

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

In re:

Refer Reply To:
CC:INTL:PLR-103372-01
Date:
October 4, 2001

LEGEND

Taxpayer =
Subsidiary =
Date A =
Individual A =
Individual B =
Individual C =

Dear :

This replies to a letter from your authorized representative, dated December 28, 2000, requesting an extension of time under Treas. Reg. § 301.9100-3 for Taxpayer on behalf of Subsidiary to make the election provided by I.R.C. § 953(d), in accordance with Notice 89-79, 1989-2 C.B. 392, 393, for the taxable year ended on Date A. A separate ruling letter has addressed Taxpayer's request for an extension of time to elect to file a consolidated federal income tax return under § 1.1502-75(a)(1). 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.

Individual A is the Associate Director of Taxpayer; Individual B is the President of Subsidiary; and Individual C is a Senior Manager with CPA Firm. The affidavits submitted by Individuals A, B and C describe the circumstances surrounding the failure to file the § 953(d) election. The information submitted establishes that the request for relief was submitted before the failure to file the § 953(d) election was discovered by the Service.

Treas. Reg. § 301.9100 -1(b) 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

PLR-103372-01

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 § 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 and Subsidiary satisfy § 301.9100-3(a). Accordingly, an extension of time is granted until 30 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, for the taxable year ended on Date A.

The granting of an extension of time is not a determination that Taxpayer on behalf of Subsidiary is otherwise eligible to file the § 953(d). § 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 your authorized representative.

Sincerely,

Allen Goldstein
Reviewer
Office of the Associate Chief Counsel (International)