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:
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Refer Reply To:
CC:ITA:B07
PLR-107081-15

Date:
August 18, 2015

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

Legend

Taxpayer =

Date 1 =

A =

B =

C =

D =

Dear :

This ruling responds to a letter dated January 20, 2015, submitted by Taxpayer requesting an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to make the election not to deduct the additional first year depreciation under § 168(k) of the Internal Revenue Code for all classes of qualified property placed in service by Taxpayer during the taxable year ended Date 1 (the A taxable year).

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer is in the business of B and files its federal income tax return on a calendar year-end basis. Taxpayer placed in service qualified property as defined in § 168(k)(2) during the A taxable year.

Taxpayer timely filed its federal income tax return for the A taxable year. On this return, Taxpayer, as intended, did not claim the additional first year depreciation deduction for any classes of qualified property placed in service. However, Taxpayer's return did not have attached the election statement not to claim the additional first year depreciation deduction for all classes of qualified property placed in service , as required by § 1.168(k)-1(e)(3)(ii) of the Income Tax Regulations.,

Taxpayer engaged C, a Certified Public Accounting (CPA) firm, to prepare its federal income tax return for the A taxable year. In preparing the return, C inadvertenly failed to attach or to advise Taxpayer to attach the election statement.

D, a CPA firm, discovered Taxpayer's failure to attach the election statement to the federal income tax return for the A taxable year. D advised Taxpayer to file this request to the correct the omission.

RULING REQUESTED

Taxpayer requests an extension of time pursuant to §§ 301.9100-1 and 301.9100-3to file the election not to deduct the additional first year depreciation under § 168(k) for all classes of qualified property placed in service during the A taxable year.

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 January 1, 2015, or acquired by a taxpayer generally after December 31, 2011, and (ii) placed in service by the taxpayer before January 1, 2015 (or January 1, 2016, 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)(1) provides that the election not to deduct additional first year depreciation for a class of property applies to all qualified property that is in that class of property and placed in service in the same taxable year.

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 A taxable year 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 (including extensions) 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 §§ 301.9100-1 and 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) for all classes of property placed in service during the A taxable year that qualify for the additional first year depreciation deduction. This election must be made by Taxpayer filing an amended federal income tax return for the A 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 income 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 during the A taxable year is eligible for the additional first year depreciation deduction.

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 Small Business/Self-Employed Division (SB/SE) area office.

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,

_____
Willie E. Armstrong, Jr.
Senior Technician Reviewer, Branch 07
Office of Associate Chief Counsel
(Income Tax & Accounting)

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

cc: