Internal Revenue Service

Number: **202552009**
Release Date: 12/26/2025

Index Number: 168.00-00, 446.04-17

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-108984-25

Date:
September 29, 2025

In re:

Request for extension of time to make the election not to deduct additional first year depreciation under § 168(k)

Legend

Taxpayer	=
Advisor	=
Taxable Year	=
Date1	=
Date2	=

Dear :

This letter responds to a letter dated April 21, 2025, and subsequent correspondence, submitted by your representative on behalf of Taxpayer. In that letter, 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 not to deduct the additional first year depreciation deduction under § 168(k) of the Internal Revenue Code (Code) for the 7-year and 15-year property placed in service by Taxpayer during Taxable Year.

The references in this letter to § 168(k) are treated as references to the statute and regulations thereunder, as in effect for the respective dates the Taxpayer placed in service the property at issue.

This letter ruling is being issued electronically in accordance with section 7.02(5) Rev. Proc. 2025-1, 2025-1 I.R.B. 1.

FACTS

Taxpayer represents the facts are as follows:

Taxpayer is a limited liability company, uses the cash method as its overall accounting method, and operates on a calendar year basis. Taxpayer is treated as a partnership for federal tax purposes and files a Form 1065, *U.S. Return of Partnership Income*.

During Taxable Year, Taxpayer placed in service property that it classified as 7-year and 15-year property, and that Taxpayer represents is qualified property under § 168(k). On its timely-filed return for Taxable Year, Taxpayer deducted the additional first year depreciation deduction under § 168(k) (the § 168(k) depreciation deduction) for the 7-year and 15-year classes of property.

Taxpayer engaged Advisor, a qualified tax professional, to prepare its federal and state tax income tax returns for Taxable Year. Advisor was not aware of the unfavorable state tax implications of claiming the § 168(k) depreciation deduction. Therefore, Advisor did not advise Taxpayer to make the election to not take the § 168(k) depreciation deduction. Taxpayer reviewed its federal income tax return prior to filing but was also not aware that claiming the § 168(k) depreciation deduction could negatively affect each partner's state income tax liabilities. During preparation of a partner's state income tax return on Date1, Advisor discovered the unfavorable state income tax implications of having claimed the § 168(k) depreciation deduction for Taxable Year. On that same day, Advisor conveyed the discovery to Taxpayer. In Date2, Taxpayer decided to submit this request for relief.

Taxpayer represents it acted reasonably and in good faith because Taxpayer reasonably relied on the expertise of Advisor, and that the granting of relief will not prejudice the interests of the Government.

RULING REQUESTED

Taxpayer requests relief under § 301.9100-1 and § 301.9100-3 for an extension of time to make the election not to deduct the additional first year depreciation deduction under § 168(k) for the 7-year and 15-year classes of property placed in service by Taxpayer during the 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 the applicable percentage amounts. For qualified property placed in service after December 31, 2022, and before January 1, 2024, the applicable percent is 80 percent.

Section 168(k)(7) provides that a taxpayer may elect not to deduct the § 168(k) depreciation deduction for any class of property placed in service during the taxable year. The term "class of property" is defined by § 1.168(k)-2(f)(1)(ii) of the Income Tax Regulations 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)(i) provides that if the 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 § 168(k) depreciation deduction is allowable for the property placed in service during the taxable year in the class of property, except as provided in § 1.743-1(j)(4)(i)(B)(1).

Section 1.168(k)-2(f)(1)(iii)(A) provides that the election not to deduct additional first year depreciation under § 168(k)(7) 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 this election must be made in the manner prescribed on Form 4562, *Depreciation and Amortization (Including Information on Listed Property)*, and its instructions. The instructions to Form 4562 for Taxable Year provide that the election not to deduct the additional first year depreciation under § 168(k)(7) 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 classes of property to which the election applies.

Under § 301.9100-1(a), the Commissioner of Internal Revenue (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 301.9100-1(b) defines a regulatory election as one whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice or announcement published in the Internal Revenue Bulletin. The due date for the election to not deduct additional first year depreciation is prescribed by § 1.168(k)-2(f)(1)(iii), and is, therefore, a regulatory election.

Sections 301.9100-1 thru 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time for making a regulatory election. Section 301.9100-2 provides for 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 standards of § 301.9100-2.

Taxpayer's request must be analyzed under the requirements of § 301.9100-3 because the automatic extensions provided in § 301.9100-2 are not applicable.

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 the grant of relief will not prejudice the interests of the Government.

CONCLUSION

Based solely on the facts and representations as submitted, we conclude that the requirements of § 301.9100-1 and § 301.9100-3 are 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 the additional first year depreciation for the 7-year and 15-year classes of property placed in service in the Taxable Year. This election must be made by Taxpayer filing an amended Form 1065 for Taxable Year, with a statement attached stating that Taxpayer is making the election under § 168(k)(7) not to deduct the additional first year depreciation for certain classes of property placed in service during 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 Form 1065-X, *Amended Return or Administrative Adjustment Request (AAR)*, or Form 8082, *Notice of Inconsistent Treatment or AAR*, and for any related filings as instructed in Form 1065-X or Form 8082, as appropriate.

A copy of this letter ruling should be attached to the relevant filings. A taxpayer filing its return electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of this letter ruling.

Except as specifically set forth above, we express no opinion concerning the federal tax consequences of the facts and representations 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 Taxable Year is eligible for the § 168(k) depreciation deduction.

The rulings contained in this letter are 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.

This letter ruling is applicable only to Taxpayer. 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 representatives. We are also sending a copy to the appropriate IRS operating division official.

Sincerely,

AMY S. WEI
Senior Technician Reviewer, Branch 7
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: