



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

April 13, 1999

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Release Date: 7/23/1999

MEMORANDUM FOR DISTRICT DIRECTOR,

Attn: Chief, Examination Division

FROM: David B. Auclair
Assistant to the Chief, Branch 1 (Income Tax & Accounting)

SUBJECT: Letter Ruling Request Withdrawn

Pursuant to section 8.07(2)(b) of Revenue Procedure 98-1, 1998-1 I.R.B. 7,31, we are writing to inform you that a taxpayer located within your district has withdrawn a request for a letter ruling.

The taxpayer, (SSN:), sold a residential property () in approximately one year and four months after the taxpayer had acquired the property from a decedent. The taxpayer requested a letter ruling regarding whether the two-year ownership requirement under section 121 of the Internal Revenue Code may be satisfied by adding the one-year deemed holding period under section 1223(11) of the Code to the period of the taxpayer's actual ownership of the residence.

We concluded that section 1223(11) of the Code is not applicable to the taxpayer's case because the taxpayer did not sell the residential property within one year after the decedent's death. Further, section 121 does not provide that the deemed holding period under section 1223(11) can be used to satisfy the ownership requirement under section 121(a). Upon informing the taxpayer of our adverse position, the taxpayer withdrew the request for a letter ruling.

If you need further information, please contact Sara Shepherd at (202) 622-4910.