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Person To Contact:
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Refer Reply To:
CC:ITA:B07
PLR-119791-25

Date:
April 21, 2026

Re: Request for Extension of Time to Make the § 168(k)(7) Election

Legend

Parent =
X =
Year1 =
Year2 =
Year3 =
Firm1 =
Year4 =
Firm2 =

Dear :

This letter responds to a letter received on November 5, 2025, and supplemental correspondence, submitted by Parent's authorized representative on behalf of Parent and certain members of Parent's consolidated group (collectively referred to as "Taxpayer"). In that letter, Parent requests an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to make an election under § 168(k)(7) 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 Year1, Year2, and Year3 (collectively, the "Taxable Years"). This letter ruling is being issued electronically, as permissible under section 7.02(5) of Rev. Proc. 2025-5, 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, the common parent of an affiliated group of corporations that includes Taxpayer, files a consolidated federal income tax return on a Form 1120, *U.S. Corporation Income Tax Return* (Form 1120), on a calendar-year basis. Parent's overall method of accounting is an accrual method. Taxpayer is in the business of X.

During Year1, Taxpayer placed in service 5-year and 7-year property. During Year2 and Year3, Taxpayer placed in service 5-year property. All of this property is qualified property described in § 168(k)(2) and identified as a class of property in § 1.168(k)-2(f)(1)(ii) for purposes of the § 168(k)(7) election (collectively, the classes of property).

For each of the Taxable Years, Parent engaged Firm1, an external tax return preparer, to assist with its U.S. income tax compliance obligations, including preparing and filing its consolidated federal income tax returns (the Taxable Years' returns). During the preparation of each of the returns, Parent informed Firm1 of its desire to make an election under § 168(k)(7) not to deduct the additional first year depreciation for the classes of property placed in service for each of the Taxable Years, as applicable.

Consistent with Parent's intent, Firm1 prepared Parent's consolidated returns without deducting any § 168(k) depreciation for the classes of property placed in service during each of the Taxable Years. Additionally, Firm1 prepared the Form 4562, *Depreciation and Amortization*, consistent with Parent not claiming § 168(k) depreciation for the classes of property placed in service during each of the Taxable Years. However, Firm1 personnel inadvertently failed to make the § 168(k)(7) election because the required § 168(k)(7) election statement was not included in any of the consolidated Taxable Years' returns. The Taxable Years' returns were timely filed on extension.

Prior to filing the Forms 1120 for each of the Taxable Years, Parent's internal tax personnel reviewed the Forms 1120, but did not identify the omitted § 168(k)(7) election statement. Parent reasonably relied on Firm1, a professional tax return preparer, to make the § 168(k)(7) election for the classes of property, as applicable, on all of the consolidated Taxable Years' returns.

After Year3, Parent changed its external tax preparer and engaged Firm2 to prepare its consolidated federal income tax return for Year4. Upon reviewing the Taxable Years' returns, Firm2 discovered that the required § 168(k)(7) election statement was not attached to any of the Taxable Years' returns and notified Parent.

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 Years.

LAW AND ANALYSIS

Section 167(a) allows a taxpayer to deduct as depreciation a reasonable allowance for the exhaustion, wear and tear of property used in a trade or business, or property held in the production of income. For tangible depreciable property placed in service after 1986, the depreciation deduction allowable under § 167 is generally determined under § 168.

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, and placed in service before January 1, 2028. 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 not to deduct additional first year deduction 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 each of the Taxable Years 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.

Section 301.9100-1(b) provides that the term “regulatory election” includes an election whose due date is prescribed by a regulation published in the Federal Register.

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.

Section 301.9100-3(b)(1)(v) provides generally that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

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 of property, as applicable, for the Taxable Years.

Because the Taxable Years are closed by the period of limitations on assessment under § 6501(a), this election must be made by Parent filing a statement indicating that Taxpayer is electing not to deduct the § 168(k) additional first year depreciation for the 5-year or 7-year classes of property, as applicable, that were placed in service by Taxpayer during each of the Taxable Years, along with a copy of this letter ruling, with the IRS Service Center(s) where Parent filed its original consolidated Form 1120 for each taxable year. However, this relief can be implemented by Parent only if, as of the beginning of Parent’s first open year, the adjusted basis of all of the property for which Parent has requested an extension of time to make the late § 168(k)(7) election reflects the reduction in basis for the greater of the depreciation allowed or allowable for the property in the closed years, had the election been made timely.

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 or regulations. Specifically, no opinion is expressed or implied concerning whether any item of depreciable property placed in service by Taxpayer during the Taxable Years is eligible for the additional first year depreciation under § 168(k).

The ruling contained in this letter is based upon facts and representations submitted by Taxpayer with an accompanying penalty of perjury statement executed by the appropriate party. While this office has not verified any of the material submitted in support of this request for an extension of time to make the election under § 168(k)(7) not to deduct the additional first year depreciation for the Taxable Years, all material is subject to verification on examination.

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.

A copy of this letter 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 the return that provides the date and control number of the letter ruling.

Sincerely,

Elizabeth R. Binder

Elizabeth R. Binder
Senior Counsel, Branch 7
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: