

113TH CONGRESS
2D SESSION

H. R. 4718

To amend the Internal Revenue Code of 1986 to modify and make permanent bonus depreciation.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2014

Mr. TIBERI (for himself, Mr. SCHOCK, Mr. YOUNG of Indiana, Mr. REED, Mr. PAULSEN, Mr. GRIFFIN of Arkansas, Mr. NUNES, Mr. KELLY of Pennsylvania, Mr. BRADY of Texas, Ms. JENKINS, Mr. BOUSTANY, Mr. MARCHANT, Mrs. BLACK, Mr. BUCHANAN, Mr. RENACCI, Mr. GERLACH, Mr. REICHERT, Mr. HUIZENGA of Michigan, and Mr. ROSKAM) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to modify and make permanent bonus depreciation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. BONUS DEPRECIATION MODIFIED AND MADE**
4 **PERMANENT.**

5 (a) MADE PERMANENT; INCLUSION OF QUALIFIED
6 RETAIL IMPROVEMENT PROPERTY.—Section 168(k)(2) of
7 the Internal Revenue Code of 1986 is amended to read
8 as follows:

1 “(2) QUALIFIED PROPERTY.—For purposes of
2 this subsection—

3 “(A) IN GENERAL.—The term ‘qualified
4 property’ means property—

5 “(i)(I) to which this section applies
6 which has a recovery period of 20 years or
7 less,

8 “(II) which is computer software
9 (as defined in section 167(f)(1)(B))
10 for which a deduction is allowable
11 under section 167(a) without regard
12 to this subsection,

13 “(III) which is water utility prop-
14 erty,

15 “(IV) which is qualified leasehold
16 improvement property, or

17 “(V) which is qualified retail im-
18 provement property, and

19 “(ii) the original use of which com-
20 mences with the taxpayer.

21 “(B) EXCEPTION FOR ALTERNATIVE DE-
22 PRECIATION PROPERTY.—The term ‘qualified
23 property’ shall not include any property to
24 which the alternative depreciation system under
25 subsection (g) applies, determined—

1 “(i) without regard to paragraph (7)
2 of subsection (g) (relating to election to
3 have system apply), and

4 “(ii) after application of section
5 280F(b) (relating to listed property with
6 limited business use).

7 “(C) SPECIAL RULES.—

8 “(i) SALE-LEASEBACKS.—For pur-
9 poses of clause (ii) and subparagraph
10 (A)(ii), if property is—

11 “(I) originally placed in service
12 by a person, and

13 “(II) sold and leased back by
14 such person within 3 months after the
15 date such property was originally
16 placed in service,

17 such property shall be treated as originally
18 placed in service not earlier than the date
19 on which such property is used under the
20 leaseback referred to in subclause (II).

21 “(ii) SYNDICATION.—For purposes of
22 subparagraph (A)(ii), if—

23 “(I) property is originally placed
24 in service by the lessor of such prop-
25 erty,

1 “(II) such property is sold by
2 such lessor or any subsequent pur-
3 chaser within 3 months after the date
4 such property was originally placed in
5 service (or, in the case of multiple
6 units of property subject to the same
7 lease, within 3 months after the date
8 the final unit is placed in service, so
9 long as the period between the time
10 the first unit is placed in service and
11 the time the last unit is placed in
12 service does not exceed 12 months),
13 and

14 “(III) the user of such property
15 after the last sale during such 3-
16 month period remains the same as
17 when such property was originally
18 placed in service,

19 such property shall be treated as originally
20 placed in service not earlier than the date
21 of such last sale.

22 “(D) COORDINATION WITH SECTION
23 280F.—For purposes of section 280F:

24 “(i) AUTOMOBILES.—In the case of a
25 passenger automobile (as defined in section

1 280F(d)(5)) which is qualified property,
2 the Secretary shall increase the limitation
3 under section 280F(a)(1)(A)(i) by \$8,000.

4 “(ii) LISTED PROPERTY.—The deduc-
5 tion allowable under paragraph (1) shall be
6 taken into account in computing any re-
7 capture amount under section 280F(b)(2).

8 “(iii) INFLATION ADJUSTMENT.—In
9 the case of any taxable year beginning in
10 a calendar year after 2014, the \$8,000
11 amount in clause (i) shall be increased by
12 an amount equal to—

13 “(I) such dollar amount, multi-
14 plied by

15 “(II) the automobile price infla-
16 tion adjustment determined under sec-
17 tion 280F(d)(7)(B)(i) for the calendar
18 year in which such taxable year begins
19 by substituting ‘2013’ for ‘1987’ in
20 subclause (II) thereof.

21 If any increase under the preceding sen-
22 tence is not a multiple of \$100, such in-
23 crease shall be rounded to the nearest mul-
24 tiple of \$100.

1 “(E) DEDUCTION ALLOWED IN COMPUTING
2 MINIMUM TAX.—For purposes of determining
3 alternative minimum taxable income under sec-
4 tion 55, the deduction under section 167 for
5 qualified property shall be determined without
6 regard to any adjustment under section 56.”.

7 (b) EXPANSION OF ELECTION TO ACCELERATE AMT
8 CREDITS IN LIEU OF BONUS DEPRECIATION.—Section
9 168(k)(4) of such Code is amended to read as follows:

10 “(4) ELECTION TO ACCELERATE AMT CREDITS
11 IN LIEU OF BONUS DEPRECIATION.—

12 “(A) IN GENERAL.—If a corporation elects
13 to have this paragraph apply for any taxable
14 year—

15 “(i) paragraphs (1)(A), (2)(D)(i), and
16 (5)(A)(i) shall not apply for such taxable
17 year,

18 “(ii) the applicable depreciation meth-
19 od used under this section with respect to
20 any qualified property shall be the straight
21 line method, and

22 “(iii) the limitation imposed by section
23 53(c) for such taxable year shall be in-
24 creased by the bonus depreciation amount

1 which is determined for such taxable year
2 under subparagraph (B).

3 “(B) BONUS DEPRECIATION AMOUNT.—

4 For purposes of this paragraph—

5 “(i) IN GENERAL.—The bonus depre-
6 ciation amount for any taxable year is an
7 amount equal to 20 percent of the excess
8 (if any) of—

9 “(I) the aggregate amount of de-
10 preciation which would be allowed
11 under this section for qualified prop-
12 erty placed in service by the taxpayer
13 during such taxable year if paragraph
14 (1) applied to all such property, over

15 “(II) the aggregate amount of
16 depreciation which would be allowed
17 under this section for qualified prop-
18 erty placed in service by the taxpayer
19 during such taxable year if paragraph
20 (1) did not apply to any such prop-
21 erty.

22 The aggregate amounts determined under
23 subclauses (I) and (II) shall be determined
24 without regard to any election made under
25 subsection (b)(2)(D), (b)(3)(D), or (g)(7)

1 and without regard to subparagraph
2 (A)(ii).

3 “(ii) LIMITATION.—The bonus depre-
4 ciation amount for any taxable year shall
5 not exceed the lesser of—

6 “(I) 50 percent of the minimum
7 tax credit under section 53(b) for the
8 first taxable year ending after Decem-
9 ber 31, 2013, or

10 “(II) the minimum tax credit
11 under section 53(b) for such taxable
12 year determined by taking into ac-
13 count only the adjusted minimum tax
14 for taxable years ending before Janu-
15 ary 1, 2014 (determined by treating
16 credits as allowed on a first-in, first-
17 out basis).

18 “(iii) AGGREGATION RULE.—All cor-
19 porations which are treated as a single em-
20 ployer under section 52(a) shall be treat-
21 ed—

22 “(I) as 1 taxpayer for purposes
23 of this paragraph, and

1 “(II) as having elected the appli-
2 cation of this paragraph if any such
3 corporation so elects.

4 “(C) CREDIT REFUNDABLE.—For pur-
5 poses of section 6401(b), the aggregate increase
6 in the credits allowable under part IV of sub-
7 chapter A for any taxable year resulting from
8 the application of this paragraph shall be treat-
9 ed as allowed under subpart C of such part
10 (and not any other subpart).

11 “(D) OTHER RULES.—

12 “(i) ELECTION.—Any election under
13 this paragraph may be revoked only with
14 the consent of the Secretary.

15 “(ii) PARTNERSHIPS WITH ELECTING
16 PARTNERS.—In the case of a corporation
17 which is a partner in a partnership and
18 which makes an election under subpara-
19 graph (A) for the taxable year, for pur-
20 poses of determining such corporation’s
21 distributive share of partnership items
22 under section 702 for such taxable year—

23 “(I) paragraphs (1)(A),
24 (2)(D)(i), and (5)(A)(i) shall not
25 apply, and

1 “(II) the applicable depreciation
2 method used under this section with
3 respect to any qualified property shall
4 be the straight line method.

5 “(iii) CERTAIN PARTNERSHIPS.—In
6 the case of a partnership in which more
7 than 50 percent of the capital and profits
8 interests are owned (directly or indirectly)
9 at all times during the taxable year by 1
10 corporation (or by corporations treated as
11 1 taxpayer under subparagraph (B)(iii)),
12 each partner shall compute its bonus de-
13 preciation amount under clause (i) of sub-
14 paragraph (B) by taking into account its
15 distributive share of the amounts deter-
16 mined by the partnership under subclauses
17 (I) and (II) of such clause for the taxable
18 year of the partnership ending with or
19 within the taxable year of the partner.”.

20 (c) SPECIAL RULES FOR TREES AND VINES BEARING
21 FRUITS AND NUTS.—Section 168(k) of such Code is
22 amended—

23 (1) by striking paragraph (5), and

24 (2) by inserting after paragraph (4) the fol-
25 lowing new paragraph:

1 “(5) SPECIAL RULES FOR TREES AND VINES
2 BEARING FRUITS AND NUTS.—

3 “(A) IN GENERAL.—In the case of any
4 tree or vine bearing fruits or nuts which is
5 planted, or is grafted to a plant that has al-
6 ready been planted, by the taxpayer in the ordi-
7 nary course of the taxpayer’s farming business
8 (as defined in section 263A(e)(4))—

9 “(i) a depreciation deduction equal to
10 50 percent of the adjusted basis of such
11 tree or vine shall be allowed under section
12 167(a) for the taxable year in which such
13 tree or vine is so planted or grafted, and

14 “(ii) the adjusted basis of such tree or
15 vine shall be reduced by the amount of
16 such deduction.

17 “(B) ELECTION OUT.—If a taxpayer
18 makes an election under this subparagraph for
19 any taxable year, this paragraph shall not apply
20 to any tree or vine planted or grafted during
21 such taxable year. An election under this sub-
22 paragraph may be revoked only with the con-
23 sent of the Secretary.

24 “(C) ADDITIONAL DEPRECIATION MAY BE
25 CLAIMED ONLY ONCE.—If this paragraph ap-

1 plies to any tree or vine, such tree or vine shall
2 not be treated as qualified property in the tax-
3 able year in which placed in service.

4 “(D) COORDINATION WITH ELECTION TO
5 ACCELERATE AMT CREDITS.—If a corporation
6 makes an election under paragraph (4) for any
7 taxable year, the amount under paragraph
8 (4)(B)(i)(I) for such taxable year shall be in-
9 creased by the amount determined under sub-
10 paragraph (A)(i) for such taxable year.

11 “(E) DEDUCTION ALLOWED IN COMPUTING
12 MINIMUM TAX.—Rules similar to the rules of
13 paragraph (2)(E) shall apply for purposes of
14 this paragraph.”.

15 (d) CONFORMING AMENDMENTS.—

16 (1) Section 168(e)(8) of such Code is amended
17 by striking subparagraph (D).

18 (2) Section 168(k) of such Code is amended by
19 adding at the end the following new paragraph:

20 “(6) ELECTION OUT.—If a taxpayer makes an
21 election under this paragraph with respect to any
22 class of property for any taxable year, this sub-
23 section shall not apply to all property in such class
24 placed in service (or, in the case of paragraph (5),
25 planted or grafted) during such taxable year. An

1 election under this paragraph may be revoked only
2 with the consent of the Secretary.”.

3 (3) Section 168(l)(5) of such Code is amended
4 by striking “section 168(k)(2)(G)” and inserting
5 “section 168(k)(2)(E)”.

6 (4) Section 263A(c) of such Code is amended
7 by adding at the end the following new paragraph:

8 “(7) COORDINATION WITH SECTION
9 168(k)(5).—This section shall not apply to any
10 amount allowable as a deduction by reason of section
11 168(k)(5) (relating to special rules for trees and
12 vines bearing fruits and nuts).”.

13 (5) Section 460(c)(6)(B) of such Code is
14 amended by striking “which—” and all that follows
15 and inserting “which has a recovery period of 7
16 years or less.”.

17 (6) Section 168(k) of such Code is amended by
18 striking “ACQUIRED AFTER DECEMBER 31, 2007,
19 AND BEFORE JANUARY 1, 2014” in the heading
20 thereof.

21 (e) EFFECTIVE DATES.—

22 (1) IN GENERAL.—Except as otherwise pro-
23 vided in this subsection, the amendments made by
24 this subsection shall apply to property placed in
25 service after December 31, 2013.

1 (2) EXPANSION OF ELECTION TO ACCELERATE
2 AMT CREDITS IN LIEU OF BONUS DEPRECIATION.—

3 (A) IN GENERAL.—The amendment made
4 by subsection (b) (other than so much of such
5 amendment as relates to section
6 168(k)(4)(D)(iii) of such Code, as added by
7 such amendment) shall apply to taxable years
8 ending after December 31, 2013.

9 (B) TRANSITIONAL RULE.—In the case of
10 a taxable year beginning before January 1,
11 2014, and ending after December 31, 2013, the
12 bonus depreciation amount determined under
13 section 168(k)(4) of such Code for such year
14 shall be the sum of—

15 (i) such amount determined without
16 regard to the amendments made by this
17 section and—

18 (I) by taking into account only
19 property placed in service before Jan-
20 uary 1, 2014, and

21 (II) by multiplying the limitation
22 under section 168(k)(4)(C)(ii) of such
23 Code (determined without regard to
24 the amendments made by this section)
25 by a fraction the numerator of which

1 is the number of days in the taxable
2 year before January 1, 2014, and the
3 denominator of which is the number
4 of days in the taxable year, and

5 (ii) such amount determined after
6 taking into account the amendments made
7 by this section and—

8 (I) by taking into account only
9 property placed in service after De-
10 cember 31, 2013, and

11 (II) by multiplying the limitation
12 under section 168(k)(4)(B)(ii) of such
13 Code (as amended by this section) by
14 a fraction the numerator of which is
15 the number of days in the taxable
16 year after December 31, 2013, and
17 the denominator of which is the num-
18 ber of days in the taxable year.

19 (3) SPECIAL RULES FOR CERTAIN TREES AND
20 VINES.—The amendment made by subsection (e)(2)
21 shall apply to trees and vines planted or grafted
22 after December 31, 2013.

○