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Insurance: PLR allows taxpayer to revoke section 953(d) election

The IRS today publicly released a private letter ruling* granting consent for a foreign subsidiary of a U.S.-based consolidated group to revoke its section 953(d) election and cease to be treated as a domestic corporation for federal tax purposes. The IRS granted consent for the revocation and ruled that the foreign subsidiary would be treated as a controlled foreign corporation within the meaning of section 957 as of the beginning of the next tax year. PLR 201730007 (release date July 28, 2017, dated May 2, 2017).

Read [PLR 201730007](#) [PDF 51 KB]

*Private letter rulings are taxpayer-specific rulings furnished by the IRS National Office in response to requests made by taxpayers and can only be relied upon by the taxpayer to whom issued. It is important to note that, pursuant to section 6110(k)(3), such items cannot be used or cited as precedent. Nonetheless, such rulings can provide useful information about how the IRS may view certain issues.

Background

The taxpayer requested a ruling, granting consent for the revocation of its section 953(d) election to be treated as a domestic corporation for federal tax purposes. The taxpayer is 100% owned by Corporation B, a U.S.-based holding company, and is included in the U.S. consolidated federal income tax return that Corporation B files together with its subsidiaries. Corporation B is wholly owned by Corporation A, a Country C corporation that is a tax resident of Country D.

The taxpayer was formed to operate in Country D. The original owner of the taxpayer had contemplated establishing certain operations of the taxpayer in the United States. In accordance with this plan, the taxpayer made a section 953(d) election to obtain domestic insurance company status so that its tax status aligned with its plan to

maintain a physical presence in the United States. However, Corporation B later acquired 100% of the taxpayer's stock, and the taxpayer subsequently abandoned its plan to establish a physical presence in the United States.

Due to this change in strategy, and because the taxpayer's domestic status in the United States was no longer aligned with the Corporation A group's business model, the taxpayer requested IRS consent to revoke its section 953(d) election.

IRS ruling

Section 953(d)(2)(A) provides that, in general, a section 953(d) election applies for the tax year in which it is made and all subsequent tax years, unless it is revoked with the consent of the IRS.

If a valid section 953(d) election is made, but ceases to apply for any subsequent tax year, section 953(d)(5) states that the taxpayer is treated as a domestic corporation transferring all of its property to a foreign corporation in a section 354 exchange, as of the first day of the following tax year.

Under section 4.02(1) of Rev. Proc. 2003-47, a section 953(d) election that is terminated or revoked, the foreign corporation and its successors will not be permitted to make another section 953(d) election without the IRS's consent.

The IRS concluded that, effective for the first day of the subsequent tax year:

- The taxpayer is a controlled foreign corporation, as defined in section 957.
- The U.S. shareholders of the taxpayer are subject to section 951.
- The taxpayer is considered a foreign person for purposes of the section 4371 excise tax on insurance or reinsurance premiums issued.
- As of the first day of the subsequent tax year, the taxpayer will be treated as a domestic corporation transferring all of its property to a foreign corporation in an exchange to which sections 354, 361, and 367(a) apply.

KPMG observation

Revocation of a section 953(d) election is a rare occurrence. This PLR may be a useful guide if an entity needs to revoke its 953(d) election.

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