**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:
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Refer Reply To:
CC:ITA:B07
PLR-110684-24

Date:
August 28, 2024

Re: Request for extension of time to file Form 3115, Application for Change in Accounting Method, and to make the election not to deduct the additional first year depreciation

Legend

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| Taxpayer | = |
| Date1 | = |
| Date2 | = |
| Date3 | = |
| Date4 | = |
| Date5 | = |
| Date6 | = |
| Date7 | = |
| A | = |
| Firm1 | = |
| Firm2 | = |

Dear :

This letter ruling responds to a letter dated May 16, 2024, and subsequent correspondence, submitted by Taxpayer, in which Taxpayer requests an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to: (1) file the original Form 3115, Application for Change in Accounting Method, to change its method of accounting described below as required under section 6.03(1)(a)(i)(A) of Rev. Proc. 2015-13, 2015-5 I.R.B. 419, 432, beginning for the taxable year beginning Date1, and ended Date2 (Taxable Year); and (2) make the election not to deduct the additional first year depreciation under § 168(k)(7) of the Internal Revenue Code for 7-year property and 15-year property (as described in § 168(e)) and computer

software (as described in § 167(f)(1)) that were placed in service by Taxpayer in Taxable Year.

All references in this letter ruling to § 168(k) are treated as a reference to § 168(k) as in effect after amendment by Public Law 115-97, 131 Stat. 2054 (Dec. 22, 2017), commonly referred to as the Tax Cuts and Jobs Act (TCJA). Further, all references in this letter ruling to § 1.168(k)-2 of the Income Tax Regulations are treated as a reference to the final regulations under § 1.168(k)-2 published in the Federal Register on November 10, 2020 (85 FR 71734).

This letter ruling is being issued electronically in accordance with section 7.02(5) of Rev. Proc. 2024-1, 2024-1 I.R.B. 1, 34.

## FACTS

Taxpayer represents that the facts are as follows:

Taxpayer, a C corporation, files a consolidated Form 1120, *U.S. Corporation Income Tax Return*, on a fiscal year basis. Taxpayer's overall method of accounting is an accrual method.

With respect to the request for an extension of time to file the original Form 3115, beginning for Taxable Year, Taxpayer wanted to change its method of accounting to capitalize certain expenses related to self-constructed assets used in its trade or business pursuant to § 263A. Taxpayer produces manufacturing equipment for internal use and constructs building improvements. Taxpayer believes that this change in method of accounting could be implemented under the automatic change procedures of Rev. Proc. 2015-13. Thus, in accord with the automatic change procedures of Rev. Proc. 2015-13, Taxpayer should have completed the original, signed Form 3115, reflecting the desired accounting method change, and attached this original to Taxpayer's timely filed consolidated federal income tax return for Taxable Year.

Pursuant to Section 6.03(1)(a)(i) of Rev. Proc. 2015-13, Taxpayer filed a duplicate copy of the Form 3115 with the Ogden service center on Date3, which date is before Date4, the due date (excluding any extension) for Taxpayer's consolidated federal income tax return for Taxable Year.

With respect to the request for an extension of time to make the election not to deduct the additional first year depreciation, Taxpayer wanted to make an election under § 168(k)(7) to forego additional first year depreciation on 7-year property and 15-year property (as described in § 168(e)) and computer software (as described in § 167(f)(1)) that were placed in service by Taxpayer in Taxable Year.

The due date (excluding any extension) for Taxpayer's consolidated federal income tax return for Taxable Year was Date4. Taxpayer intended to request an

extension of time to file its consolidated federal income tax return to Date5. However, due to an inadvertent oversight, Taxpayer failed to timely file Form 7004, *Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns*, for Taxable Year to extend the due date for its consolidated federal income tax return. On Date6, Taxpayer discovered that its Form 7004 had not been filed. Taxpayer filed its consolidated federal income tax return, implementing the proposed changes as described above, on Date7, which date is after Date6 but before Date5.

As a result of Taxpayer's failure to timely file Form 7004 for Taxable Year, Taxpayer did not timely file its Form 1120. For that reason, the original Form 3115 and the § 168(k)(7) election statement were not attached to a timely filed federal income tax return for Taxable Year.

On the same day of the discovery of the Taxpayer's failure to file its Form 7004, Taxpayer reached out to its main Internal Revenue Service (Service) account contact in A to inform the Service of the missed extension and to discuss how to remedy this inadvertent oversight.

Shortly after its discussions with the Service, Taxpayer consulted with Firm1 and Firm2 regarding potential remedies for late filing of the original Form 3115 and the § 168(k)(7) election statement. Both Firm1 and Firm2 advised Taxpayer to file this request for relief under § 301.9100-3.

Taxpayer then filed this request to obtain an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 to file its original Form 3115 and to make the election not to deduct the additional first year depreciation under § 168(k).

Taxpayer has represented that, in requesting an extension of time to make the elections described herein for Taxable Year, it acted reasonably and in good faith and, further, there is no prejudice to the interest of the Government.

## RULING REQUESTED

Taxpayer requests an extension of time under §§ 301.9100-1 and 301.9100-3 to file the original Form 3115 as required by Rev. Proc. 2015-13 to change its method of accounting for expenses related to self-constructed assets under § 263A, effective for Taxable Year, and to make the election under § 168(k)(7) not to deduct the additional first year depreciation under § 168(k) for 7-year property, 15-year property, and computer software that were placed in service by Taxpayer in Taxable Year.

## LAW AND ANALYSIS

Filing of the Form 3115 under Rev. Proc. 2015-13.

Rev. Proc. 2015-13, as clarified and modified by Rev. Proc. 2015-33, 2015-24 I.R.B. 1067, and as modified by Rev. Proc. 2021-34, 2021-35 I.R.B. 337, by Rev. Proc. 2021-26, 2021-22 I.R.B. 1163, by Rev. Proc. 2017-59, 2017-48 I.R.B. 543, and by section 17.02(b) and (c) of Rev. Proc. 2016-1, 2016-1 I.R.B. 1, provides the procedures by which a taxpayer may obtain automatic consent to change certain accounting methods. Pursuant to section 9 of Rev. Proc. 2015-13, a taxpayer that complies with all the applicable provisions of Rev. Proc. 2015-13, and implements the change in method of accounting on its federal income tax return for the requested year of change to which the original Form 3115 is attached pursuant to section 6.03 of Rev. Proc. 2015-13, has obtained the consent of the Commissioner to change its method of accounting under § 446(e) and the regulations thereunder.

Section 6.03(1)(a)(i) of Rev. Proc. 2015-13 provides that a taxpayer changing a method of accounting under the automatic change procedures must complete and file a Form 3115 in duplicate. The original Form 3115 must be attached to the taxpayer's timely filed (including any extensions) original Federal income tax return for the year of change, and a copy (with signature) of the Form 3115 must be filed with the Ogden, UT office of the Service no earlier than the first day of the year of change and no later than the date the taxpayer files the original Form 3115 with the Federal income tax return for the requested year of change.

Election Out of Additional First Year Depreciation Under § 168(k)(7).

Section 168(k)(1) allows, in the taxable year that qualified property is placed in service by the taxpayer, an additional first year depreciation deduction equal to the applicable percentage of the adjusted basis of that qualified property.

Section 168(k)(7) allows a taxpayer to elect out of additional first year depreciation for any class of property placed in service during a taxable year. Section 1.168(k)-2(f)(1)(i) provides that if this election is made, the election applies to all qualified property that is in the same class of property and placed in service in the same taxable year, and no additional first year depreciation deduction is allowable for the property placed in service during the taxable year for the class of property, except as provided in § 1.743-1(j)(4)(i)(B)(1). The term "class of property" is defined in § 1.168(k)-2(f)(1)(ii) as meaning, among other things, each class of property described in § 168(e) (for example, 5-year property).

Section 1.168(k)-2(f)(1)(iii)(A) 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 qualified property is placed in service by the taxpayer.

Section 1.168(k)-2(f)(1)(iii)(B) 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 Taxable Year provide that the election not to deduct the additional first year depreciation is made by attaching a statement to the taxpayer's timely filed federal 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.

Extensions of Time to Make Elections under §§ 301.9100-1 through 301.9100-3.

Section 301.9100-1(c) provides that the Commissioner has the discretion to grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make certain regulatory elections.

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 301.9100-1(b) defines a regulatory election as an election whose due date is prescribed by regulations published in the Federal Register, a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin. The requested accounting method change is a regulatory election because the due date of the change is prescribed in § 1.446-1(e) and section 6.03(1)(a)(i) of Rev. Proc. 2015-13. The requested election not to deduct the additional first year depreciation is also a regulatory election because the due date of the election is prescribed in § 1.168(k)-2(f)(1)(iii)(A).

Taxpayer's request must be analyzed under the requirements of § 301.9100-3 because the automatic extensions provided in § 301.9100-2 are not applicable.

Section 301.9100-3(a) provides that requests for relief subject to § 301.9100-3 will be granted when a taxpayer provides evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that the granting of relief will not prejudice the interests of the Government.

Section 301.9100-3(c)(2) imposes special rules for accounting method regulatory elections. This section provides, in relevant part, that the interests of the Government are deemed to be prejudiced except in unusual and compelling circumstances when the accounting method regulatory election for which relief is requested is subject to the procedure described in § 1.446-1(e)(3)(i) or the relief requires an adjustment under § 481(a) (or would require an adjustment under § 481(a) if the taxpayer changed to the

accounting method for which relief is requested in a taxable year subsequent to the taxable year the election should have been made).

## 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 an extension of time to file the required original Form 3115, effective for Taxable Year, and to make the election under § 168(k)(7) not to deduct the additional first year depreciation under § 168(k) for 7-year property, 15-year property, and computer software that were placed in service by Taxpayer in Taxable Year.

In this regard, we will consider the filing of the Form 3115 and the § 168(k)(7) election statement with Taxpayer's consolidated federal income tax return for Taxable Year, that was filed on Date7, to be timely made.

Except as expressly set forth above, we express no opinion concerning the tax consequences of the facts described above under any other provision of the Code or regulations. Specifically, no opinion is expressed or implied concerning whether: (1) the accounting method change Taxpayer has made is eligible to be made under the automatic change procedures of Rev. Proc. 2015-13 and is described in the operative List of Automatic Changes revenue procedure; (2) Taxpayer otherwise meets the requirements of Rev. Proc. 2015-13 to make the accounting method changes using the automatic change procedures of Rev. Proc. 2015-13; (3) Taxpayer's proposed § 263A accounting method is correct; (4) any item of depreciable property placed in service by Taxpayer during Taxable Year is eligible for the additional first year depreciation under § 168(k); or (5) Taxpayer's classification of any item of depreciable or amortizable property under § 168(e) or 167(f)(1) is correct.

Further, this letter ruling does not grant any extension of time for the filing of Taxpayer's Form 7004 or its Form 1120 for Taxable Year.

The ruling contained in this letter ruling is based upon facts and representations submitted by Taxpayer with an accompanying penalty of perjury statement executed by the appropriate party. While this office has not verified any of the material submitted in support of this request for an extension of time to file the required Forms 3115 and to make the election under § 168(k)(7) not to deduct the additional first year depreciation, all material is subject to verification on examination.

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 ruling to Taxpayer's authorized representatives. We are also sending a copy of this letter ruling to the appropriate Service operating division official.

Sincerely,

Charles J. Magee

CHARLES J. MAGEE
Senior Counsel, Branch 7
Office of Associate Chief Counsel
(Income Tax and Accounting)

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

cc: