

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:INTL:B02
PLR-105010-15

Date:
June 10, 2015

TY:

LEGEND:

Taxpayer:

Year 1:

Country X:

Accounting Firm:

Date 1:

Management Firm:

Dear :

This is in response to a letter received by our office on February 11, 2015, submitted on behalf of Taxpayer by its authorized representative, requesting an extension of time under Treas. Reg. § 301.9100-3 to make the election provided by section 953(d) of the Internal Revenue Code (Code) to be treated as a domestic corporation for U.S. tax purposes commencing on the first day of Taxpayer's Year 1 taxable year.

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 part of the audit process.

Taxpayer is a regulated insurance company organized under the laws of Country X. Taxpayer intended to make a section 953(d) election in order to be treated as a domestic corporation. Taxpayer engaged the services of Accounting Firm to prepare the section 953(d) election statement. Accounting Firm prepared and forwarded the section 953(d) election statement to Management Firm on Date 1. Accounting Firm specifically instructed Management Firm to file the section 953(d) election statement with the Internal Revenue Service (IRS) office in Plantation, Florida. However, Management Firm failed to file the section 953(d) election statement. Thereafter, Taxpayer timely filed its federal income tax return along with a copy of the election statement for Year 1. Taxpayer has represented that the grant of relief would not prejudice the interests of the Government because it will not result in a lower tax liability for taxable years affected by the election.

Taxpayer has provided an affidavit representing that it exclusively relied on Management Firm to file the section 953(d) election statement with the IRS and Management Firm failed to do so. Taxpayer has also provided an affidavit by Management Firm corroborating the events that led to the failure of a timely filed section 953(d) election statement.

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 Treas. Reg. § 301.9100-3, to make a regulatory election under all subtitles of the Code, except subtitles E, G, H, and I.

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. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 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.

Treas. Reg. § 301.9100-3(b)(1) provides that except as provided in paragraphs (b)(3)(i) through (iii) of that section, a taxpayer is deemed to have acted reasonably and in good faith if it meets one of the conditions described in Treas. Reg. § 301.9100-3(b)(1)(i) through (v). One such condition is that that taxpayer reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make the election. Treas. Reg. § 301.9100-3(b)(1)(v). Treas. Reg. § 301-9100-3(b)(3)(i) through (iii) does not apply to the facts as presented in this request.

Treas. Reg. § 301.9100-3(b)(2) provides that a taxpayer is not considered to have reasonably relied on a qualified tax professional if taxpayer knew or should have known that the professional was not competent to render advice on the regulatory election or was not aware of all relevant facts.

Treas. Reg. §301.9100-3(c)(1) provides that relief will be granted only when the interests of the Government will not be prejudiced.

Rev. Proc. 2003-47, 2003-2 C.B. 55, 56 provides that the election to be treated as a domestic corporation under section 953(d), to be effective for a taxable year, must be filed by the due date prescribed in section 6072(b) (with extensions) for the United States income tax return that is due if the election becomes effective.

In the present situation, Rev. Proc. 2003-47 fixes the time to make the election under section 953(d). Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth under Treas. Reg. § 301.9100-3(a).

Based on the facts and information submitted, we conclude that Taxpayer satisfies Treas. Reg. § 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 section 953(d), in accordance with the procedural rules set forth in Rev. Proc. 2003-47, to be treated as a domestic corporation for federal income tax purposes commencing on the first day of Taxpayer's Year 1 taxable year.

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

The Taxpayer should attach a copy of this letter ruling to its federal income tax return for the relevant year.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(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 ruling letter is being furnished to your authorized representative.

Sincerely,

Jeffery G. Mitchell
Branch Chief, Branch 2
(International)