Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:ITA:B07
PLR-148927-13

Date:
May 30, 2014

Re:

Legend

Taxpayer =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

A =

B =

C =

Dear :

This letter responds to a letter dated November 13, 2013, submitted by Taxpayer on behalf of itself, requesting to revoke Taxpayer's election under § 168(k)(2)(D)(iii) of the Internal Revenue Code not to deduct the additional first year depreciation under § 168(k)(2) and (k)(5) of the Internal Revenue Code for all classes of qualified property placed in service by Taxpayer during the taxable years ended Date 1, and Date 2.

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer is an LLC that has elected since its inception to be taxed as a C corporation. Taxpayer has a fiscal year ending on Date 4. Taxpayer uses the overall cash receipts and disbursements method of accounting. Taxpayer is a A, and is engaged in the business of providing B.

Taxpayer placed in service qualified property (as defined in § 168(k)(2) before the application of § 168(k)(2)(D)(iii)) during the taxable years ended Date 1, and Date 2. The period of limitation on assessment under § 6501(a) for the taxable years ended Date 1, and Date 2, have not expired as of the date of this letter.

Taxpayer used C, an outside tax preparer, to prepare its federal income tax returns for the taxable years ended Date 1, and Date 2. Taxpayer made the election not to claim the additional first year depreciation deduction for all classes of qualified property placed in service by Taxpayer, as required by § 1.168(k)-1(e)(3)(ii) of the Income Tax Regulations, on its federal income tax returns for the taxable years ended Date 1, and Date 2. C did not discuss the election or any of its ramifications with the Taxpayer. These returns did not include an election to apply § 168(k)(4).

On Date 3, after having both returns reviewed by a third party, Taxpayer contacted C to question why the election was made not to claim the additional first year depreciation deduction for all classes of qualified property placed in service by Taxpayer for the taxable years ended Date 1, and Date 2. On or after Date 3, C then discussed the ramifications of the election and its significance to the Taxpayer for the taxable years ended Date 1, and Date 2. Further, C advised Taxpayer that if they decided to claim the additional first year depreciation deduction for all classes of qualified property placed in service by Taxpayer to the federal income tax returns for the taxable years ended Date 1, and Date 2, they would need to request relief from the IRS in the form of a letter ruling request. Thereafter, Taxpayer advised C they wished to file this request.

RULING REQUESTED

Taxpayer requests consent to revoke its election not to deduct the additional first

year depreciation under § 168(k)(1) and (k)(5) for all qualified property placed in service during the taxable years ended Date 1, and Date 2.

LAW AND ANALYSIS

Section 168(k)(1) provides a 50-percent additional first year depreciation deduction for the placed-in-service year for qualified property (i) acquired by a taxpayer after December 31, 2007, and before September 9, 2010, or acquired by a taxpayer generally after December 31, 2011, and (ii) placed in service by the taxpayer before January 1, 2014 (or January 1, 2015, for qualified property described in § 168(k)(2)(B) or (C)).

Section 168(k)(5) provides a 100-percent additional first year depreciation deduction for the placed-in-service year for qualified property acquired by a taxpayer after September 8, 2010, and generally before January 1, 2012, and placed in service by the taxpayer before January 1, 2012 (or January 1, 2013, for qualified property described in § 168(k)(2)(B) or (C)). See section 3 of Rev. Proc. 2011-26, 2011-16 I.R.B. 664, 665.

Section 168(k)(2)(D)(iii) provides that a taxpayer may elect not to deduct the additional first year depreciation for any class of property placed in service during the taxable year. The term “class of property” is defined in § 1.168(k)-1(e)(2) as meaning, in general, each class of property described in § 168(e) (for example, 5-year property). See section 5.01 of Rev. Proc. 2008-54, 2008-2 C.B. 722, and section 3.01 of Rev. Proc. 2011-26, 2011-16 I.R.B. at 665 (rules similar to the rules in § 1.168(k)-1 for “qualified property” or for “30-percent additional first year depreciation deduction” apply for purposes of § 168(k) as currently in effect).

Section 1.168(k)-1(e)(7)(i) provides that an election not to deduct the additional first year depreciation for a class of property that is qualified property, once made, may be revoked only with the written consent of the Commissioner of Internal Revenue. To seek the Commissioner's consent, the taxpayer must submit a request for a letter ruling.

CONCLUSION

Based solely on the facts and representations submitted, we conclude that a revocation of Taxpayer's election not to deduct the additional first year depreciation under § 168(k)(1) and (k)(5) for all eligible classes of property placed in service by Taxpayer in the taxable years ended Date 1, and Date 2, is permitted under § 1.168(k)-1(e)(7)(i). Accordingly, Taxpayer is granted 60 calendar days from the date of this letter to revoke its election not to deduct the additional first year depreciation under § 168(k)(1) and (k)(5) for all eligible classes of property placed in service by Taxpayer in the taxable years ended Date 1, and Date 2. The revocation must be made in a written statement filed with Taxpayer's amended consolidated federal tax returns for the taxable

years ended Date 1, and Date 2. In addition, a copy of this letter must be attached to such amended return. A copy is enclosed for that purpose.

Except as specifically ruled upon above, no opinion is expressed or implied concerning the tax consequences of the facts described above under any other provisions of the Code. Specifically, no opinion is expressed or implied on (1) whether any item of depreciable property placed in service by Taxpayer in taxable years ended Date 1, and Date 2 is eligible for the 50-percent or 100-percent additional first year depreciation deduction under § 168(k), or (2) if any item of such property is eligible for the additional first year depreciation deduction, whether that item is qualified property as defined in § 168(k)(2).

In accordance with the power of attorney, we are sending a copy of this letter to Taxpayer's authorized representatives. We are also sending a copy of this letter to the appropriate Industry Director, Large Business & International Division (LB&I).

This letter ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely yours,

Karla M. Meola

Karla M. Meola
Assistant to the Branch Chief, Branch 7
Office of Associate Chief Counsel
(Income Tax & Accounting)

Enclosures (2):
copy of this letter
copy for section 6110 purposes