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:7
PLR-104782-15

Date:
July 29, 2015

Re:

Legend

Taxpayer	=	
Country	=	
Date1	=	
Date2	=	
Date3	=	
Date4	=	
Year1	=	

Dear :

This letter responds to a letter dated January 30, 2015, and supplemental correspondence, submitted by Taxpayer, requesting an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to make the election under § 168(k)(2)(D)(iii) of the Internal Revenue Code not to deduct the additional first year depreciation deduction under § 168(k)(1) for all classes of qualified property placed in service in the taxable year ended Date1 (the Year1 taxable year).

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer, organized under the laws of Country, is an association taxable as a corporation for Federal income tax purposes. Taxpayer uses an overall accrual method of accounting and files its Federal income tax return on a calendar-year basis. Taxpayer, through three entities that are disregarded for Federal income tax purposes, is engaged in passenger car rentals and leasing and the licensing of car rental concepts.

Taxpayer timely filed Form 1120-F, *U.S. Income Tax Return of a Foreign Corporation*, on Date2, for the Year1 taxable year (the "original return"). Taxpayer placed in service qualified property (as defined in § 168(k)(2)) during the Year1 taxable year. Taxpayer claimed the additional first year depreciation deduction for this qualified property on its original return.

Taxpayer made numerous attempts to electronically file an amended Form 1120-F for the Year1 taxable year (the "amended return") on Date 3, the extended due date of Taxpayer's Year1 Form 1120-F. On this amended return, Taxpayer claimed no additional first year depreciation, attached the election statement required pursuant to the instructions to Form 4562, *Depreciation and Amortization*, and was otherwise in conformance with the requirements of § 301.9100-2. However, Taxpayer was unsuccessful in electronically filing the Form 1120-F on or before Date3. Taxpayer electronically filed the amended return on Date4, the day after the extended due date of Taxpayer's Year1 Form 1120-F. Accordingly, Taxpayer did not timely make the election not to deduct the additional first year depreciation provided under § 168(k) for the Year1 taxable year.

Taxpayer did not make the election under § 168(k)(4) to accelerate alternative minimum tax credits (and, if applicable, research credits) in lieu of the additional first year depreciation deduction for any class of property placed in service for any taxable year.

RULING REQUESTED

Taxpayer requests an extension of time pursuant to § 301.9100-3 to make the election under § 168(k)(2)(D)(iii) not to deduct the additional first year depreciation provided under § 168(k)(1) for all classes of qualified property placed in service in the taxable year ended Date1.

LAW AND ANALYSIS

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

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) of the Income Tax Regulations 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)(3)(i) provides that the election not to deduct additional first year depreciation must be made by the due date (including extensions) of the federal tax return for the taxable year in which the property is placed in service by the taxpayer.

Section 1.168(k)-1(e)(3)(ii) provides that the election not to deduct additional first year depreciation must be made in the manner prescribed on Form 4562, *Depreciation and Amortization*, and its instructions. The instructions to Form 4562 for the taxable year ended Date1, provided that the election not to deduct the additional first year depreciation is made by attaching a statement to the taxpayer's timely filed tax return indicating that the taxpayer is electing not to deduct the additional first year depreciation and the class of property for which the taxpayer is making the election.

Under § 301.9100-1, the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election. Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Section 301.9100-3(a) provides that requests for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the government.

CONCLUSION

Based solely on the facts and representations submitted, we conclude that the requirements of § 301.9100-3 have been satisfied. Accordingly, Taxpayer is granted 60 calendar days from the date of this letter to make the election not to deduct the additional first year depreciation under § 168(k)(1) for all classes of property placed in service by Taxpayer during the taxable year ended Date1, that qualify for the additional first year depreciation deduction. This election must be made by Taxpayer filing an amended federal tax income tax return for such taxable year, with a statement indicating that Taxpayer is electing not to deduct the additional first year depreciation for all classes of property placed in service during that taxable year.

Except as specifically set forth above, we express no opinion concerning the federal tax consequences of the facts described above under any other provisions of the Code (including other subsections of § 168). Specifically, no opinion is expressed or implied on whether any item of depreciable property placed in service by Taxpayer during the taxable year ended Date1, is eligible for the additional first year depreciation deduction.

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.

In accordance with the power of attorney, we are sending a copy of this letter to Taxpayer's authorized representative.

Sincerely,

Kathleen Reed

KATHLEEN REED
Branch Chief, Branch 7
Office of Associate Chief Counsel
(Income Tax and Accounting)

Enclosures (2):
Copy of this letter
Copy for § 6110 purposes