Internal Revenue Service

Number: **202635002**
Release Date: 8/28/2026

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-104803-26

Date:
June 02, 2026

In re:

Request for an extension of time to make the election not to claim the additional first year depreciation deduction

Legend

Taxpayer	=
Entity	=
Advisor	=
Date	=
State	=
Taxable Year 1	=
Taxable Year 2	=
Month	=
Percentage	=
X	=

Dear :

This letter ruling responds to Taxpayer's letter ruling request submitted on Date. 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 under § 168(k) the Internal Revenue Code (Code) not to deduct the additional first year depreciation deduction for all classes of qualified property placed in service by Taxpayer during Taxable Year 1.

The references in this letter to § 168(k) are treated as references to the Code, and the Income Tax Regulations thereunder, as in effect for Taxable Year 1.

This letter ruling is being issued electronically in accordance with section 7.02(5) of Rev. Proc. 2026-1, 2026-1 I.R.B. 1, 34.

FACTS

Taxpayer represents:

Taxpayer is a limited liability company formed under the laws of State. Taxpayer is treated as a partnership for federal income tax purposes and files a Form 1065, *U.S. Return of Partnership Income*. Taxpayer wholly-owns Entity, uses an accrual method as its overall accounting method, and operates on a calendar year basis. Taxpayer is in the business of X.

Taxpayer's partnership agreement provides in part that Taxpayer would elect under § 168(k) not to claim the additional depreciation deduction. Taxpayer engaged Advisor, a qualified tax professional, to advise on, prepare and file its federal income tax return for Taxable Year 1.

During Taxable Year 1, Taxpayer placed in service qualified property under § 168(k). On its timely-filed return for Taxable Year 1, Advisor prepared the return by not applying the additional first year depreciation deduction under § 168(k) for all classes of qualified property placed in service during Taxable Year 1, but inadvertently omitted the election statement required pursuant to § 1.168(k)-2(f)(1)(iii) of the Income Tax Regulations.

During Month, in preparation of the return for Taxable Year 2, Advisor discovered its omission of the election statement with the return for Taxable Year 1. Advisor immediately alerted Taxpayer and advised Taxpayer to seek relief. Shortly thereafter, Taxpayer submitted its request for relief.

Taxpayer represents that, in failing to make the election, it acted reasonably and in good faith because Taxpayer reasonably relied on the expertise of Advisor, a qualified tax professional, to make the election, 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 under § 168(k) not to deduct the additional first year depreciation deduction for all classes of qualified property placed in service during Taxable Year 1.

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)(2) defines qualified property for purposes of § 168(k).

Section 168(k)(6) provides the applicable percentage amounts. For qualified property placed in service during Taxable Year 1, the applicable percentage is Percentage.

Section 168(k)(7) provides that a taxpayer may elect not to claim the additional first year 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) 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 under § 168(k) is made to not claim the additional first year depreciation deduction, the election applies to all qualified property in that class of property and placed in service during the same taxable year, and no additional first year depreciation deduction is allowable for the property placed in service during the taxable year in the class(es) 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 1 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 claim the additional first year depreciation deduction and the class(es) 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 through 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) not to claim the additional first year depreciation deduction for all classes of qualified property placed in service during Taxable Year 1. This election must be made by Taxpayer filing an amended Form 1065 for Taxable Year 1, with a statement attached as required by § 1.168(k)-2(f)(1)(iii) and the instructions to Form 4562. 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 filing. 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 was placed in service by Taxpayer during Taxable Year 1 and whether that property is eligible for the additional first year depreciation deduction under § 168(k).

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: