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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-101138-25

Date:
May 12, 2025

Re: Request for Extension of Time to Make the Election Not to Deduct Additional First Year Depreciation

LEGEND:

Taxpayer	=
X	=
Y	=
Firm	=
Accountant 1	=
Accountant 2	=
Taxable Year	=
Year1	=
Date1	=
Date2	=

Dear :

This letter ruling refers to a letter dated December 13, 2024, submitted on behalf of Taxpayer, by Taxpayer's authorized representative, requesting an extension of time to make the election not to deduct additional first year depreciation under § 168(k)(7) of the Internal Revenue Code for all classes of qualified property placed in service during Taxable Year. This request is made pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations. This letter ruling is being issued electronically as permissible under section 7.02(5) of Rev. Proc. 2025-1, 2025-1 I.R.B. 1, 34-35.

All references in this letter ruling to § 168(k) are treated as a reference to § 168(k) as in effect after amendment by the Tax Cuts and Jobs Act, Pub. L. 115-97, 131 Stat. 2054 (December 22, 2017). Further, all references to § 1.168(k)-2 of the Income Tax Regulations are treated as a reference to the final regulations under § 1.168(k)-2 published in the Federal Register on November 10, 2020 (85 FR 71734).

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer, a domestic limited liability company, files Form 1065, *U.S. Return of Partnership Income*, on a calendar-year basis and uses the cash method as its overall method of accounting. Taxpayer is in the business of X.

Taxpayer's managing member, Y, asked Accountant 1 of Firm about the tax implications of the Taxpayer's depreciation treatment of property placed in service by Taxpayer during Taxable Year. Accountant 1 advised Y that deducting the additional first year depreciation for such property was not advantageous because the deduction would not reduce Y's or Y's family's individual Federal income taxes. After considering Accountant 1's advice, Y informed Accountant 1 about her intention not to deduct additional first year depreciation for all classes of qualified property placed in service in Taxable Year.

During the Firm's tax return preparation process, Accountant 1 failed to inform Accountant 2, the tax return preparer, that Y's instructions were to elect out of additional first year depreciation. Due to this inadvertent communication failure, Accountant 2 did not make an election under § 168(k)(7).

Taxpayer's return for Taxable Year, was electronically filed on Date1. Since the error was not discovered until after Date2, the extended due date of Taxpayer's Year1 Form 1065, Taxpayer submitted this ruling request for an extension of time to make the § 168(k)(7) election.

RULING REQUESTED

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

LAW

Section 168(k)(1) allows, for the taxable year in which qualified property is placed in service, an additional first year depreciation deduction equal to the applicable percentage of the adjusted basis of that qualified property.

Section 168(k)(6) provides that, in general, the applicable percentage for qualified property placed in service by the taxpayer after September 27, 2017, and before January 1, 2023 (before January 1, 2024, for qualified property described in § 168(k)(2)(B) and (C)), is 100 percent.

Section 168(k)(7) provides that a taxpayer may elect not to deduct additional first year depreciation for any class of property placed in service during the taxable year. Section 1.168(k)-2(f)(1)(i) provides that if this election is made, the election applies to all qualified property that is in the same class of property and placed in service in the same taxable year, and no additional first year depreciation deduction is allowable for the property placed in service during the taxable year in the class of property. The term "class of property" is defined in § 1.168(k)-2(f)(1)(ii) as meaning, among other things, each class of property described in § 168(e) (for example, 5-year property).

Section 1.168(k)-2(f)(1)(iii)(A) 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 qualified property is placed in service by the taxpayer.

Section 1.168(k)-2(f)(1)(iii)(B) 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 Year1 taxable year provided that the election not to deduct 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 additional first year depreciation and the class of property for which the taxpayer is making the election.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner of Internal Revenue will use to determine whether to grant an extension of time to make a regulatory election. Under § 301.9100-1(a), 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.

Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides rules for requesting extensions of time for making regulatory elections that do not meet the requirements of § 301.9100-2.

Section 301.9100-1(b) defines a regulatory election as an election whose due date is prescribed by regulations published in the Federal Register, a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

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 §§ 301.9100-1 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 under § 168(k)(7) not to deduct additional first year depreciation for all classes of qualified property placed in service by Taxpayer during Taxable Year.

This election must be made by Taxpayer filing an amended Form 1065 for Taxable Year, with a statement indicating that Taxpayer is electing not to deduct additional first year depreciation for all classes of qualified property placed in service by Taxpayer during Taxable Year.

Except as specifically set forth above, no opinion is expressed or implied 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 (1) any item of depreciable property placed in service by Taxpayer during Taxable Year, is eligible for the additional first year depreciation deduction under § 168(k); or (2) Taxpayer's classification of any item of depreciable property under §168(e) or Rev. Proc. 87-56, 1987-2 C.B. 674, is correct.

The ruling contained in this letter is based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for ruling, it is subject to verification on examination.

A copy of this letter ruling must be attached to any federal income tax return to which it is relevant. Alternatively, a taxpayer filing its federal return electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

This letter ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that this ruling 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 representatives. We are also sending a copy of this letter ruling to the appropriate operating division director.

Sincerely,

Charles J. Magee

CHARLES J. MAGEE
Senior Counsel, Branch 7
Office of Associate Chief Counsel
(Income Tax and Accounting)

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

cc: