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-112604-15

Date:
October 05, 2015

Re: Request to revoke the election not to deduct the additional first year depreciation

Legend

P	=	
S1	=	
S2	=	
S3	=	
S4	=	
S5	=	
S6	=	
S7	=	
A	=	
Year1	=	
Year2	=	

Date1	=	
Date2	=	
Date3	=	
Date4	=	
Date5	=	
Date6	=	

Dear :

This letter ruling responds to a letter dated April 8, 2015, and supplemental correspondence, submitted by P on behalf of itself and S1, S2, S3, S4, S5, S6, and S7 (hereinafter P, S1, S2, S3, S4, S5, S6, and S7 will be collectively referred to as Taxpayer), requesting the consent of the Commissioner of Internal Revenue to revoke Taxpayer's election not to deduct the additional first year depreciation provided by § 168(k) of the Internal Revenue Code for all classes of qualified property placed in service by Taxpayer during the taxable years for which the period of limitation on assessment under § 6501(a) has not expired ("open taxable years").

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer files a consolidated federal income tax return on a calendar year basis. Taxpayer's overall method of accounting is the accrual method.

Taxpayer is in the business of A. Taxpayer placed in service qualified property (as defined in § 168(k)(2)) during the taxable years ending Date1 (the Year1 taxable year), through Date4 (the Year2 taxable year).

P prepared Taxpayer's consolidated federal income tax returns for the Year1 through Year2 taxable years. On its timely filed consolidated federal income tax returns for the Year1 through Year2 taxable years, Taxpayer made the election under § 168(k)(2)(D)(iii) not to claim the 50-percent and 100-percent additional first year depreciation deduction for all classes of qualified property placed in service during those taxable years. Taxpayer made this election based on the erroneous advice of a member of P's Tax Department.

This person incorrectly determined that Taxpayer's fixed asset system could not accommodate the changes necessary to implement the additional first year depreciation deduction for the Year1 taxable year and concluded that Taxpayer should make the election not to deduct the additional first year depreciation for all classes of qualified property. For the taxable years after the Year1 taxable year through the Year2 taxable year, this initial decision was continued without a detailed review. Subsequently, a qualified professional outside tax preparer reviewed Taxpayer's fixed asset system and

determined that it could accommodate the changes necessary to implement the additional first year depreciation deduction. Except for routine system updates and patches, Taxpayer's fixed asset system did not change in any significant way during the years at issue.

The period of limitation on assessment under § 6501(a) is extended for the taxable years ending Date3, through Date4, until Date5. The period of limitation on assessment under § 6501(a) expired for the taxable years ending Date1, and Date2, on Date6, which is before the date of this letter.

Taxpayer did not make the election under § 168(k)(4) to accelerate alternative minimum tax credits and research credits in lieu of the additional first year depreciation deduction.

RULING REQUESTED

Consequently, Taxpayer requests to revoke the election not to deduct any additional first year depreciation provided by § 168(k) for all classes of qualified property placed in service by Taxpayer during the taxable years ending Date1, through Date4, that are open taxable years.

LAW AND ANALYSIS

Section 168(k)(1) provides a 50-percent additional first year depreciation deduction for the placed-in-service year for qualified property (i) acquired by a taxpayer after December 31, 2007, and before September 9, 2010, or acquired by a taxpayer generally after December 31, 2011, 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 the placed-in-service year for qualified property acquired by a taxpayer after September 8, 2010, and generally before January 1, 2012, 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) of the Income Tax Regulations 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, 2011-16 I.R.B. at 665 (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)(7)(i) provides that an election not to deduct the additional first year depreciation for a class of property that is qualified property, once made, may be revoked only with the written consent of the Commissioner of Internal Revenue. To seek the Commissioner's consent, the taxpayer must submit a request for a letter ruling.

CONCLUSIONS

Based solely on the facts and representations submitted, we conclude that a revocation of Taxpayer's election not to deduct any additional first year depreciation under § 168(k)(1) and (k)(5) for all classes of qualified property placed in service by Taxpayer in the taxable years ending Date1, through Date4, that are open taxable years as of the date provided in the next sentence, is permitted under § 1.168(k)-1(e)(7)(i). Accordingly, Taxpayer is granted 60 calendar days from the date of this letter to revoke its election not to deduct the additional first year depreciation for all classes of qualified property placed in service by Taxpayer in the taxable years ending on Date1, through Date2, that are open taxable years as of the date provided in this sentence. The revocation must be made by filing amended consolidated federal income tax returns for such taxable years. These amended returns must include:

(i) the adjustment to taxable income attributable to the revocation of the election not to deduct the additional first year depreciation deduction for all classes of qualified property and any collateral adjustments to taxable income or to tax liability (for example, adjust the amount of the “regular” depreciation deduction allowable for the qualified property; adjust the amount and character of gain or loss recognized on any disposition of qualified property placed in service during the taxable years at issue); and

(ii) a written statement revoking the election not to deduct the additional first year depreciation for all classes of qualified property placed in service during that taxable year.

Further, such collateral adjustments also must be made on amended consolidated federal income tax returns or informal claims, as applicable, for any affected succeeding taxable year. In addition, a copy of this letter ruling must be attached to these amended returns or informal claims, as applicable. A copy is enclosed for that purpose.

Except as specifically ruled upon above, no opinion is expressed or implied concerning the 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 in the taxable years ended Date 1, through Date 4, is eligible for the 50-percent or 100-percent additional first year depreciation deduction under § 168(k).

In accordance with the power of attorney, we are sending a copy of this letter to Taxpayer's authorized representative. We are also sending a copy of this letter to the appropriate Industry Director, Large Business & International Division (LB&I).

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.

Sincerely,

Kathleen Reed

Kathleen Reed
Chief, Branch 7
Office of Associate Chief Counsel
(Income Tax and Accounting)

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