#### **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:B07 PLR-115088-24

Date:

February 21, 2025

Re: Request to Revoke the Election Under § 168(k)(7) Not to Deduct the Additional First Year Depreciation

# Legend

Taxpayer = Taxable Year 1 =

Taxable Year 2 =

Taxable Year 3 =

 X
 =

 Preparer 1
 =

 Preparer 2
 =

 Firm 1
 =

 Firm 2
 =

 Date
 =

 State
 =

## Dear :

This letter responds to a letter dated August 8, 2024, and supplemental information, submitted on behalf of Taxpayer by Taxpayer's authorized representative, requesting the consent of the Commissioner of Internal Revenue to revoke Taxpayer's election under § 168(k)(7) of the Internal Revenue Code not to deduct any additional first year depreciation that was made on its federal tax return for Taxable Year 1. 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.

Unless provided otherwise, 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. 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 § 1.168(k)-2 regulations published in the Federal Register on November 10, 2020 (85 FR 71734).

#### **FACTS**

Taxpayer is a limited liability company treated as a partnership for federal income tax purposes. Taxpayer files a Form 1065, U.S. Return on Partnership Income, on a calendar year basis (Form 1065). Taxpayer's overall method of accounting is an accrual method. Taxpayer is engaged in the business of  $\underline{X}$ . Taxpayer timely filed its Form 1065 (including extensions) for Taxable Year 1.

Taxpayer engaged Preparer 1 of Firm 1 to prepare and file its Form 1065 for Taxable Year 1.

Taxpayer placed in service qualified property in the 5-year class, 7-year class, and 15-year class in Taxable Year 1. However, Taxpayer elected out of the additional first year depreciation under § 168(k)(7) for all eligible classes of qualified property on its Form 1065 for Taxable Year 1, a year for which the applicable percentage for qualified property is 100% under § 168(k)(6)(A)(i).

Preparer 1 is a licensed certified public accountant in the state of State. Taxpayer, who is not a tax professional, relied on Preparer 1's advice.

Taxpayer subsequently engaged Preparer 2 of Firm 2 to prepare its federal income tax return for Taxable Year 3. In reviewing Taxpayer's Form 1065 for Taxable Year 1 with respect to § 168(k), Preparer 2, if they had been asked to provide advice with respect to § 168(k), would have advised Taxpayer not to elect out of the additional first year depreciation under § 168(k)(7) for Taxable Year 1. Preparer 2 advised Taxpayer to file this request for relief under § 1.168(k)-2(f)(5). Accordingly, Taxpayer is requesting permission to revoke its § 168(k)(7) election that Taxpayer made for Taxable Year 1.

The period of limitation on assessment for Taxpayer's tax return for Taxable Year 1 has been extended, by agreement under § 6501(c)(4), to Date, which is after the date of this letter ruling.

### **RULING REQUESTED**

Accordingly, Taxpayer requests consent to revoke its § 168(k)(7) election not to deduct additional first year depreciation under § 168(k)(1) for all classes of qualified property that were placed in service during Taxable Year 1.

#### LAW AND ANALYSIS

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

For qualified property acquired by a taxpayer after September 27, 2017, § 168(k)(6)(A)(i) and (B)(i) provide that the applicable percentage is 100 percent for qualified property placed in service by the taxpayer after September 27, 2017, and before January 1, 2023 (or before January 1, 2024 for qualified property described in § 168(k)(2)(B) or (C)).

Section 168(k)(7) provides that a taxpayer may elect not to deduct the additional first year depreciation for any class of property that is qualified property placed in service during the taxable year. Section 1.168(k)-2(f)(1)(i) provides that if this § 168(k)(7) 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 is allowable for the property placed in service during the taxable year in 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, for purposes of this § 168(k)(7) election, each class of property described in § 168(e) (for example, 5-year property).

Section 1.168(k)-2(f)(5) provides that an election under § 168(k)(7), once made, may generally be revoked only by filing a request for a private letter ruling and obtaining the Commissioner of Internal Revenue's written consent to revoke the election. The Commissioner may grant a request to revoke the election if the taxpayer acted reasonably and in good faith, and the revocation will not prejudice the interests of the Government.

## CONCLUSION

Based solely on the facts and representations submitted, we conclude that the requirements of § 1.168(k)-2(f)(5) have been satisfied. Accordingly, Taxpayer is granted 60 calendar days from the date of this letter to revoke its election not to deduct any additional first year depreciation for all classes of qualified property that were placed in service by Taxpayer during Taxable Year 1. This revocation must be made by Taxpayer: (i) filing an amended federal income tax return for Taxable Year 1 with a written statement indicating that Taxpayer is revoking its election under § 168(k)(7) not to deduct additional first year depreciation under § 168(k)(1) for all classes of qualified property that were placed in service during Taxable Year 1; (ii) filing an amended federal income tax return for Taxable Year 2 if a depreciation deduction was allowed or allowable in such year with respect to any qualified property that was placed in service during Taxable Year 1; and (iii) filing an amended federal income tax return for Taxable Year 3 if a depreciation deduction was allowed or allowable in such year with respect to

any qualified property that was placed in service during Taxable Year 1. Each amended federal income tax return must include the adjustment to tax liability, the adjustment to taxable income for the amount of depreciation allowed or allowable for that taxable year, and any collateral adjustments to taxable income or tax liability.

A copy of this letter ruling must be attached to each amended federal income tax return. A taxpayer filing its federal return electronically may satisfy this requirement by attaching a statement on their return that provides the date and control number of the letter ruling.

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 (including other subsections of § 168). Specifically, no opinion is expressed or implied concerning whether: (1) any item of depreciable property placed in service by Taxpayer during Taxable Year 1 is eligible for the additional first year depreciation under § 168(k); (2) any item of such property is qualified property as defined in § 168(k)(2); and (3) Taxpayer's classification of any item of depreciable property under § 168(e) is correct.

The rulings contained in this letter are based upon facts and representations submitted by Taxpayer with accompanying penalty of perjury statements executed by an appropriate party. While this office has not verified all of the information submitted in support of the request for ruling, it 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 are also sending a copy of this letter ruling to the appropriate IRS operating division official.

Sincerely,

JAMES F. LIECHTY
Tax Law Specialist, Branch 7
Office of Associate Chief Counsel
(Income Tax and Accounting)

Enclosures (2): Copy of this letter

Copy for section 6110 purposes

cc: