

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:
CC:INTL:PLR-103981-99
Date:
June 29, 1999

LEGEND

Taxpayer =

Parent =

Individual A =

Individual B =

Foreign Location =

Date A =

Dear :

This replies to a letter dated February 3, 1999, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to make the election provided by I.R.C. § 953(d) in accordance with Notice 89-79, 1989-2 C.B. 392, 393. Additional information was submitted in letters dated June 14 and 16, 1999. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations

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submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the above material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

On Date A, Parent formed Taxpayer as a new reinsurance subsidiary in Foreign Location. Parent and Taxpayer contemplated that Taxpayer would make an election under I.R.C. § 953(d). Recently, Parent and Taxpayer engaged Individual B who is experienced in insurance taxation to advise them on insurance company matters. Individual B determined that the § 953(d) election had not been made although both Parent and Taxpayer filed their tax returns as if a proper election were made. Until this time, neither Parent nor Parent's and Taxpayer's tax professionals, Individual A and his firm, were aware that no election had been made. Parent and Taxpayer relied on Individual A and his firm in their capacity as return preparers to make, or advise Taxpayer to make, the election. Parent, for many years, and Taxpayer, for its entire existence, had relied on Individual A and his firm for tax advice and had always received what it considered to be timely, accurate and professional advice.

Taxpayer represents that it maintains an office or other fixed place of business in the United States; and that it owns and has owned assets which are physically located in the United States with an adjusted basis equal to at least 10% of the corporation's gross income for each year of the existence of the corporation.

Notice 89-79 provides that the election to be treated as a domestic corporation under § 953(d), to be effective for a taxable year, must be filed by the due date prescribed in I.R.C. § 6072(b) (with extensions) for the United States income tax return that is due if the election becomes effective.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the standards set forth in § 301.9100-3 to make a regulatory election under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100 -1(b) defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301-9100-3 provides standards for extensions of time for making regulatory elections when the deadline for making the election is other than a due date

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prescribed by statute.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

In the present situation, Notice 89-79 fixes the time to make the election under § 953(d). Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth under § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 30 days from the date of this ruling letter to make the § 953(d) election.

No ruling has been requested, and none is expressed, as to the application of any other section of the Code or regulations to the facts presented.

A copy of this ruling letter should be associated with the election.

This ruling is directed only to the taxpayer who requested it. I.R.C. § 6110(j)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

/s/ Allen Goldstein

Allen Goldstein

Reviewer

Office of the Associate Chief Counsel (International)