

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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, ID No.

Telephone Number:

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PLR-115878-15
PLR-123952-15
Date:
October 14, 2015

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

Legend

- P =
- S =
- Date1 =
- Date2 =
- Date3 =
- Date4 =
- Date5 =
- Date6 =
- A =
- B =
- C =
- D =
- X =
- Y =

Dear :

This letter responds to a letter filed May 5, 2015, and supplemental correspondence, submitted by P on behalf of itself and S (hereinafter P and S will be collectively referred to as Taxpayer) requesting 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 deduction under

§ 168(k)(1) of the Internal Revenue Code for all classes of qualified property placed in service by Taxpayer during the taxable year ended Date3.

FACTS

P represents that the facts are as follows:

P is the domestic parent of an affiliated group of corporations that includes S. The affiliated group of corporations files consolidated federal income tax returns on a calendar-year basis. Taxpayer provides X and Y in a broad range of markets including communications, data center, industrial automation, medical, consumer and military/aerospace.

On Date1, A acquired B percent of P's stock from C, P's previous parent. This transaction resulted in a short period tax return having to be filed for P and P's subsidiaries for the period from Date2 to Date3.

Taxpayer engaged D to prepare Taxpayer's Form 1120, *U.S. Corporation Income Tax Return*, for Taxpayer's taxable year ended Date3. In addition, D was engaged to file a Form 7004, *Application for Automatic Extension of Time to File Certain Tax, Information, and Other Returns*, for the taxable year ended Date3. The original unextended due date for the Form 1120 for Taxpayer's taxable year ended Date3, was Date4. On or before Date4, a Form 7004 was timely prepared for e-filing by D. Due to an inadvertent processing error, the Form 7004 was not e-filed on or before the due date of the Form 1120 for Taxpayer's taxable year ended Date3. This error, which was not discovered until Date5, resulted in the Form 7004 for the taxable year ended Date3, not being timely filed. As a result, the Form 1120 for Taxpayer's taxable year ended Date3, which was filed on Date6, was not filed timely. Therefore, P did not timely make the election not to deduct the additional first year depreciation under § 168(k) for all classes of qualified property placed in service by Taxpayer during the taxable year ended Date3.

Taxpayer did not make the election under § 168(k)(4) to accelerate alternative minimum tax credits in lieu of the additional first year depreciation deduction with respect to its extension property as defined in § 168(k)(4)(H)(iii) or its round two extension property as defined in § 168(k)(4)(I)(iv).

RULING REQUESTED

Taxpayer requests an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 to make the election not to deduct the additional first year depreciation deduction under § 168(k)(1) for all classes of qualified property placed in service by Taxpayer during the taxable year ended Date3.

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 January 1, 2015, and (ii) placed in service by the taxpayer before January 1, 2015 (or January 1, 2016, for qualified property described in § 168(k)(2)(B) or (C)).

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, 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)(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 Date3 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 section 301.9100-2.

Section 301.9100-3(a) provides that requests for relief under section 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 not to deduct the additional first year depreciation under § 168(k)(1) for all classes of property placed in service by Taxpayer during the taxable year ended Date3 that qualify for the additional first year depreciation deduction. This election must be made by P filing an amended consolidated federal tax income tax return for such 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.

This letter ruling does not grant an extension of time for filing Taxpayer's federal income tax return for the taxable year ended Date3.

Except as specifically set forth above, we express no opinion concerning the federal 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 Date3 is eligible for the additional first year depreciation deduction under § 168(k).

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.

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

Sincerely,

Willie E. Armstrong, Jr.

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