**Internal Revenue Service**

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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:7
PLR-108462-14

Date:
August 28, 2014

Re: Request for Extension of Time to Make the Election Not to Deduct the Additional First Year Depreciation

Taxpayer =
A =

State =
Date1 =
Date2 =

Dear :

This letter responds to a letter dated January 15, 2014, and subsequent correspondence, submitted by Taxpayer requesting an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to make the election not to deduct the 100-percent additional first year depreciation under § 168(k) of the Internal Revenue Code for all classes of qualified property placed in service in the taxable year ended Date1.

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer, an individual, is the sole member of A and has elected to file A as a disregarded entity for federal income tax purposes. A is engaged in the trade or business of providing family dentistry services in State. Taxpayer files federal income tax returns on a calendar year basis. Taxpayer timely filed its federal income tax return for the taxable year ended Date1 on Date2.

Taxpayer used an outside tax return preparer to prepare its federal income tax return for the taxable year ended Date1. Based on the advice of its tax return preparer, Taxpayer did not make the election not to deduct the additional first year depreciation

under § 168(k) for all qualifying property placed in service during the taxable year ended Date1 on its federal income tax return for the taxable year ending on Date1. Taxpayer's tax return preparer never discussed the election or its ramifications, and failed to advise Taxpayer of its available options when filing its federal income tax return for the taxable year ended Date1. Taxpayer deducted the 100-percent additional first year depreciation under § 168(k)(5) for all classes of qualified property placed in service in the taxable year ended Date1.

However, after filing this tax return, Taxpayer realized that it did not fully consider the consequences of this election on other federal and state income tax provisions in effect at the time of the due date for making the election, and no relevant facts have changed since the due date for making the election. If Taxpayer had been aware of the ramifications of the election, and knew all available options, Taxpayer would have elected not to deduct the 100-percent additional first year depreciation under § 168(k) for all classes of qualified property placed in service in the taxable year ended Date1.

RULING REQUESTED

Accordingly, Taxpayer requests an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to make the election not to deduct the 100-percent additional first year depreciation under § 168(k) for all classes of qualified property placed in service in the taxable year ended Date1.

LAW AND ANALYSIS

Section 168(k)(5) provides a 100-percent additional first year depreciation deduction for the taxable year in which qualified property qualifying for the 100-percent additional first year depreciation is placed in service by a taxpayer.

Section 168(k)(2)(D)(iii) provides that a taxpayer may elect not to deduct the additional first year depreciation for any class of property placed in service during the taxable year. The term "class of property" is defined in § 1.168(k)-1(e)(2) of the Income Tax Regulations as meaning, in general, each class of property described in § 168(e) (for example, 5-year property). See section 3.01 of Rev. Proc. 2011-26, 2011-16 I.R.B. 664 (rules similar to the rules in § 1.168(k)-1 for "qualified property" or for "30-percent additional first year depreciation deduction" apply for purposes of § 168(k) as currently in effect).

Section 1.168(k)-1(e)(1) provides that the election not to deduct additional first year depreciation for a class of property applies to all qualified property that is in that class of property and placed in service in the same taxable year. See section 4.01 of Rev. Proc. 2011-26.

Section 1.168(k)-1(e)(3)(i) provides that the election not to deduct additional first year depreciation 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)-1(e)(3)(ii) provides that the election not to deduct additional first year depreciation 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 ended Date1 provided that the election not to deduct the additional first year depreciation 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.

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.

CONCLUSIONS

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 not to deduct the 100-percent additional first year depreciation under § 168(k) for all classes of property placed in service by Taxpayer during the taxable year ended Date1 that qualify for the additional first year depreciation. This election must be made by Taxpayer filing an amended federal tax return for that taxable year, with a statement indicating that Taxpayer is electing not to deduct the additional first year depreciation for all classes of property placed in service by Taxpayer during that taxable year.

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 (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 the taxable year ended Date1 is eligible for the additional first year depreciation deduction.

We are sending a copy of this letter to the SB/SE Official.

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,

KARLA M. MEOLA
KARLA M. MEOLA
Assistant to the Branch Chief, Branch 7
Office of Associate Chief Counsel
(Income Tax and Accounting)

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