

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

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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 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

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