



ISSUE PAPER

Subject: Depreciation for Leasehold Improvements

Issue: Depreciation allowances for property used in a trade or business are determined under generally applicable depreciation rules, even if the recovery period assigned to a leasehold improvement is longer than the term of the lease. If the leasehold improvement constitutes an addition or improvement to nonresidential real property, it is depreciated using the straight-line method over a 39-year recovery period. However, tenant improvements seldom last longer than the lease term.

MBA Position: MBA supports a recovery period for leasehold improvements that more closely tracks the actual life of the improvements.

Status: The final version of H.R. 4520, the "American Jobs Creation Act of 2004", as passed by Congress, contained a provision shortening the current 39-year recovery period to 15 years for leasehold improvements placed into service between the date of enactment and January 1, 2006. The President signed the bill into law on October 22, 2004.

On March 15, 2005, Senators Kent Conrad (D-ND) and Jon Kyl (R-AZ) introduced S. 621, a bill to extend the 15-year recovery period permanently. Identical legislation, H.R. 1663, was introduced in the House by Rep. Clay Shaw and others. MBA urged the Conference Committee working on extending expiring tax provisions to include this legislative proposal. Legislation to this end did ultimately pass both chambers and, on December 20, 2006, the President signed a tax bill containing a provision for a 15-year straight-line cost recovery for leasehold improvements. However, the legislation extends this provision only through 2007. MBA will be working again in 2007 to make this provision permanent.

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