

Internal Revenue Service

Number: **200614004**

Release Date: 4/7/2006

Index Number: 953.06-00, 9100.22-00

Department of the Treasury

Washington, DC 20224

[Third Party Communication:

Date of Communication: Month DD, YYYY]

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL:B02

PLR-165606-04

Date:

December 20, 2005

LEGEND:

Taxpayer =

Company A =

Company B =

Accounting Firm C =

Country Y =

Date 1 =

Date 2 =

Date 3 =

Year X =

Dear :

This is in response to a letter dated November 24, 2004, 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 I.R.C. section 953(d) 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 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 a part of the audit process.

Taxpayer is a wholly owned subsidiary of Company A, a domestic limited liability company that is treated as a partnership for U.S. federal income tax purposes. Taxpayer is a Country Y licensed insurance company that was incorporated on Date 1 and began its operations on Date 2.

Because Company A did not have any presence in Country Y or local-country legal knowledge, it hired Company B to provide day-to-day management services for Taxpayer in Country Y. This appointment was confirmed at Taxpayer's first annual Board meeting on Date 3. At that meeting, Taxpayer's Board resolved that Taxpayer would make the section 953(d) election by filing an election statement with the IRS when filing its corporate income tax for that year and that Accounting Firm C would file all necessary tax returns. After that Board meeting, Company B was charged with retaining Accounting Firm C for audit and tax return preparation. Under Country Y's law, the Country Y Monetary Authority can grant an audit waiver for insurance companies that have a short initial period (fewer than 6 months). The Country Y Monetary Authority did grant such a waiver. As a result, Company B did not engage Accounting Firm C to perform an audit of Taxpayer's Year X short initial period. Further, Company B did not consider, or mention to Accounting Firm C the need to separately prepare Taxpayer's Year X U.S. federal income tax return.

Taxpayer has represented that:

- 1) it is not seeking to alter a return position for which an accuracy-related penalty has been or could be imposed under I.R.C. section 6662;
- 2) the request for relief was submitted before the failure to file the 953(d) election was discovered by the IRS; and
- 3) it intended at all times to make the election and that no specific facts have changed since the due date to make the election that make the election advantageous to the Taxpayer.

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 I.R.C., 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 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) provides that 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 requested relief before the failure to make the regulatory election is discovered by the IRS. Treas. Reg. § 301.9100-3(b)(1)(i).

Treas. Reg. § 301.9100-3(b)(3) provides that a taxpayer is deemed not to have acted reasonably and in good faith if the taxpayer seeks to alter a return position for which an accuracy- related penalty has been or could be imposed under I.R.C. section 6662 at the time the taxpayer requests relief and the new position requires or permits a regulatory election for which relief is requested, or if the taxpayer was informed in all material respects of the required election and related tax consequences but chose not to file the election. Furthermore, a taxpayer will not be considered to have acted reasonably and in good faith if the taxpayer uses hindsight in requesting relief.

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. section 6072(b) (with extensions) for the United States income tax return that is due if the election becomes effective.

In the present situation, Notice 89-79 fixes the time to make the election under I.R.C. 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 I.R.C. section 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 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. I.R.C. 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 representatives.

Sincerely,

Valerie Mark Lippe
Senior Technical Reviewer
International, Branch 2
Office of Chief Counsel

cc: