Internal Revenue Service

Number: **201944001**
Release Date: 11/1/2019

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.

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Refer Reply To:
CC:ITA:07
PLR-100776-19

Date:
August 1, 2019

Re: Request for Extension of Time to Make a General Asset Account Election under § 168(i)(4)

Legend

P =

S1 =
S2 =

LLC =

A =
CPA =
Year1 =
Date1 =
Date2 =

Dear :

This letter ruling responds to a letter dated December 10, 2018, submitted by P on behalf of S1, requesting an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to make a general asset account election under § 168(i)(4) of the Internal Revenue Code for the taxable year ended Date1 (Year1 taxable year).

FACTS

P represents that the facts are as follows:

P is the common parent of an affiliated group of corporations that files consolidated federal income tax returns that includes S1. S1 is A. S1's overall method of accounting is an accrual method.

On Date2 (which is during the Year1 taxable year), S2 was contributed to S1, and then converted into a limited liability company by a merger into LLC. LLC is wholly-owned by S1 and is a disregarded entity for federal income tax purposes. This transaction was treated as a contribution of S2 into S1 under § 351, followed by a liquidation of S2 into S1 under § 332. As a result of this transaction, S2 was no longer in existence by the end of the Year1 taxable year for federal tax purposes.

In its consolidated federal income tax return for the Year1 taxable year, P attached to such return a statement electing to include each real property asset placed in service during the Year1 taxable year to be included in a single-asset general asset account, for certain entities including S2. S1 was not included in this general asset account election statement nor was the Form 4562, Line 18 box checked in S1's pro forma federal income tax return for the Year1 taxable year. However, the supporting books and records for P's consolidated federal income tax return for the Year1 taxable year reflected S1's real property assets as being placed into general asset accounts.

Prior to the Year1 taxable year, no general asset account election had been made for S1 because S1 did not have any real estate property. Following the Date2, transaction described above, S1 owned, for federal tax purposes, all of the activities and assets of S2, including the real property assets placed in service by S2 during the Year1 taxable year.

After filing its consolidated federal income tax return for the Year1 taxable year, P consulted with CPA whose representatives explained that as a result of the Date2, transaction described above, a general asset account election with respect to the assets placed in service by S2 (including its legal successor, LLC) in the Year1 taxable year should have been made by S1 and not S2.

RULING REQUESTED

P requests an extension of time under §§ 301.9100-1 and 301.9100-3 to make the general asset account election pursuant to § 168(i)(4) and § 1.168(i)-1(l) of the Income Tax Regulations on behalf of S1 to include each real property asset placed in service by S1 or S1's predecessor during the Year1 taxable year into a single-asset general asset account.

LAW

Section 168(i)(4) provides that under regulations, a taxpayer may maintain one or more general asset accounts for any property to which this section applies; and that, except as provided in regulations, all proceeds realized on any disposition of property in a general asset account shall be included in income as ordinary income.

Section 1.168(i)-1(a) provides the rules for general asset accounts under § 168(i)(4), and also provides that the provisions of § 1.168(i)-1 apply only to assets for which an election is made under §1.168(i)-1(l).

Section 1.168(i)-1(c)(1) provides that assets that are subject to either the general depreciation system of § 168(a) or the alternative depreciation system of § 168(g) may be accounted for in one or more general asset accounts. Section 1.168(i)-1(c)(1) further provides that an asset is not to be included in a general asset account if the asset is placed in service and disposed of during the same taxable year.

Section 1.168(i)-1(l)(2) and (3) provide the time and manner of making the general asset account election. Under § 1.168(i)-1(l)(2), the election to apply § 1.168(i)-1 is made on the taxpayer's timely filed (including extensions) income tax return for the taxable year in which the assets included in the general asset account are placed in service by the taxpayer, and is made separately by each person owning an asset to which § 1.168(i)-1 applies (for example, by each member of a consolidated group).

Section 1.168(i)-1(l)(3) provides that in the year of election, a taxpayer makes the election under § 1.168(i)-1 by typing or legibly printing at the top of Form 4562, "GENERAL ASSET ACCOUNT ELECTION MADE UNDER SECTION 168(i)(4)," or in the manner provided for on Form 4562 and its instructions. The instructions for the Year1 Form 4562 provide that to make the general asset account election, check the box on line 18. Section 1.168(i)-1(l)(3) further provides that the taxpayer shall maintain records that identify the assets included in each general asset account, that establish the unadjusted depreciable basis and depreciation reserve of the general asset account, and that reflect the amount realized during the taxable year upon dispositions from each general asset account.

Section 1.168(i)-8(b)(2) defines the term "disposition" as occurring when ownership of the asset is transferred or when the asset is permanently withdrawn from use either in the taxpayer's trade or business or in the production of income. *See also* § 1.168(i)-1(e)(1)(i). Section 1.168(i)-8(d)(1) provides that a disposition includes, among other things, a transfer of a portion of an asset in a transaction described in § 168(i)(7)(B).

The transactions described in § 168(i)(7)(B) are (i) any transaction described in § 332, 351, 361, 721, or 731, and (ii) any transaction between members of the same

affiliated group during any taxable year for which a consolidated return is made by such group.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner of Internal Revenue 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 a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Section 301.9100-1(c) provides that 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 certain regulatory elections.

Section 301.9100-3(a) provides that requests for relief subject to § 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 that the granting 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, P is granted an extension of 60 calendar days from the date of this letter ruling to make the election under § 168(i)(4) and § 1.168(i)-1(l) on behalf of S1, to include each real property asset placed in service by S1 or S1's predecessor during the Year1 taxable year into a single-asset general asset account. This election must be made by P filing an amended consolidated federal income tax return for the Year1 taxable year, with a statement indicating that S1 is electing to include each real property asset placed in service by S1 or S1's predecessor during the Year1 taxable year into a single-asset general asset account.

In addition, a copy of this letter ruling must be attached to that amended return. A copy is enclosed for that purpose. Alternatively, a taxpayer filing its consolidated federal income tax return electronically may satisfy this requirement by attaching a statement to the amended return that provides the date and control number of the letter ruling.

Except as specifically ruled upon above, no opinion is expressed or implied concerning the federal tax consequences of the facts described above under any other provision of the Code or regulations (including other subsections of § 168). Specifically, no opinion is expressed or implied on (1) whether each real property asset placed in

service by S1 or S1's predecessor during the Year1 taxable year is eligible to be accounted for in one or more general asset accounts, or (2) the federal tax consequences of the Date2, transaction previously described in this letter ruling.

The ruling contained in this letter ruling is based upon information and representations submitted by P and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for the ruling, 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 on file with this office, we are sending a copy of this letter ruling to Taxpayer's authorized representative. We also are sending a copy of this letter ruling to the appropriate operating division director.

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