

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:  
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Refer Reply To:  
CC:ITA:B07  
PLR-115245-25  
Date:  
January 27, 2026

Re: Request for Extension of Time to Make the § 168(k)(7) Election  
Not to Deduct Additional First Year Depreciation

Legend

Taxpayer =  
Parent =  
Taxable Year =  
Date1 =  
Tax Department =  
X =

Dear :

This letter responds to a letter dated August 12, 2025, submitted on behalf of Taxpayer by Parent’s authorized representatives. In that letter, Parent 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 qualified property placed in service by Taxpayer during the Taxable Year. 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.

All references in this letter ruling to § 168(k) are treated as a reference to § 168(k) as in effect after amendment by Public Law 115-97, 131 Stat. 2054 (Dec. 22, 2017), commonly known as the Tax Cuts and Jobs Act (TCJA), and prior to amendment by Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA). Further, all references to section 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

Parent represents that the facts are as follows:

Parent is the parent of an affiliated group that includes Taxpayer. Parent files a consolidated federal income tax return on a Form 1120, *U.S. Corporation Income Tax Return*, on a calendar-year basis. Parent's overall method of accounting is an accrual method. Taxpayer is in the business of X.

During the Taxable Year, Taxpayer placed in service qualified property under § 168(k)(2) that is classified as 5-year, 7-year or 15-year property as defined in § 1.168(k)-2(f)(1)(ii) (collectively, the classes of property).

Tax Department prepared Parent's consolidated federal income tax return for the Taxable Year (the Taxable Year return). During the preparation of the Taxable Year return, Tax Department determined that certain property that Taxpayer placed in service during the Taxable Year was eligible for the additional first year depreciation deduction under § 168(k). However, Tax Department subsequently concluded that based on the tax position of Parent's consolidated group, Taxpayer would not claim the depreciation deductions under § 168(k) in the Taxable Year because such deductions would be more valuable to the consolidated group in future tax years.

Tax Department intended to make the election under § 168(k)(7) for the classes of property for Taxpayer. Accordingly, Tax Department did not deduct the additional first year depreciation for the classes of property listed on the Form 4562, *Depreciation and Amortization*, for the Taxable Year return. However, Tax Department did not attach the statement required to make the § 168(k)(7) election not to deduct the additional first year depreciation for the classes of property to the Taxable Year return. Tax Department timely filed the Taxable Year return on extension. During Date1, after the Taxable Year return had been filed, Tax Department discovered that the required § 168(k)(7) election statement was not attached to the Taxable Year return.

## RULING REQUESTED

Accordingly, Parent 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 were placed in service by Taxpayer during the Taxable Year.

## LAW AND ANALYSIS

Section 168(k)(1) allows, for 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 that qualified property.

Section 168(k)(6) provides the applicable percentages for qualified property acquired by a taxpayer after September 27, 2017. Each applicable percentage depends on the date that such qualified property is placed in service by the taxpayer.

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 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 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 § 168(k)(7) 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.

Section 301.9100-1 provides that 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, Parent is granted an extension of 60 calendar days from the date of this letter ruling to make the § 168(k)(7) election for the classes property placed in service by Taxpayer during the Taxable Year.

This election must be made by Parent filing an amended consolidated federal income tax return for the Taxable Year, with a statement indicating that Parent is electing not to deduct the additional first year depreciation for the classes of property placed in service by Taxpayer during the Taxable Year. Additionally, a copy of this letter should be attached to such amended return. 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 this letter ruling.

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 (1) 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), or (2) whether the land improvements placed in service by Taxpayer during the Taxable Year are 15-year property, as defined in § 168(e)(3)(E).

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 your authorized representatives. 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: