

**Internal Revenue Service**

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Department of the Treasury

Washington, DC 20224

[Third Party Communication:

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Person To Contact:

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Telephone Number:

Refer Reply To:

CC:INTL

PLR-157847-04

Date:

February 13, 2006

**LEGEND**

Taxpayer =

Date A =

Country =

X

Dear :

This replies to a letter received in this office on October 6, 2004, and supplemental Information dated June 15, 2005, June 23, 2005, and January 6, 2006, in which your representative requests on behalf of Taxpayer 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 rules set forth in Notice 89-79, 1989-2 C.B. 392, 393, and Rev. Proc. 2003-47, 2003-2 C.B. 55, 56, to be treated as a domestic corporation for U.S. tax purposes effective for the tax year ended on Date A. 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 is an insurance company incorporated in Country X. The facts and affidavit submitted indicate that Taxpayer engaged the services of a professional advisor to ensure that Taxpayer would elect to be treated as a domestic corporation under I.R.C.

§953(d) in a timely manner. However, the facts and affidavit indicate that the election was not made in accordance with Notice 89-79 and Rev. Proc. 2003-47, as discussed below.

The substantive and procedural rules for making an I.R.C. §953(d) election are contained in Notice 89-79 and Rev. Proc. 2003-47, respectively. These rules provide that the election must be filed by the due date prescribed in I.R.C. §6072(b) (including extensions) for the U.S. income tax return that is due if the election becomes effective. Section 4.04(2), Rev. Proc. 2003-47. In addition, an electing corporation must use the calendar year as its annual accounting period for U.S. tax purposes, unless it joins in the filing of a consolidated return and adopts the parent corporation's tax year. Section I, Notice 89-79. Because the election was not filed by the due date of the return for the calendar year ended on Date A, the advisor did not make a timely election on behalf of 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 §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) 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 §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 and Rev. Proc. 2003-47 fix the time to make the I.R.C. §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 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 rules set forth in Notice 89-79, 1989-2 C.B. 392, 393, and Rev. Proc. 2003-47, 2003-2 C.B. 55, 56, to be treated as a domestic corporation for U.S. tax purposes effective for the tax year ended on Date A.

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

Notwithstanding that an extension of time is granted under Treas. Reg. §301.9100-3 to make the I.R.C. §953(d) election, penalties and interest that would otherwise be applicable, if any, continue to apply with respect to the income tax return for the tax year ended on Date A.

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

The 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 representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Valerie Mark Lippe  
Valerie Mark Lippe  
Senior Technical Reviewer

Enclosure:  
Copy for 6110 purposes

cc: