

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

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Telephone Number:

In Re:

Refer Reply To:

[CC:INTL – PLR-157729-02

Date:

November 25, 2003

LEGEND

Taxpayer =

Date A =

Date B =

Manager =

Individual A =

Management Company =

CPA Firm =

X office of CPA Firm in Country Y =

Country Y =

Dear :

This replies to a letter dated October 16, 2002, 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, to be treated as a domestic corporation for U.S. tax purposes 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 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.

Taxpayer's operations are managed in Country Y by Management Company. Manager is the account executive in charge of overseeing operations for Taxpayer, including tax matters.

Date B was the due date for making the IRC § 953(d) election for the tax year ended on Date A. About ten months before Date B, Manager contacted Individual A, a senior manager with the X office of CPA Firm in Country Y, and engaged CPA Firm to prepare the § 953(d) election statement.

The affidavits of Manager and Individual A and the facts submitted describe the circumstances that led to the discovery of and the reasons for the missed § 953(d) election. As of the date of this request for relief, it is stated that the IRS has not contacted Taxpayer about the missed § 953(d) election for the tax year ended on Date A.

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 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.

Notice 89-79 provides that the election to be treated as a domestic corporation under

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§ 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.

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 45 days from the date of this ruling letter to make the election provided by I.R.C. § 953(d), in accordance with Notice 89-79, 1989-2 C.B. 392, 393, to be treated as a domestic corporation for U.S. tax purposes 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 file the § 953(d) election. § 301.9100-1(a).

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 § 953(d) 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 Taxpayer and the other authorized representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein

Allen Goldstein

Reviewer

Enclosure

Copy for 6110 purposes