

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-122054-24

Date:

April 15, 2025

Re: Request for Extension of Time to Make the § 168(k)(7) Election

Legend

Taxpayer	=
Firm	=
Taxable Year	=
State	=
Date1	=
Date2	=
Date3	=
<u>X</u>	=

Dear :

This letter responds to a letter dated November 13, 2024, and subsequent correspondence, submitted by your representative on behalf of Taxpayer. In that letter, Taxpayer requests the consent of the Commissioner of Internal Revenue (Commissioner) to grant an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to make the 168(k)(7) election not to deduct the additional first year depreciation under § 168(k) of the Internal Revenue Code (Code) for all classes of qualified property placed in service by Taxpayer during the Taxable Year.

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer is treated as a partnership for federal income tax purposes and files a Form 1065, *U.S. Income Tax Return for Partnership Income*, on a calendar year basis. Taxpayer's overall method of accounting is the accrual method. Taxpayer is part of a multi-tiered partnership, Taxpayer is engaged in the business of X.

During the Taxable Year, Taxpayer placed in service property that is classified as 5-year property or 15-year property that is qualified property under § 168(k)(2) (collectively, the classes of property). On its timely filed federal tax return for the Taxable Year, on extension, Taxpayer deducted the additional first year depreciation for the assets in the classes of property.

On Date1, Taxpayer engaged Firm to prepare its federal income tax return for the Taxable Year (the federal return). Taxpayer reviewed the federal return prior to its filing. At that time, Taxpayer was not aware that Taxpayer's deduction of the additional first year depreciation on the federal return would result in certain unfavorable State tax implications to one or more partners of Taxpayer. Additionally, Firm did not advise the individual partners of the upper-tier partnerships, and the engagement team has no visibility of those individual partners' information. As a result, Firm did not advise Taxpayer to make the election not to deduct the additional first year depreciation for the classes of property placed in service during the Taxable Year.

On Date2, before the extended due date, Firm electronically filed the federal return for Taxpayer. On Date3, after Firm filed Taxpayer's return, Taxpayer's accountant notified Firm that one or more of its partners reported unfavorable state tax implications as a result of the first year additional depreciation deductions reported on the federal return.

RULING REQUESTED

Accordingly, Taxpayer requests an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to make the election under § 168(k)(7) not to deduct the additional first year depreciation for the classes of property that are qualified property under § 168(k) and placed in service by Taxpayer during the Taxable Year.

LAW AND ANALYSIS

Sections 168(k)(1) and (6) allow, in the taxable year that qualified property is placed in service, an additional first year depreciation deduction equal to the applicable percentage of the adjusted basis of qualified property placed in service by the Taxpayer after September 27, 2017, and before January 1, 2023 (or before January 1, 2024 for qualified property described in § 168(k)(2)(B) or (C)).

Section 168(k)(7) provides that a taxpayer may make an election not to deduct the additional first year depreciation for any class of property that is qualified property placed in service during the taxable year (the § 168(k)(7) election). Section 1.168(k)-2(f)(1)(i) provides that the § 168(k)(7) election applies to all qualified property that is in the same class of property and placed in service in the same taxable year. Section 1.168(k)-2(f)(1)(ii) defines "class of property" for purposes of the § 168(k)(7) election as meaning each class of property described in § 1.168(k)-2(f)(1)(ii)(A)-(G).

Section 1.168(k)-2(f)(1)(iii)(A) provides that the § 168(k)(7) 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)-2(f)(1)(iii)(B) provides that the § 168(k)(7) 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 provide 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 an extension 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 that granting relief will not prejudice the interests of the Government.

CONCLUSION

Based solely on the facts and representations submitted, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, Taxpayer is granted an extension of 60 calendar days from the date of this letter ruling to make the election not to deduct the additional first year depreciation under § 168(k) for the classes of qualified property placed in service by Taxpayer during the Taxable Year. This election must be made pursuant to a request for an administrative adjustment (see § 6227) in a written statement filed with the appropriate service center

accompanying Administrative Adjustment Request (AAR), or Form 8082, Notice of Inconsistent Treatment or AAR, and for any related filings as instructed in Form 8082, as appropriate.

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 is eligible for the additional first year depreciation deduction under § 168(k).

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 on file with this office, we are sending a copy of this letter ruling to Taxpayer's authorized representative. We are also sending a copy of this letter ruling to the appropriate IRS operating division official.

Sincerely,

Elizabeth R. Binder
Senior Counsel, Branch 7
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: