Internal Revenue Service

Number: **201535013**
Release Date: 8/28/2015

Index Number: 9100.04-00

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:B07
PLR-142810-14

Date:
May 15, 2015

Re:

Legend

Parent =

S1 =

S2 =

S3 =

S4 =

S5 =

S6 =

S7 =

S8 =

S9 =

S10 =

S11 =

S12 =

S13 =

S14 =

Date 1 =

Date 2 =

A =

B =

Dear :

This letter responds to a letter dated November 14, 2014, and subsequent correspondence, submitted by Parent on behalf of itself and S1, S2, S3, S4, S5, S6, S7, S8, S9, S10, S11, S12, S13, and S14 (hereinafter 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 for all classes of qualified property placed in service by Taxpayer during the taxable year ended Date 1 (the A taxable year).

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer files a consolidated federal income tax return on a calendar year basis. Taxpayer timely filed its consolidated federal income tax return for the A taxable year on Date 2. The period of limitation on assessment under § 6501(a) for the A taxable year has not expired as of the date of this letter.

Taxpayer is in the business of B. Taxpayer placed in service qualified property (as defined in § 168(k)(2)) during the A taxable year.

On the consolidated federal income tax return for the A taxable year, Taxpayer did not claim the additional first year depreciation deduction for any classes of qualified property placed in service by Taxpayer during that taxable year. Parent, however, inadvertently failed to attach the election statement not to claim the additional first year

depreciation deduction for all classes of qualified property placed in service by Taxpayer, as required by § 1.168(k)-1(e)(3)(ii) of the Income Tax Regulations, to the consolidated federal income tax return for the A taxable year. Parent's A consolidated federal income tax return was prepared in house.

RULING REQUESTED

Taxpayer requests a ruling pursuant to § 301.9100-3 of the Procedure and Administration Regulations that it be granted an extension of time to 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 A taxable year.

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 (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 (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.

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 B taxable year 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 (including extensions) 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.

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) for all classes of property placed in service by Taxpayer during the A taxable year that qualify for the additional first year depreciation deduction. This election must be made by Parent filing an amended consolidated federal income tax return for the A 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 A taxable year is eligible for the additional first year depreciation deduction.

We are 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 yours,

Kathleen Reed

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

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