Technician Reviewer, Branch 4
(Income Tax & Accounting)