

## ***IRS grants insurance company an extension of time to file an alternative tax election***

June 28, 2013

### ***In brief***

Insurance companies other than life insurance companies are generally taxed on their taxable income according to Section 831(a). However, insurance companies that meet certain requirements may elect to pay an alternative tax provided in Section 831(b) based only on the company's taxable investment income. The election must be filed by the due date of the tax return for which the election would have been effective. In PLR 201323009, the IRS granted an insurance company an extension of time to file an election to be subject to the alternative tax under Section 831(b).

### ***In detail***

The taxpayer is an insurance company that properly filed an election under Section 953(d) to be treated as a domestic corporation for Federal income tax purposes. The taxpayer retained a certified public accountant (CPA) to prepare its tax returns. The CPA subsequently filed a Form 1120-PC, *U.S. Property and Casualty Insurance Company Income Tax Return* on behalf of the taxpayer, for the first tax year after its formation. The taxpayer's CPA, however, failed to timely make the election under Section 831(b) and the taxpayer requested an extension of time to file under Treas. Reg. Section 301.9100-3. The election is due by the due date of the tax return for which the

election would have been effective (taking into account any extensions).

Treas. Reg. Section 301.9100-3(a) provides that the Commissioner will grant a reasonable extension of time to make a regulatory election if the taxpayer is determined to have acted reasonably and in good faith, and if the grant of relief will not prejudice the interests of the government. In the case of PLR 201323009, the taxpayer submitted its request for relief before the IRS discovered that there was a failure to file the election. Additionally, the taxpayer reasonably relied on a qualified tax professional, its CPA, who failed to make the election. Further, the taxpayer represented that the granting of relief by the IRS would not

result in a lower tax liability than the taxpayer would have had if the election was timely made.

As a result, the IRS concluded that the requirements of Treas. Reg. Section 301.9100-1 and -3 were met, and granted an extension of 60 days from the date of the letter ruling to file an election under Section 831(b).

### ***The takeaway***

The IRS will generally grant an extension of time to file the election under Section 831(b) to a taxpayer that can show it acted reasonably and in good faith and otherwise satisfied the requirements of Treas. Reg. Section 301.9100-3(a). Receiving such an extension,

however, does not mean that the Service has determined the taxpayer is otherwise eligible to make the election under Section 831(b).

### *Let's talk*

For a deeper discussion of how this issue might affect your business, please contact:

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