Internal Revenue Service

Number: **201138003**
Release Date: 9/23/2011

Index Number: 9100.04-00

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-101533-11

Date:
June 20, 2011

Re: Request for Extension of Time to Make the Election to use General Asset Accounts

Legend

Parent =

Subsidiary 1 =

Subsidiary 2 =

Subsidiary 3 =

Subsidiary 4 =

A =

B =

C =

D =

Year X =

Date 1 =

Date 2 =

Advisor =

LB& I =-

Dear :

This letter responds to a letter dated December 16, 2010, submitted by Parent on behalf of Parent, Subsidiary 1, Subsidiary 2, Subsidiary 3, and Subsidiary 4 (hereinafter, collectively referred to as "Taxpayer"), requesting an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to make the election under § 1.168(i)-1(k) of the Income Tax Regulations to account for assets using general asset accounts.

FACTS

Parent represents that the facts are as follows:

Taxpayer uses an accrual basis of accounting and is engaged in a number of business activities, including A; B; and C. Taxpayer's business activities involve a considerable number of items of identical or nearly identical tangible depreciable property.

Subsidiary 1, Subsidiary 2, Subsidiary 3, and Subsidiary 4 are wholly-owned subsidiaries of Parent. Parent is the common parent of an affiliated group of corporations, including Subsidiary 1, Subsidiary 2, Subsidiary 3, and Subsidiary 4, that files its consolidated federal income tax return on a calendar year basis.

For the Year X taxable year, Taxpayer placed in service a large number of D assets. These assets are subject to the depreciation deduction under § 168(a) of the Internal Revenue Code. During the preparation of Taxpayer's return for the Year X taxable year, Advisor suggested that Taxpayer consider using general asset accounts rules under §168(i)(4) to simplify accounting for Taxpayer's D assets. When Taxpayer electronically filed the Year X return on Date 1, it accounted for its D assets placed in service during the taxable year using general asset accounts. However, Taxpayer inadvertently failed to mark the appropriate box on its Form 4562, "Depreciation and Amortization," or to include any statement indicating that it was making an election pursuant to § 1.168(i)-1(k) to utilize general asset accounts for its D assets. In a meeting with Advisor on Date 2, Taxpayer became aware that it had not properly made the election under § 1.168(i)-1(k) to account for its D assets using general asset accounts.

RULING REQUESTED

Taxpayer requests an extension of time pursuant to § 301.9100-3 to make the election under § 1.168(i)-1(k) for Parent, Subsidiary 1, Subsidiary 2, Subsidiary 3, and Subsidiary 4 to utilize general asset accounts pursuant to § 168(i)(4) for its D assets that were placed in service during the Year X taxable year.

LAW AND ANALYSIS

Section 167(a) provides the general rule that there shall be allowed as a deduction a reasonable allowance for the exhaustion, wear, and tear of property used in a trade or business, or of property held for the production of income.

Section 168(a) provides that, generally, the depreciation deduction provided by section 167(a) for any tangible property is determined using the applicable depreciation method, the applicable recovery period, and the applicable convention.

Section 168(i)(4) provides that, under regulations, a taxpayer may maintain one or more general asset accounts for any property to which § 168 applies. Section 1.168(i)-1 provides rules for general asset accounts under §168(i)(4). The applicable rules provided under § 1.168(i)-1 apply only to assets for which an election has been made under § 1.168(i)-1(k).

Section 1.168(i)-1(k)(1) provides that, if a taxpayer makes an election under §1.168(i)-1(k), the taxpayer consents to, and agrees to apply, all of the provisions of § 1.168(i)-1 to the assets included in a general asset account. Except as provided in § 1.168(i)-1(c)(1)(ii)(A) (special rules for assets generating foreign source income), (e)(3) (special rules applicable to dispositions of assets included in a general asset account), (g) (assets subject to recapture), or (h) (changes in use), an election made under § 1.168(i)-1(k) is irrevocable and will be binding on the taxpayer for computing taxable income for the taxable year for which the election is made and for all subsequent taxable years. An election under § 1.168(i)-1(k) is made separately by each person owning an asset to which § 1.168(i)-1 applies (for example, by each member of a consolidated group).

Section 1.168(i)-1(k)(2) provides that the election to apply § 1.168(i)-1 shall be made on the taxpayer's timely filed (including extensions) federal income tax return for the taxable year in which the assets included in the general assets account are placed in service by the taxpayer.

Section 1.168(i)-1(k)(3) provides that a taxpayer makes the election under § 1.168(i)-1(k) by typing or legibly printing at the top of the Form 4562, "GENERAL ASSET ACCOUNT ELECTION MADE UNDER SECTION 168(i)(4)," or in the manner provided for on Form 4562 and its instructions.

Under § 301.9100-1, 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 extensions 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 the grant of 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, Taxpayer is granted 60 calendar days from the date of this letter to make the election under § 1.168(i)-1(k) to utilize general asset accounts pursuant to § 168(i)(4) for its D property placed in service during the Year X taxable year. This election must be made by Parent filing (1) an amended consolidated federal income tax return, (2) amended Forms 4562, for Parent, Subsidiary 1, Subsidiary 2, Subsidiary 3, and Subsidiary 4 , and (3) a copy of this letter ruling, with the IRS Service Center where Taxpayer filed its original federal tax return for the Year X taxable year. The amended Forms 4562 should reflect in the manner prescribed by §1.168(i)-1(k)(3) that Parent, Subsidiary 1, Subsidiary 2, Subsidiary 3, and Subsidiary 4 are electing to account for the D assets using general asset accounts pursuant to § 168(i)(4) .

Except as specifically set forth above, we express no opinion concerning the federal income tax consequences of the facts described above under any other provisions of the Code.

In accordance with the power of attorney, we are sending copies of this letter to Taxpayers' authorized representative. We are also sending a copy of this letter to the appropriate Industry Director, LB&I.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely yours,

WILLIE E. ARMSTRONG, JR.
Senior Technician Reviewer, Branch 7
Office of Associate Chief Counsel
(Income Tax & Accounting)

Enclosures (2):
copy of this letter
copy for section 6110 purposes

cc: