

Internal Revenue Service

Department of the Treasury
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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL
PLR-166086-04

Date:
June 30, 2005

LEGEND

Taxpayer =

CPA =

Firm

Date A =

Date B =

Date C =

Date D =

Year x =

Dear :

This replies to a letter dated December 20, 2004, 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 the procedural rules set forth in Notice 89-79, 1989-2 C.B. 392, 393, and Revenue Procedure 2003-47, 2003-2 C.B. 55, 56, to be treated as a domestic corporation for U.S. tax purposes commencing on the first day of Taxpayer's Year x taxable year. Additional information was submitted on June 23, 2005. The information submitted for consideration is substantially as set forth below.

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

Taxpayer was incorporated on Date A. Taxpayer received its license as an insurance company and commenced business on Date B. Date A and Date B fell within the Year

x taxable year. Date C was the statutory due date for filing the tax return for the Year x taxable year.

Taxpayer engaged CPA Firm to perform tax compliance services and to analyze the tax considerations of making the election provided by § 953(d).

After Date C, CPA Firm confirmed that Taxpayer desired to make the § 953(d) election for the Year x taxable year, and reviewed the provisions of Notice 89-79 and Rev. Proc. 2003-47. CPA Firm concluded that the election could be filed prior to D, the extended due date for filing the tax return for the Year x taxable year, even though an application for an extension of time to file the tax return for the Year x taxable year had not been filed. The § 953(d) election was prepared and attached to the tax return, and filed a few days before Date D.

Subsequently, Taxpayer was informed by the IRS that the § 953(d) election for the Year x taxable year was not timely filed.

Treas. Reg. § 301.9100 -1(b) provides that an election includes an application for relief in respect of tax, and 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. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules 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. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides 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 within the meaning of § 301.9100-3(b), subject to the conditions set forth in § 301.9100-3(b)(3), and the grant of relief will not prejudice the interests of the Government within the meaning of § 301.9100-3(c).

In the present situation, Notice 89-79 and Rev. Proc. 2003-47 fix the time to make the § 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 for relief as set forth in § 301.9100-3.

Based on the facts and information submitted, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to make the election provided by I.R.C. § 953(d) in accordance with the procedural rules set forth in Notice 89-79, 1989-2 C.B. 392, 393, and Revenue Procedure 2003-47, 2003-2 C.B. 55, 56, to be treated as a domestic

corporation for U.S. tax purposes commencing on the first day of Taxpayer's Year x taxable year.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to make the § 953(d) election. § 301.9100-1(a).

A copy of this ruling letter should be associated with Taxpayer's § 953(d) election.

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

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.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to your authorized representatives.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Valerie Mark Lippe

Valerie Mark Lippe

Senior Technician Reviewer

Enclosure:

Copy for 6110 purposes