

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:ITA:7
PLR-107055-15
Date:
August 24, 2015

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

P =
S1 =
S2 =
S3 =
S4 =
S5 =
S6 =
S7 =
S8 =
S9 =
S10 =
S11 =
S12 =
Date1 =

Dear :

This letter responds to a letter dated February 4, 2015, and subsequent correspondence, submitted by P on behalf of itself and S1, S2, S3, S4, S5, S6, S7, S8, S9, S10, S11, and S12 (hereinafter, P, S1, S2, S3, S4, S5, S6, S7, S8, S9, S10, S11, and S12 will be 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 not to deduct the additional first year depreciation under § 168(k) of the Internal Revenue Code (Code) for all classes of qualified property placed in service in the taxable year ended Date1.

FACTS

P represents that the facts are as follows:

P is the common parent of an affiliated group of corporations, including S1, S2, S3, S4, S5, S6, S7, S8, S9, S10, S11, and S12. This affiliated group of corporations files consolidated federal income tax returns with a 52-53 week taxable year ending on the Saturday nearest to December 31. Taxpayer is a multi-industry company that is engaged in aircraft, defense, industrial and finance businesses.

P's consolidated federal income tax returns are prepared in house. Taxpayer placed in service qualified property (as defined in § 168(k)(2)) during the taxable year ended Date1.

On P's timely filed consolidated federal income tax return for the taxable year ended Date1, Taxpayer did not claim the additional first year depreciation deduction for all classes of qualified property it placed in service during the taxable year ended Date1. However, Taxpayer inadvertently failed to attach to the return, as required by § 1.168(k)-1(e)(3)(ii) of the Income Tax Regulations, the election statement not to claim the additional first year depreciation deduction for all classes of qualified property Taxpayer placed in service for the taxable year ended Date1.

RULING REQUESTED

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 not to deduct the additional first year depreciation under § 168(k) for all classes of property placed in service during the taxable year ended Date1, that qualify for additional first year depreciation.

LAW AND ANALYSIS

Section 168(k)(1) provides a 50-percent additional first year depreciation deduction for qualified property (i) acquired by a taxpayer after December 31, 2007, and before September 9, 2010, or after December 31, 2011 (or December 31, 2012, for qualified property described in § 168(k)(2)(B) or (C)), and before January 1, 2015, and (ii) placed in service by the taxpayer before September 9, 2010, or after December 31, 2011 (or December 31, 2012, for qualified property described in § 168(k)(2)(B) or (C)), and before January 1, 2015 (or January 1, 2016, for qualified property described in § 168(k)(2)(B) or (C)). Section 168(k)(5) provides a 100-percent additional first year depreciation deduction for qualified property acquired by a taxpayer after September 8, 2010, and before January 1, 2012, (or January 1, 2013, for qualified property described in § 168(k)(2)(B) or (C)), and placed in service by the taxpayer after September 8, 2010, and before January 1, 2012 (or January 1, 2013, for qualified property described in § 168(k)(2)(B) or (C)). See section 3 of Rev. Proc. 2011-26, 2011-16, I.R.B. 664, 665.

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) as meaning, in general, each class of property described in § 168(e) (for example, 5-year property). See section 5.01 of Rev. Proc. 2008-54, 2008-2 C.B. 722 and section 3.01 of Rev. Proc. 2011-26 (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)(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, provide 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 additional first year depreciation under § 168(k) for all classes of property placed in service during the taxable year ended Date1, that qualify for additional first year depreciation. This election must be made by filing an amended

consolidated federal income 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 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. Specifically, no opinion is expressed or implied on whether any item of depreciable property placed in service during the taxable year ended Date1, is eligible for the additional first year depreciation deduction.

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.

We are sending a copy of this letter to the appropriate Industry Director, Large Business & International Division (LB&I).

Sincerely,

KATHLEEN REED

KATHLEEN REED
Branch Chief, Branch 7
Office of Associate Chief Counsel
(Income Tax and Accounting)

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