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-102073-25

Date:
June 3, 2025

Re: Request to Revoke the Election Not to Deduct the Additional First Year Depreciation

LEGEND:

Taxpayer	=
Sub1	=
Sub2	=
A	=
B	=
C	=
D	=
Firm	=
Date 1	=
Date 2	=
Date 3	=
Date 4	=
Date 5	=
Date 6	=

Dear :

This letter refers to a letter dated , and supplemental information, submitted on behalf of Taxpayer by its 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 additional first year depreciation for all assets in the 5-year class of property placed in service by

Taxpayer during the A taxable year. Taxpayer made the § 168(k)(7) election on its federal income tax return for the A taxable year. This letter ruling is being issued electronically, as permissible under section 7.02(5) of Rev. Proc. 2025-1, 2025-1 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 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 § 1.168(k)-2 regulations published in the Federal Register on November 10, 2020 (85 FR 71734).

FACTS

Taxpayer, an S corporation, is treated as a partnership for Federal income tax purposes and files a Form 1120-S, U.S. Income Tax Return for an S Corporation, on a calendar year basis (Form 1120-S). Taxpayer's overall method of accounting is the accrual method. Taxpayer timely filed its Form 1120-S for the A taxable year. Taxpayer is engaged in the B business.

Taxpayer was established during the A taxable year on Date 1 to facilitate a § 368(a)(1)(F) reorganization of Sub1 (the "C Reorganization").

Taxpayer, the parent company, filed a Form 8869 Qualified Subchapter S Subsidiary Election, for Sub1, the subsidiary corporation, effective Date 1. Because the C Reorganization qualifies as a mere change in identity or form, Firm concluded that no filing was required for the stub period prior to the Qsub election under § 381(b) for Sub1. Firm prepared one federal income tax return for Taxpayer for the taxable year Date 2 – Date 3.

Sub1 placed in service qualified property in the 5-year class during the A taxable year. Taxpayer made an election under § 168(k)(7) not to deduct the additional first year depreciation for all eligible classes of qualified property on its Form 1120-S for the A taxable year.

The C Reorganization was an initial step in a larger series of transactions that involved establishing a partnership, Sub2, to serve as a holding company for several related entities. (the "D Reorganization"). The D Reorganization occurred on Date 4 and was carried out to consolidate the various operations under one streamlined entity as the service line is the same. The separation of businesses stemmed out of various acquisitions in different state markets over the last several years. Combining all entities allowed better shared resources among the group and provided cohesive branding throughout the country. On Date 5, Sub1 was converted to a state law single member LLC and terminated the QSub election. On Date 4, 100% of Sub1 units were exchanged for Sub2 units of the same value. This transaction qualified for

treatment under § 721 as Taxpayer was deemed to contribute assets of a 100% owned subsidiary.

As part of the D Reorganization, six new entities were created and several related entity stub period returns were filed. During the planning stage of the D Reorganization, all related entities were reviewed to ensure that suspended losses were not created for activity prior to Date 4 that could not be offset by taxable income generated after the D Reorganization due to basis limitations. Thus, the decision to make the election not to claim the additional first year depreciation deduction to prevent Taxpayer from generating such potential suspended losses. After all of Taxpayer's stub period returns were filed, as well as the Sub2 return, the income allocations differed significantly from the original planning. This created a significant tax liability at the partner level because there was a mismatch between losses and basis that did not offset taxable income generated after the D Reorganization. Had Taxpayer claimed the additional first year depreciation, as allowable, the taxable income would have been significantly reduced at the partner level.

The Form 1120-S including elections was due by the extended due date of Date 6. The Form 1120-S was transmitted to the IRS and accepted on Date 7. The § 168(k)(7) election not to deduct first year additional depreciation for the 5-year property placed in service during the A taxable year was made on Taxpayer's timely filed return for the A taxable year.

Taxpayer relied upon the expertise of Firm, who was aware of all the relevant facts and competent to render advice on the § 168(k)(7) election.

Firm advised Taxpayer that because the § 168(k)(7) election not to claim additional first year depreciation for the qualified property was made for the A taxable year, Taxpayer was not permitted to amend the return and claim the § 168(k) depreciation deduction to offset the tax liability without obtaining the written consent of the Commissioner to revoke the § 168(k)(7) election.

RULING REQUESTED

Accordingly, Taxpayer requests the Commissioner's consent to revoke its § 168(k)(7) election not to deduct additional first year depreciation for the class of 5-year property that Taxpayer placed in service during the A taxable year, pursuant to § 1.168(k)-2(f)(5).

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 (before January 1, 2024, for qualified property described in § 168(k)(2)(B) and (C)).

Section 168(k)(7) 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.

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, 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)(A) as meaning 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 under § 168(k)(7) not to deduct any additional first year depreciation for 5-year class of property included in § 1.168(k)- 2(f)(1) that Taxpayer placed in service during the A taxable year. The revocation must be made in a written statement filed with Taxpayer’s amended federal tax return for the A taxable year.

Additionally, a copy of this letter should be attached to such amended return. 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.

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 (1) 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 under § 168(k), (2) if any item of such property is eligible for the additional first year depreciation deduction, (3) whether that item is qualified property as defined in § 168(k)(2) or (4) whether Taxpayer properly made the § 168(k)(7) election for the A taxable year, as required under § 1.168(k)-2(f)(1)(iii).

The rulings contained in this letter are 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.

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 representatives. We are also sending a copy of this letter ruling to the appropriate IRS operating division director.

Sincerely,

ELIZABETH R. BINDER
Senior Counsel, Branch 7
Office of the Associate Chief Counsel
(Income Tax & Accounting)

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

cc: