DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

March 05, 2009

CC:ITA:B07
GENIN-111423-09

UIL: 168.36-00

, Esq.

Dear :

This letter responds to your request for information during a telephone conversation held on February 27, 2009. You asked whether a taxpayer with a taxable year end of June 30, 2008 (and an extended due date for the original federal income tax return for such taxable year of March 15, 2009) is allowed the option provided by section 3.02(1)(a)(i)(I) and (II) of Rev. Proc. 2009-16, 2009-6 I.R.B. 449, for making the election under section 168(k)(4) of the Internal Revenue Code if such taxpayer files its original federal income tax return for such taxable year on or before March 11, 2009.

As we stated during our telephone conversation, a taxpayer with a taxable year end of June 30, 2008 (and an extended due date for the original federal income tax return for such taxable year of March 15, 2009) is allowed the option provided by section 3.02(1)(a)(i)(I) and (II) of Rev. Proc. 2009-16 if such taxpayer files its original federal income tax return for such taxable year on or before March 11, 2009, consistent with the option available to a taxpayer who files its original federal income tax return after March 11, 2009. Accordingly, the taxpayer may elect section 168(k)(4) for eligible qualified property placed in service during its taxable year ending June 30, 2008, either:

(i) by claiming, on its original federal income tax return for such taxable year, the additional first year depreciation deduction provided by section 168(k) (the "Stimulus additional first year depreciation deduction") for such property, subsequently filing an amended federal income tax return to determine the depreciation deduction for the property by using the straight line method and by not claiming the Stimulus additional first year depreciation deduction, and to claim the refundable credit allowed by section 168(k)(4), and if the taxpayer is a partner in a partnership, by notifying the partnership in accordance with section 5.02 of Rev. Proc. 2009-16. (Section 3.02(1)(a)(i)(I), (a)(ii), and (a)(iii) of Rev. Proc. 2009-16); or

(ii) by determining, on its original federal income tax return for such taxable year, the depreciation deduction for such property by using the straight line method and by

not claiming the Stimulus additional first year depreciation deduction, subsequently filing an amended federal income tax return to claim the refundable credit allowed by section 168(k)(4), and if the taxpayer is a partner in a partnership, by notifying the partnership in accordance with section 5.02 of Rev. Proc. 2009-16. (Section 3.02(1)(a)(i)(II), (a)(ii), and (a)(iii) of Rev. Proc. 2009-16).

This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See section 2.04 of Rev. Proc. 2009-1, 2009-1 IRB 1, 7 (Jan. 5, 2009). If you have any additional questions, please contact our office at

Sincerely,

Kathleen Reed
Chief, Branch 7
(Income Tax & Accounting)