

INTERNAL REVENUE BULLETIN



HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

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INCOME TAX

REV PROC 2019-33, page 662.

This revenue procedure provides guidance allowing a taxpayer to make a late election, or to revoke an election, under section 168(k)(5), (7), or (10) of the Internal Revenue Code for certain property acquired by the taxpayer after September 27, 2017, and placed in service or planted or grafted, as applicable, by the taxpayer during its taxable year that includes September 28, 2017.

The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned

against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

The contents of this publication are not copyrighted and may be reprinted freely. A citation of the Internal Revenue Bulletin as the source would be appropriate.

Part III.

26 CFR 1.168(k)-1: Additional first year depreciation.

(Also Part I, §§ 168, 446; 1.446-1)

Rev. Proc. 2019-33

SECTION 1. PURPOSE

This revenue procedure provides guidance allowing a taxpayer to make a late election, or to revoke an election, under § 168(k)(5), (7), or (10) of the Internal Revenue Code (Code) for certain property acquired by the taxpayer after September 27, 2017, and placed in service or planted or grafted, as applicable, by the taxpayer during its taxable year that includes September 28, 2017. Section 168(k)(5) allows a taxpayer to elect to deduct additional first year depreciation for certain plants. Section 168(k)(7) allows a taxpayer to elect not to deduct additional first year depreciation for any class of qualified property placed in service by the taxpayer during the taxable year to which the election applies. Section 168(k)(10) was added to the Code by § 13201 of Public Law 115-97 (131 Stat. 2054), commonly referred to as the Tax Cuts and Jobs Act (TCJA), and allows a taxpayer to elect to deduct 50-percent, instead of 100-percent, additional first year depreciation for certain qualified property.

SECTION 2. BACKGROUND

.01 Amendments to § 168(k).

(1) Prior to amendment by § 13201 of the TCJA, § 168(k)(1) allowed a 50-percent additional first year depreciation deduction for qualified property for the taxable year in which the qualified property is placed in service by the taxpayer. Qualified property was defined in part as property the original use of which begins with the taxpayer.

(2) Section 13201 of the TCJA made several amendments to § 168(k). For example, the additional first year depreciation deduction percentage was increased from 50 percent to 100 percent; the property eligible for the additional first year depreciation deduction was expanded to include certain used depreciable property

and certain film, television, or live theatrical productions; the placed-in-service date was extended from before January 1, 2020, to before January 1, 2027 (from before January 1, 2021, to before January 1, 2028, for property described in § 168(k)(2)(B) or (C)); and the date on which a specified plant is planted or grafted by the taxpayer was extended from before January 1, 2020, to before January 1, 2027.

(3) Section 13201(e) of the TCJA also amended § 168(k) by adding § 168(k)(10) to the Code. It allows a taxpayer to elect to deduct 50-percent, instead of 100-percent, additional first year depreciation for qualified property acquired by the taxpayer after September 27, 2017, and placed in service by the taxpayer or planted or grafted, as applicable, during its taxable year that includes September 28, 2017.

(4) Section 13201(h) of the TCJA provides the effective dates of the amendments to § 168(k) made by § 13201 of the TCJA. Except as provided in § 13201(h)(2) of the TCJA, these amendments apply to property acquired and placed in service after September 27, 2017. However, property is not treated as acquired after the date on which a written binding contract is entered into for such acquisition. Section 13201(h)(2) of the TCJA provides that these amendments apply to specified plants planted or grafted after September 27, 2017.

(5) Additionally, § 12001(b)(13) of the TCJA repealed § 168(k)(4), relating to the election to accelerate alternative minimum tax credits in lieu of the additional first year depreciation deduction, for taxable years beginning after December 31, 2017. Further, § 13204(a)(4)(B)(ii) of the TCJA repealed § 168(k)(3), relating to qualified improvement property, for property placed in service after December 31, 2017.

(6) Unless otherwise provided, all references in this revenue procedure to § 168(k) hereinafter are references to § 168(k) as amended by the TCJA.

.02 Elections.

(1) Section 168(k)(5) allows a taxpayer to elect to deduct additional first year depreciation for any specified plant, as defined in § 168(k)(5)(B), that is planted before January 1, 2027, or grafted before

that date to a plant that has already been planted, by the taxpayer in the ordinary course of its farming business, as defined in § 263A(e)(4) (§ 168(k)(5) election). If the taxpayer makes this election, the additional first year depreciation deduction is allowable for the specified plant for the taxable year in which that specified plant is planted or grafted, and that specified plant is not treated as qualified property under § 168(k) in the year the plant is placed in service. Section 168(k)(5)(C) provides that once made, the § 168(k)(5) election may be revoked only with the consent of the Commissioner of Internal Revenue (Commissioner). Except for the date, the TCJA did not amend § 168(k)(5).

Section 4.05 of Rev. Proc. 2017-33, 2017-19 I.R.B. 1236, provides the procedures for making the § 168(k)(5) election. Section 4.05(1)(b) of Rev. Proc. 2017-33 provides that, in general, the § 168(k)(5) election must be made by the due date, including extensions, of the federal tax return for the taxable year in which the taxpayer plants or grafts the specified plant to which the election applies, and must be made in the manner prescribed on Form 4562, *Depreciation and Amortization*, and its instructions. The instructions to the Form 4562 for the 2016 and 2017 taxable years provide that the election is made by attaching a statement to the taxpayer's timely filed tax return indicating that the taxpayer is electing to apply § 168(k)(5) and identifying the specified plant(s) for which the taxpayer is making the election.

(2) Section 168(k)(7) allows a taxpayer to elect not to deduct additional first year depreciation for all qualified property that is in the same class of property and placed in service by the taxpayer in the same taxable year (§ 168(k)(7) election). Section 168(k)(7) provides that once made, the § 168(k)(7) election may be revoked only with the consent of the Commissioner. The TCJA did not amend § 168(k)(7).

Section 4.04(2) of Rev. Proc. 2017-33 provides that rules similar to the rules in § 1.168(k)-1(e)(3) of the Income Tax Regulations apply for purposes of § 168(k)(7). Section 1.168(k)-1(e)(3) provides the procedures for making the election not to deduct the additional first year depreciation

deduction for all qualified property that is in the same class of property and placed in service by the taxpayer in the same taxable year. In accordance with § 1.168(k)-1(e)(3), the § 168(k)(7) election must be made by the due date, including extensions, of the federal tax return for the taxable year in which the taxpayer places in service the qualified property, and must be made in the manner prescribed on Form 4562 and its instructions. The instructions to the Form 4562 for the 2016 and 2017 taxable years provide that the election 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.

(3) Section 168(k)(10) allows a taxpayer to elect to deduct 50-percent, instead of 100-percent, additional first year depreciation for qualified property acquired after September 27, 2017, by the taxpayer and placed in service or planted or grafted, as applicable, by the taxpayer during its taxable year that includes September 28, 2017 (§ 168(k)(10) election). The TCJA added § 168(k)(10) to the Code. Section 6 of this revenue procedure provides the time and manner for making this election.

.03 Proposed § 168(k) regulations. On August 8, 2018, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) published a notice of proposed rulemaking (REG-104397-18) in the Federal Register (83 FR 39292) containing proposed regulations under § 168(k). The Treasury Department and the IRS received written and electronic comments responding to the proposed regulations. Several commenters requested relief to make late elections under § 168(k)(7) or (10) for property placed in service during the taxpayer's taxable year that includes September 28, 2017, because some taxpayers had already filed their federal tax returns for that taxable year before the proposed regulations were issued. The commenters also noted that a taxpayer with a due date (with extensions) of September 15, 2018, or October 15, 2018, for its federal tax return for the taxable year that includes September 28, 2017, may not have had sufficient time to analyze the proposed regulations to make a timely election under § 168(k)(7) or (10). The

Treasury Department and the IRS agree with this request. Sections 4, 5, and 6 of this revenue procedure provide the procedures for making late elections, or revoking elections, under § 168(k)(5), (7), or (10) for property acquired by a taxpayer after September 27, 2017, and placed in service or planted or grafted, as applicable, by the taxpayer during its taxable year that includes September 28, 2017.

.04 Method of accounting.

(1) Section 446(e) and § 1.446-1(e)(2) require a taxpayer to secure the consent of the Commissioner before changing a method of accounting for federal income tax purposes. Section 1.446-1(e)(3)(ii) authorizes the Commissioner to prescribe administrative procedures setting forth the limitations, terms, and conditions necessary to permit a taxpayer to obtain consent to change a method of accounting.

(2) Section 1.446-1(e)(2)(ii)(d)(3)(iii) provides that the making of a late depreciation election or the revocation of a timely valid depreciation election is not a change in method of accounting, except as otherwise expressly provided by the Code, the regulations under the Code, or other guidance published in the Internal Revenue Bulletin. Section 1.446-1(e)(2)(ii)(d)(5)(iii) provides that except as otherwise expressly provided by the Code, the regulations under the Code, or other guidance published in the Internal Revenue Bulletin, no § 481 adjustment is required or permitted for a change from one permissible method of computing depreciation to another permissible method of computing depreciation. Because of the administrative burden of filing amended returns, the Treasury Department and the IRS have determined that it is appropriate to treat the making of late elections, or the revocation of elections, under § 168(k)(5), (7), or (10) for property acquired by a taxpayer after September 27, 2017, and placed in service or planted or grafted, as applicable, by the taxpayer during its taxable year that includes September 28, 2017, as a change in method of accounting with a § 481(a) adjustment for a limited period of time. Section 7 of this revenue procedure provides the procedures for a taxpayer to obtain automatic consent for a change in method of accounting to make these late elections or to revoke these elections.

SECTION 3. SCOPE

This revenue procedure applies to a taxpayer that:

(1) Acquired qualified property after September 27, 2017, and placed in service such property during the taxpayer's taxable year beginning in 2016 and ending on or after September 28, 2017 (2016 taxable year);

(2) Acquired qualified property after September 27, 2017, and placed in service such property during the taxpayer's taxable year beginning in 2017 and ending on or after September 28, 2017 (2017 taxable year); or

(3) Planted or grafted a specified plant after September 27, 2017, and during the taxpayer's 2016 taxable year or 2017 taxable year.

SECTION 4. SECTION 168(k)(5) ELECTION

.01 Section 168(k)(5) election made.

(1) *In general.* A taxpayer that timely filed its federal tax return for the 2016 taxable year or the 2017 taxable year has made the § 168(k)(5) election for a specified plant that is planted or grafted by the taxpayer after September 27, 2017, and during its 2016 taxable year or 2017 taxable year, if the taxpayer made the § 168(k)(5) election under Rev. Proc. 2017-33, as described in section 2.02(1) of this revenue procedure, or under section 4.02 of this revenue procedure, and did not revoke the § 168(k)(5) election under section 4.03 of this revenue procedure.

(2) *Deemed election.* If section 4.01(1) of this revenue procedure does not apply, a taxpayer that timely filed its federal tax return for the 2016 taxable year or the 2017 taxable year also will be treated as making the § 168(k)(5) election for a specified plant planted or grafted by the taxpayer after September 27, 2017, and during its 2016 taxable year or 2017 taxable year, if the taxpayer:

(a) On that return, claimed the 100-percent additional first year depreciation for that specified plant or, if the taxpayer made the § 168(k)(10) election as provided in section 6 of this revenue procedure, claimed the 50-percent additional first year depreciation deduction for that specified plant; and

(b) Did not revoke the § 168(k)(5) election for that specified plant under section 4.03 of this revenue procedure.

.02 *Making a late § 168(k)(5) election.* If a taxpayer timely filed its federal tax return for the 2016 taxable year or 2017 taxable year, did not deduct on that return the 100-percent additional first year depreciation, or the 50-percent additional first year depreciation if the taxpayer made the § 168(k)(10) election as provided in section 6 of this revenue procedure, for a specified plant that was planted or grafted by the taxpayer after September 27, 2017, and during its 2016 taxable year or 2017 taxable year did not make the § 168(k)(5) election under Rev. Proc. 2017-33, as described in section 2.02(1) of this revenue procedure, the taxpayer may make the § 168(k)(5) election for that specified plant by filing either:

(1) An amended federal tax return, or an administrative adjustment request (AAR) by a partnership subject to the centralized partnership audit regime enacted as part of the Bipartisan Budget Act of 2015 (BBA partnership), for the 2016 taxable year or 2017 taxable year before the taxpayer files its federal tax return for the first taxable year succeeding the 2016 taxable year or 2017 taxable year. This amended return or AAR must include the adjustment to taxable income for the late § 168(k)(5) election and any collateral adjustments to taxable income or to tax liability. Such collateral adjustments also must be made on amended federal tax returns or AARs for any affected succeeding taxable year; or

(2) A Form 3115, *Application for Change in Accounting Method*, with the taxpayer's timely filed federal tax return for the first, second, or third taxable year succeeding the 2016 taxable year or the 2017 taxable year. The late § 168(k)(5) election under this section 4.02(2) will be treated as a change in method of accounting with a § 481(a) adjustment only during this limited period of time. The time and manner of making this late election are described in section 7 of this revenue procedure.

.03 *Consent granted to revoke § 168(k)(5) election.* If, on its timely filed federal tax return for the 2016 taxable year or the 2017 taxable year, a taxpayer made the § 168(k)(5) election under Rev. Proc.

2017-33, as described in section 2.02(1) of this revenue procedure, or under section 4.01(2) of this revenue procedure, the Commissioner grants the taxpayer consent to revoke that election, provided the taxpayer makes this revocation within the time and in the manner described in this section 4.03 of this revenue procedure. The taxpayer may revoke the § 168(k)(5) election by filing either:

(1) An amended federal tax return, or an AAR by a BBA partnership, for the 2016 taxable year or 2017 taxable year before the taxpayer files its federal tax return for the first taxable year succeeding the 2016 taxable year or 2017 taxable year. This amended return or AAR must include the adjustment to taxable income for the revocation of the § 168(k)(5) election and any collateral adjustments to taxable income or to tax liability. Such collateral adjustments also must be made on amended federal tax returns or AARs for any affected succeeding taxable year; or

(2) A Form 3115 with the taxpayer's timely filed federal tax return for the first, second, or third taxable year succeeding the 2016 taxable year or the 2017 taxable year. The revocation of the § 168(k)(5) election under this section 4.03(2) will be treated as a change in method of accounting with a § 481(a) adjustment only during this limited period of time. The time and manner of making this revocation are described in section 7 of this revenue procedure.

SECTION 5. SECTION 168(k)(7) ELECTION

.01 *In general.* A taxpayer may make the § 168(k)(7) election not to deduct additional first year depreciation for all qualified property that is in the same class of property and placed in service by the taxpayer in the same taxable year. For purposes of section 5 of this revenue procedure, the term *class of property* means:

(1) Except for the property described in sections 4 and 5.01(2) of this revenue procedure, each class of property described in § 168(e) (for example, 5-year property);

(2) Water utility property as defined in § 168(e)(5) and depreciated under § 168;

(3) Computer software as defined in, and depreciated under, § 167(f)(1) and the regulations under § 167(f)(1);

(4) Qualified improvement property as defined in § 168(k)(3) as in effect on the day before amendment by § 13204(a)(4)(B) of the TCJA that: (i) is acquired by the taxpayer after September 27, 2017; (ii) is placed in service by the taxpayer after September 27, 2017, and before January 1, 2018; (iii) meets the requirements in § 168(k)(2)(A)(ii) as amended by § 13201(c)(1) of the TCJA; and (iv) is depreciated under § 168;

(5) Each separate production, as defined in § 1.181-3(b), of a qualified film or television production;

(6) Each separate production, as defined in § 181(e)(2), of a qualified live theatrical production; or

(7) A partner's basis adjustment in partnership assets under § 743(b) for each class of property described in section 4 of this revenue procedure and section 5.01(1) through (6) of this revenue procedure.

.02 Section 168(k)(7) election made.

(1) *In general.* A taxpayer that timely filed its federal tax return for the 2016 taxable year or the 2017 taxable year has made the § 168(k)(7) election for a class of property that is qualified property acquired after September 27, 2017, by the taxpayer and placed in service by the taxpayer during its 2016 taxable year or 2017 taxable year, if the taxpayer made the § 168(k)(7) election under Rev. Proc. 2017-33, as described in section 2.02(2) of this revenue procedure, or under section 5.03 of this revenue procedure, and did not revoke the § 168(k)(7) election under section 5.04 of this revenue procedure.

(2) *Deemed election.* If section 5.02(1) of this revenue procedure does not apply, a taxpayer that timely filed its federal tax return for the 2016 taxable year or the 2017 taxable year also will be treated as making the § 168(k)(7) election for a class of property that is qualified property acquired after September 27, 2017, by the taxpayer and placed in service by the taxpayer during its 2016 taxable year or 2017 taxable year, if the taxpayer:

(a) On that return, did not claim the 100-percent additional first year depreciation for that class of property;

(b) Did not revoke the § 168(k)(7) election for that class of property under section 5.04 of this revenue procedure; and

(c) Did not make a § 168(k)(10) election for the 2016 taxable year or the 2017

taxable year under section 6 of this revenue procedure.

.03 *Making a late § 168(k)(7) election.* If a taxpayer timely filed its federal tax return for the 2016 taxable year or the 2017 taxable year and claimed on that return the 100-percent additional first year additional depreciation for a class of property that is qualified property acquired after September 27, 2017, by the taxpayer and placed in service by the taxpayer during its 2016 taxable year or 2017 taxable year, the taxpayer may make the § 168(k)(7) election for such class of property by filing either:

(1) An amended federal tax return, or an AAR by a BBA partnership, for the 2016 taxable year or the 2017 taxable year before the taxpayer files its federal tax return for the first taxable year succeeding the 2016 taxable year or the 2017 taxable year. This amended return or AAR must include the adjustment to taxable income for the late § 168(k)(7) election and any collateral adjustments to taxable income or to tax liability. Such collateral adjustments also must be made on amended federal tax returns or AARs for any affected succeeding taxable year; or

(2) A Form 3115 with the taxpayer's timely filed federal tax return for the first, second, or third taxable year succeeding the 2016 taxable year or the 2017 taxable year. The late § 168(k)(7) election under this section 5.03(2) will be treated as a change in method of accounting with a § 481(a) adjustment only during this limited period of time. The time and manner of making this late election are described in section 7 of this revenue procedure.

.04 *Consent granted to revoke the § 168(k)(7) election.* If, on its timely filed federal tax return for the 2016 taxable year or the 2017 taxable year, a taxpayer made the § 168(k)(7) election under Rev. Proc. 2017-33, as described in section 2.02(2) of this revenue procedure, or under section 5.02(2) of this revenue procedure, the Commissioner grants the taxpayer consent to revoke that election, provided the taxpayer makes this revocation within the time and in the manner described in this section 5.04 of this revenue procedure. The taxpayer may revoke the § 168(k)(7) election by filing either:

(1) An amended federal tax return, or an AAR by a BBA partnership, for the 2016 taxable year or 2017 taxable year

before the taxpayer files its federal tax return for the first taxable year succeeding the 2016 taxable year or 2017 taxable year. This amended return or AAR must include the adjustment to taxable income for the revocation of the § 168(k)(7) election and any collateral adjustments to taxable income or to tax liability. Such collateral adjustments also must be made on amended federal tax returns or AARs for any affected succeeding taxable year; or

(2) A Form 3115 with the taxpayer's timely filed federal tax return for the first, second, or third taxable year succeeding the 2016 taxable year or the 2017 taxable year. The revocation of the § 168(k)(7) election under this section 5.04(2) will be treated as a change in method of accounting with a § 481(a) adjustment only during this limited period of time. The time and manner of making this revocation are described in section 7 of this revenue procedure.

SECTION 6. SECTION 168(k)(10) ELECTION

.01 *In general.* A taxpayer may elect under § 168(k)(10) to deduct 50-percent, instead of 100-percent, additional first year depreciation for all qualified property acquired after September 27, 2017, by the taxpayer and placed in service by the taxpayer during its 2016 taxable year or 2017 taxable year. If a taxpayer makes an election to apply § 168(k)(5) for its 2016 taxable year or 2017 taxable year, the taxpayer also may make a § 168(k)(10) election to deduct 50-percent, instead of 100-percent, additional first year depreciation for all specified plants that are planted or grafted after September 27, 2017, by the taxpayer for which the taxpayer has made a § 168(k)(5) election under section 4 of this revenue procedure.

.02 *Time and manner for making election.* The § 168(k)(10) election must be made by the due date, including extensions, of the federal tax return for the taxpayer's taxable year that includes September 28, 2017, and in the manner prescribed on the 2017 Form 4562 and its instructions. The instructions to the Form 4562 for the 2017 taxable year provide that the election is made by attaching a statement to the taxpayer's timely filed tax return

indicating that the taxpayer is electing to deduct 50-percent additional first year depreciation for all qualified property.

.03 *Section 168(k)(10) election made.*

(1) *In general.* A taxpayer that timely filed its federal tax return for the 2016 taxable year or the 2017 taxable year has made the § 168(k)(10) election for all qualified property acquired after September 27, 2017, by the taxpayer and placed in service by the taxpayer during its 2016 taxable year or 2017 taxable year, or all specified plants that are planted or grafted after September 27, 2017, by the taxpayer for which the taxpayer has made a § 168(k)(5) election under section 4 of this revenue procedure, if the taxpayer made the § 168(k)(10) election under section 6.02 of this revenue procedure or under section 6.04 of this revenue procedure, and did not revoke the § 168(k)(10) election under section 6.05 of this revenue procedure.

(2) *Deemed election.* If section 6.03(1) of this revenue procedure does not apply, a taxpayer that timely filed its federal tax return for the 2016 taxable year or the 2017 taxable year also will be treated as making the § 168(k)(10) election for all qualified property acquired after September 27, 2017, by the taxpayer and placed in service by the taxpayer during its 2016 taxable year or 2017 taxable year, or all specified plants that are planted or grafted after September 27, 2017, by the taxpayer for which the taxpayer has made a § 168(k)(5) election under section 4 of this revenue procedure, if the taxpayer:

(a) On that return, claimed the 50-percent additional first year depreciation for all such qualified property or all such specified plants, as applicable; and

(b) Did not revoke the § 168(k)(10) election under section 6.05 of this revenue procedure.

.04 *Making a late § 168(k)(10) election.* If a taxpayer timely filed its federal tax return for the 2016 taxable year or the 2017 taxable year, and claimed on that return the 100-percent additional first year additional depreciation for all qualified property acquired after September 27, 2017, by the taxpayer and placed in service by the taxpayer during its 2016 tax-

able year or 2017 taxable year, or all specified plants that are planted or grafted after September 27, 2017, by the taxpayer for which the taxpayer has made a § 168(k)(5) election under section 4 of this revenue procedure, or did not claim on that return any additional first year depreciation deduction for all such qualified property or all such specified plants and revoked the § 168(k)(7) election made on that return under section 5.04 of this revenue procedure, the taxpayer may make the § 168(k)(10) election for all such qualified property or all such specified plants by filing either:

(1) An amended federal tax return, or an AAR by a BBA partnership, for the 2016 taxable year or the 2017 taxable year before the taxpayer files its federal tax return for the first taxable year succeeding the 2016 taxable year or the 2017 taxable year. This amended return or AAR must include the adjustment to taxable income for the late § 168(k)(10) election and any collateral adjustments to taxable income or to tax liability. Such collateral adjustments also must be made on amended federal tax returns or AARs for any affected succeeding taxable year; or

(2) A Form 3115 with the taxpayer's timely filed federal tax return for the first, second, or third taxable year succeeding the 2016 taxable year or the 2017 taxable year. The late § 168(k)(10) election under this section 6.04 will be treated as a change in method of accounting with a § 481(a) adjustment only during this limited period of time. The time and manner of making this late election are described in section 7 of this revenue procedure.

.05 *Consent granted to revoke the § 168(k)(10) election.* If, on its timely filed federal tax return for the 2016 taxable year or the 2017 taxable year, a taxpayer made the § 168(k)(10) election under section 6.02 of this revenue procedure or under section 6.03(2) of this revenue procedure, the Commissioner grants the taxpayer consent to revoke that election, provided the taxpayer makes the revocation under this section 6.05. The taxpayer may revoke the § 168(k)(10) election by filing either:

(1) An amended federal tax return, or an AAR by a BBA partnership, for the 2016 taxable year or 2017 taxable year

before the taxpayer files its federal tax return for the first taxable year succeeding the 2016 taxable year or 2017 taxable year. This amended return or AAR must include the adjustment to taxable income for the revocation of the § 168(k)(10) election and any collateral adjustments to taxable income or to tax liability. Such collateral adjustments also must be made on amended federal tax returns or AARs for any affected succeeding taxable year; or

(2) A Form 3115 with the taxpayer's timely filed federal tax return for the first, second, or third taxable year succeeding the 2016 taxable year or the 2017 taxable year, as applicable. The revocation of the § 168(k)(10) election under this section 6.05(2) will be treated as a change in method of accounting with a § 481(a) adjustment only during this limited period of time. The time and manner of making this revocation are described in section 7 of this revenue procedure.

SECTION 7. CHANGE IN METHOD OF ACCOUNTING

.01 *In general.* The making of a late election, or the revocation of an election, under sections 4, 5, and 6 of this revenue procedure is treated as a change in method of accounting for a limited period of time to which §§ 446(e) and 481, and the corresponding regulations, apply. A taxpayer that wants to make a late election, or revoke an election, described in sections 4, 5, and 6 of this revenue procedure must use the automatic change procedures in Rev. Proc. 2015-13, 2015-5 I.R.B. 419, or its successor.

.02 *Automatic change.* Rev. Proc. 2018-31, 2018-22 I.R.B. 637, is modified to add new section 6.18 to read as follows:

.18 *Late elections or revocation of elections under § 168(k)(5), (7), and (10).*

(1) *Description of Change.*

(a) *Applicability.* This change applies to a taxpayer within the scope of Rev. Proc. 2019-33 that wants to make a late election, or to revoke an election, provided in sections 4, 5, and 6 of Rev. Proc. 2019-33 under § 168(k)(5), (7), or (10).

(b) *Inapplicability.* The IRS will treat the making of a late election, or the revocation of an election, provided in sections

4, 5, and 6 of Rev. Proc. 2019-33 under § 168(k)(5), (7), and (10) as a change in method of accounting with a § 481(a) adjustment only for the taxable years specified in section 6.18(2) of this revenue procedure. This treatment does not apply to a taxpayer that makes these late elections or revocations before or after the time specified in section 6.18(2) of this revenue procedure, and any such late election or revocation is not a change in method of accounting pursuant to § 1.446-1(e)(2)(ii)(d)(3)(iii).

(2) *Time for making the change.* The change under this section 6.18 must be made for the taxpayer's first, second, or third taxable year succeeding the taxpayer's taxable year beginning in 2016 and ending on or after September 28, 2017 (2016 taxable year) or beginning in 2017 and ending on or after September 28, 2017 (2017 taxable year).

(3) *Certain eligibility rules inapplicable.* The eligibility rules in section 5.01(1)(d) and (f) of Rev. Proc. 2015-13, 2015-5 I.R.B. 419, do not apply to this change for the taxpayer's 2016 taxable year or 2017 taxable year.

(4) *Concurrent automatic change.*

(a) A taxpayer making this change for more than one specified plant under section 4 of Rev. Proc. 2019-33 for the same year of change should file a single Form 3115 for all such specified plants. The single Form 3115 must provide a single net § 481(a) adjustment for all such changes.

(b) A taxpayer making this change for more than one class of property under section 5 of Rev. Proc. 2019-33 for the same year of change should file a single Form 3115 for all such classes of property. The single Form 3115 must provide a single net § 481(a) adjustment for all such changes.

(c) A taxpayer making this change for all qualified property under section 6 of Rev. Proc. 2019-33 should provide a single net § 481(a) adjustment for all assets that are qualified property.

(d) A taxpayer making a late election, or revoking an election, under more than one section of Rev. Proc. 2019-33 (for example, under sections 4 and 6 of Rev. Proc. 2019-33) for the same year of change should file a single Form 3115 for all such changes. The single Form 3115

must provide a single net § 481(a) adjustment for all such changes.

(5) *Designated automatic accounting method change number.* The designated automatic accounting method change number for a change to the method of accounting under this section 6.18 is “241.”

(6) *Contact information.* For further information regarding a change under this section, contact Elizabeth R. Binder at (202) 317-7005 (not a toll-free number).

SECTION 8. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2018-31 is modified to include the accounting method change provided in section 7.02 of this revenue procedure in section 6 of Rev. Proc. 2018-31.

SECTION 9. EFFECTIVE DATE

This revenue procedure is effective July 31, 2019.

SECTION 10. DRAFTING INFORMATION

The principal authors of this revenue procedure are Elizabeth Binder and Kathleen Reed of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, contact Ms. Binder at (202) 317-7005 (not a toll-free number).

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as “rulings”) that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the

new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the

new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.

ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
FR.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel’s Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.

PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

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¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2018–27 through 2018–52 is in Internal Revenue Bulletin 2018–52, dated December 27, 2018.

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¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2018–27 through 2018–52 is in Internal Revenue Bulletin 2018–52, dated December 27, 2018.

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