Internal Revenue Service

Number: **202532011**
Release Date: 8/8/2025

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-121827-24

Date:
May 1, 2025

Re: Request for Extension of Time to Make the Election Not to Deduct the Additional First Year Depreciation

LEGEND:

Taxpayer	=
X	=
FS	=
Estate Administrator	=
Estate	=
Trust1	=
Trust2	=
Accounting Firm 1	=
Accounting Firm 2	=
Accounting Firm 3	=
Tax Accountant 1	=
Tax Accountant 2	=
Taxable Year	=
Year1	=
Year2	=
Date1	=
Date2	=
Date3	=
Date4	=
Date5	=
Date6	=

Date7 =
Date8 =
Date9 =
Date10 =
Date11 =
$A =
$B =

Dear :

This letter ruling refers to a letter dated December 3, 2024, submitted on behalf of Taxpayer by Taxpayer's authorized representative, requesting an extension of time to make the election not to deduct additional first year depreciation under § 168(k)(7) of the Internal Revenue Code for all classes of qualified property placed in service during Taxable Year. This request is made pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations. This letter ruling is being issued electronically as permissible under section 7.02(5) of Rev. Proc. 2024-1, 2024-1 I.R.B. 1, 34.

All references in this letter ruling to § 168(k) are treated as a reference to § 168(k) as in effect after amendment by the Tax Cuts and Jobs Act, Pub. L. 115-97, 131 Stat. 2054 (December 22, 2017). Further, all references 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).

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer is a corporation that elected to be classified as a subchapter S corporation. Taxpayer files an annual Form 1120-S, *U.S. Income Tax Return for an S Corporation*, on a calendar-year basis and uses an accrual method of accounting as its overall method of accounting.

Taxpayer was founded by FS and is in the business of X. Taxpayer does not employ an in-house tax professional. Instead, Taxpayer relies on external tax advisors to prepare and file its U.S. federal and state income tax returns and to provide other tax services, as needed.

Taxpayer engaged Accounting Firm 1 to prepare and timely file its Form 1120-S for Taxable Year. Accounting Firm 1 had long served as the tax advisor and income tax return preparer for both Taxpayer and FS. Accounting Firm 1 also provided financial audit services to Taxpayer.

Tax Accountant 1, a Partner in Accounting Firm 1, prepared and filed Form 1120-S for Taxpayer for Taxable Year. Tax Accountant 1 also prepared and filed FS's final Form 1040, *U.S. Individual Income Tax Return*, for the taxable year beginning Date1, and ending on the date of FS's death, Date2. Tax Accountant 1 supervised the preparation of both returns and signed both returns as the paid preparer.

The due date of both the Form 1120-S for Taxable Year, and the final Form 1040 was Date3. The final Form 1040 was timely mailed to the Internal Revenue Service on Date4. The Form 1120-S for Taxable Year, was timely e-filed and accepted by the Service on Date5.

Taxpayer's Form 1120-S for Taxable Year, claimed the additional first year depreciation deduction for all classes of qualified property placed in service by Taxpayer during Taxable Year.

When Tax Accountant 1's team prepared Taxpayer's Form 1120-S for Taxable Year, they neglected to consider if it would be beneficial to Taxpayer and its shareholders for Taxpayer to make the election under 168(k)(7) not to deduct additional first year depreciation for qualified property placed in service during Taxable Year. The team did not discuss the § 168(k)(7) election with Taxpayer's personnel. Further, Tax Accountant 1 did not advise Taxpayer to make the election on its Year1 Form 1120-S. The election out of the additional first year depreciation deduction would have been beneficial to Taxpayer and its shareholders because it would have (i) prevented the forfeiture of more than $A of net operating losses on FS's final Form 1040 and (ii) maximized the value of depreciation deductions for property placed in service by Taxpayer during Taxable Year.

In Date6, Estate Administrator engaged Accounting Firm 2 to prepare and file Form 1041, *U.S. Income Tax Return for Estates and Trusts*, for the Estate. Tax Accountant 2, the Managing Member of Accounting Firm 2, oversaw the preparation and filing of Form 1041 for the Estate for the short tax period beginning Date2, and ending Date7.

In Date8, while working on Form 1041 for the Estate, Tax Accountant 2 looked at the final Form 1040 that was filed for FS and the Year1 Form 1120-S that was filed for Taxpayer. Tax Accountant 2 found that the failure to elect out of additional first year depreciation on the Year1 Form 1120-S resulted in an extremely large net operating loss being reported on FS's return that was unusable and, therefore, forfeited. Tax Accountant 2 promptly informed Estate Administrator of the impact of the failure to elect out of additional first year depreciation on the Year1 Form 1120-S and that the election could not be made on an amended Form 1120-S for Taxable Year. The issue was discussed only briefly at that time, as other more pressing Estate matters required Estate Administrator's immediate attention.

On Date9, Estate Administrator received an urgent call from an attorney for Trust 1 and Trust 2 who had just learned from Tax Accountant 1 that the two trusts owed a substantial amount of tax for the taxable year ended Date10. The attorney indicated that Tax Accountant 1 had previously advised that the two trusts would not owe tax for Year2 due to a large net operating loss carryforward to each trust from Taxable Year. Estate Administrator immediately reached out to Tax Accountant 1, who acknowledged that $B of the passthrough loss allocated to each trust for Taxable Year was lost because it was reported as a loss for FS personally and not the trusts.

Accounting Firm 3 subsequently advised Estate Administrator that it could assist Taxpayer by preparing and submitting a private letter ruling requesting an extension of time under § 301.9100-1 and -3 to make the election not to deduct additional first year depreciation for Taxable Year. On Date11, Taxpayer received, and immediately executed, an engagement letter for Accounting Firm 3 to prepare this ruling request.

RULING REQUESTED

Accordingly, Taxpayer requests an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 to make an election under § 168(k)(7) not to deduct the additional first year depreciation for all classes of qualified property placed in service by Taxpayer during Taxable Year.

LAW

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.

Section 168(k)(6) provides that, in general, the applicable percentage for qualified property placed in service by the taxpayer after September 27, 2017, and before January 1, 2023 (before January 1, 2024, for qualified property described in § 168(k)(2)(B) and (C)), is 100 percent.

Section 168(k)(7) provides that a taxpayer may elect not to deduct additional first year depreciation for any class of property placed in service during the 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 in the class of property. 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 the Year1 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 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.

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 a regulatory election. Under § 301.9100-1(a), 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.

Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides rules for requesting extensions of time for making regulatory 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.

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 an extension of 60 calendar days from the date of this letter ruling to make the election under § 168(k)(7) not to deduct the additional first year depreciation for all classes of qualified property placed in service by Taxpayer during Taxable Year.

This election must be made by Taxpayer filing an amended Form 1120-S for Taxable Year, with a statement indicating that Taxpayer is electing not to deduct the additional first year depreciation for all classes of qualified property placed in service by Taxpayer during Taxable Year.

Except as specifically set forth above, no opinion is expressed or implied concerning the federal 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 (1) any item of depreciable property placed in service by Taxpayer during Taxable Year is eligible for the additional first year depreciation deduction under § 168(k); or (2) Taxpayer's classification of any item of depreciable property under §168(e) or Rev. Proc. 87-56, 1987-2 C.B. 674, is correct.

The ruling contained in this letter is based upon information and representations submitted by Taxpayer 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 ruling, it is subject to verification on examination.

A copy of this letter ruling must be attached to any federal income tax return to which it is relevant. Alternatively, a taxpayer filing its federal return electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

This letter ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that this ruling 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 representatives. We are also sending a copy of this letter ruling to the appropriate operating division director.

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: