



## PERMANENT CLARIFICATION OF DEPRECIATION OF MOTORSPORTS FACILITIES

### **BACKGROUND**

Current tax law establishes depreciation periods for business assets in recognition that as property ages it loses value and must ultimately be replaced. Congress has structured the depreciation provisions of the Internal Revenue Code ("IRC") to promote investment and modernization of business assets.

Section 168 of the IRC prescribes depreciation methods and recovery periods. It authorizes the Secretary of Treasury to monitor and analyze actual experience with depreciable lives and to assign depreciation periods to asset classes. In addition, Section 168 specifies the depreciation periods for certain asset categories.

Under the authority established by Section 168, the Internal Revenue Service ("IRS") has established a number of asset classes that specify the depreciation period for particular types of property. The IRS has established Asset Class 80.0, "Theme and Amusement Parks," which includes "assets used in the provision of rides, attractions, and amusements in activities defined as theme and amusement parks . . . [which are] combinations of amusements, rides, and attractions which are permanently situated on park land and open to the public for the price of admission" (IRS Rev. Proc. 87-56, 1987-2 C.B. 674). Asset Class 80.0 currently provides for a seven-year depreciation period for assets. The motorsports industry reasonably relied on the use of Asset Class 80.0 for over twenty years. In 2004, after some questions were raised by the IRS over this asset classification, Congress acted to clarify that a seven-year depreciation period was indeed appropriate for motorsports facilities.

As part of the *American Jobs Creation Act of 2004*, Congress enacted a new section 168(i)(15) that clarified that motorsports entertainment facilities assets placed in service after October 22, 2004 were eligible for the seven-year depreciation period. Motorsports entertainment facilities are defined as a permanent, fixed, racetrack facility that hosts automobile, truck or motorcycle race events, during the 36-month period following the date the assets are first placed in service and that are open to the public for the price of admission. IRC section 168(i)(15) was effective for property placed in service on or before December 31, 2007. Congress confirmed their position as to the seven-year classification in H.R. 1424, the *Emergency Economic Stabilization Act of 2008*, for all assets placed into service on or before December 31, 2009.

### **ISSUE**

Due to the uncertainty as to the tax treatment of capital assets, it is extremely difficult to develop effective long-term strategic planning and investment decisions for facility improvements in future years. To ensure that operators of motorsports entertainment complex properties are able to plan significant investments into the future and to continue to generate valuable economic impact and job creation, Congress must enact a permanent extension of IRC section 168(i)(15).

### **LEGISLATION**

House and Senate bills to make permanent the current seven-year depreciation classification of motorsports entertainment facilities have been introduced in the 111th Congress. H.R. 1974, the *Motorsports Fairness and Permanency Act of 2009*, has been introduced by Representatives Thompson (D-CA) and Heller (R-NV) and companion bill S. 1400 has been introduced by Senators Stabenow (D-MI) and Roberts (R-KS).