

## STREET LIGHT ASSETS QUALIFY AS SEVEN-YEAR MACRS PROPERTY

### Recent Court Ruling Presents Opportunity for Taxpayers

The Tax Court in *PP&L Corporation v. Commissioner*, 135 TC No. 8 (July 28, 2010), has held that street lights are personal property without a class life, and therefore depreciable over seven years. Included as part of the qualifying seven-year assets are the light fixtures, mast arms or brackets, light poles, wires, and bases that are bolted to their foundations.

The Tax Court held that an electric utility could treat its street light assets as seven-year property for Modified Accelerated Cost Recovery System (MACRS) depreciation purposes. It rejected the IRS's view that the assets belonged in the electric utility transmission and distribution plant class (and therefore were recoverable over 20 years), and also rejected the IRS's alternative position that the assets were land improvements recoverable over 15 years. Contrary to the land improvement argument, the six-factor test from *Whiteco Indust. v. Commissioner*, 65 TC 664 (1975), showed that street lights weren't inherently permanent structures, permanently affixed to land, or otherwise classifiable as land improvements.

Taxpayers typically depreciate street lights as 15-year land improvement property. This case highlights the opportunity for taxpayers, with a large number of street lights (large retail centers, office complexes, auto dealerships, etc.), to reclassify these assets to seven-year property. If these assets were placed in service in a prior year, a Form 3115 (Application for Change in Accounting Method) under Rev. Proc. 2009-39 can be filed and taxpayers can recapture the missed depreciation in the current tax year. This is an automatic change not requiring advance consent from the IRS.

For further information on this matter, please contact David A. Grant, CPA, a J.H. Cohn tax partner and head of the Firm's Cost Segregation Studies group, at 973-403-6905 or via email at [dgrant@jhcohn.com](mailto:dgrant@jhcohn.com), or your J.H. Cohn engagement partner at 877-704-3500.

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