

IRS grants foreign insurance company an extension of time to file certain elections

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In brief

In PLR 201303005, the IRS granted a foreign insurance company an extension of time to file an election to be treated as a domestic corporation for US tax purposes, and to be subject to the alternative tax under Section 831(b). Insurance companies, other than life insurance companies, are generally taxed on their taxable income under Section 831(a). However, companies that meet certain requirements may elect to pay an alternative tax provided in Section 831(b) based on the company's taxable investment income.

In detail

Taxpayer is a foreign insurance company that intended on making elections to be treated as a domestic corporation under Section 953(d) and to be subject to the alternative tax provided to certain insurance companies under Section 831(b). Both elections are due by the due date of the tax return for which the elections would have been effective (taking into account any extensions). Taxpayer, however, failed to timely make these elections and requested an extension of time to file under Treas. Reg. Section 301.9100-8(a)(3).

Treas. Reg. Section 301.9100-3(c) provides that the Commissioner will grant a reasonable extension of time to make a regulatory election if the taxpayer is deemed to have

acted reasonably and in good faith and if the grant of relief will not prejudice the interests of the Government.

The taxpayer represented that the intention to make both elections had always existed. The taxpayer also noted that the relief request was submitted before the IRS discovered that there was a failure to file the elections. Lastly, the taxpayer represented that it was not seeking to alter a return position for which an accuracy-related penalty has been or could be imposed under Section 6662 at the time it requested relief.

As a result, the IRS concluded that based on the facts and circumstances, the necessary requirements were met to satisfy Treas. Reg. Section 301.9100-3 and granted an

extension to file both elections. The IRS granted an extension of 60 days from the date of the letter ruling to file elections under Sections 831(b) and 953(d).

The takeaway

The IRS will generally grant an extension of time to file the elections under Sections 831(b) and 953(d) in situations where a taxpayer can show that they reasonably and in good faith. Granting such a ruling, however, does not mean that the taxpayer is otherwise eligible to make the elections under Sections 953(d) and 831(b).

Let's talk

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

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