

§ 301.9100-9T Election by a bank holding company to forego grandfather provision for all property representing pre-June 30, 1968, activities.

(a) *In general.* For purposes of sections 1101 through 1103 and 6158 of the Code, a bank holding company may elect under section 1103(g) to have the determination of whether property is prohibited property or is property eligible to be distributed without recognition of gain under section 1101(b)(1) made under the Bank Holding Company Act (12 U.S.C. 1841 *et seq.*) as if the Act did not contain the proviso of section 4(a)(2) thereof.

(b) *Manner of making election.* The election under section 1103(g) shall be made in a written statement filed with the Federal Reserve Board indicating that by resolution of its board of directors, the bank holding company is electing to apply the provisions of section 1103(g). In addition, the bank holding company shall indicate on its income tax return for each taxable year in which the election applies to a distribution or sale of property (in the manner specified in the Internal Revenue Service's instructions for the preparation of the return) that it has made the election under section 1103(g). The election shall be considered to be made on the date on which the written statement is received by the Federal Reserve Board.

(c) *Scope of election.* The election under section 1103(g) applies to all determinations of whether property is prohibited property or is property eligible to be distributed without recognition of gain under section 1101(b)(1).

(d) *Election; binding effect.* An election made under section 1103(g) is irrevocable.

(e) *Final certification.* An election under section 1103(g) shall not apply unless the final certification referred to in section 1101(e) or section 6158(c)(2), as the case may be, includes a certification by the Federal Reserve Board that the bank holding company has disposed of either all banking property or all nonbanking property (including property described in the proviso of section 4(a)(2) of the Bank Holding Company Act).

(f) *Conditional certification.* A certification by the Federal Reserve Board under section 1101 (a)(1)(B), 1101 (b)(1)(B), 1101 (c)(2)(C), 1101 (c)(3)(C), or 6158(a) that is conditioned upon the bank holding company's making an election under section 1103(g) shall not be considered to be made before the distribution or sale unless the certification and the election are made before the distribution or sale.

[T.D. 7570, 43 FR 52057, Nov. 8, 1978. Redesignated by T.D. 8435, 57 FR 43896, Sept. 23, 1992]

§ 301.9100-10T Election by certain family-owned bank holding companies to divest all banking or nonbanking property.

(a) *In general.* For purposes of sections 1101 through 1103 and 6158 of the Code, a bank holding company may elect under section 1103(h) to have the determination of whether property is prohibited property or is property eligible to be distributed without recognition of gain under section 1101(b)(1) made under the Bank Holding Company Act (12 U.S.C. 1841 *et seq.*) as if the Act did not contain clause (ii) of section 4(c) thereof.

(b) *Manner of making election.* The election under section 1103(h) shall be made in a written statement filed with the Federal Reserve Board indicating that by resolution of its board of directors, the bank holding company is electing to apply, the provisions of section 1103(h). In addition, the bank holding company shall indicate on its income tax return for each taxable year in which the election applies to a distribution or sale of property (in the manner specified in the Internal Revenue Service's instructions for the preparation of the return) that it has made the election under section 1103(h). The election shall be considered to be made on the date on which the written statement is received by the Federal Reserve Board.

(c) *Scope of election.* The election under section 1103(h) applies to all determinations of whether property is prohibited property or is property eligible to be distributed without recognition of gain under section 1101(b)(1).

(d) *Election; binding effect.* An election made under section 1103(h) is irrevocable.