

117TH CONGRESS  
1ST SESSION

# S. 197

To amend the Internal Revenue Code of 1986 to permanently allow a tax deduction at the time an investment in qualified property is made, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 2021

Mr. CRUZ introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to permanently allow a tax deduction at the time an investment in qualified property is made, and for other purposes.

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. SHORT TITLE.**

4 This Act may be cited as the “Cost Recovery and Ex-  
5 pending Acceleration to Transform the Economy and  
6 Jumpstart Opportunities for Businesses and Startups  
7 Act” or the “CREATE JOBS Act”.

1 **SEC. 2. PERMANENT FULL EXPENSING FOR QUALIFIED**  
 2 **PROPERTY.**

3 (a) IN GENERAL.—Paragraph (6) of section 168(k)  
 4 of the Internal Revenue Code of 1986 is amended to read  
 5 as follows:

6 “(6) APPLICABLE PERCENTAGE.—For purposes  
 7 of this subsection, the term ‘applicable percentage’  
 8 means, in the case of property placed in service (or,  
 9 in the case of a specified plant described in para-  
 10 graph (5), a plant which is planted or grafted) after  
 11 September 27, 2017, 100 percent.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 168(k) of the Internal Revenue  
 14 Code of 1986 is amended—

15 (A) in paragraph (2)—

16 (i) in subparagraph (A)—

17 (I) in clause (i)(V), by inserting  
 18 “and” at the end,

19 (II) in clause (ii), by striking  
 20 “clause (ii) of subparagraph (E),  
 21 and” and inserting “clause (i) of sub-  
 22 paragraph (E).”, and

23 (III) by striking clause (iii),

24 (ii) in subparagraph (B)—

25 (I) in clause (i)—

1 (aa) by striking subclauses  
2 (II) and (III), and

3 (bb) by redesignating sub-  
4 clauses (IV) through (VI) as sub-  
5 clauses (II) through (IV), respec-  
6 tively,

7 (II) by striking clause (ii), and

8 (III) by redesignating clauses  
9 (iii) and (iv) as clauses (ii) and (iii),  
10 respectively,

11 (iii) in subparagraph (C)—

12 (I) in clause (i), by striking “and  
13 subclauses (II) and (III) of subpara-  
14 graph (B)(i)”, and

15 (II) in clause (ii), by striking  
16 “subparagraph (B)(iii)” and inserting  
17 “subparagraph (B)(ii)”, and

18 (iv) in subparagraph (E)—

19 (I) by striking clause (i), and

20 (II) by redesignating clauses (ii)  
21 and (iii) as clauses (i) and (ii), respec-  
22 tively, and

23 (B) in paragraph (5)(A), by striking  
24 “planted before January 1, 2027, or is grafted  
25 before such date to a plant that has already

1           been planted,” and inserting “planted or graft-  
2           ed”.

3           (2) Section 460(c)(6)(B) of such Code is  
4           amended by striking “which” and all that follows  
5           through the period and inserting “which has a recov-  
6           ery period of 7 years or less.”.

7           (c) EFFECTIVE DATE.—The amendments made by  
8           this section shall take effect as if included in section  
9           13201 of Public Law 115–97.

10 **SEC. 3. NEUTRAL COST RECOVERY DEPRECIATION ADJUST-**  
11 **MENT FOR RESIDENTIAL RENTAL PROPERTY**  
12 **AND NONRESIDENTIAL REAL PROPERTY.**

13           (a) IN GENERAL.—Section 168 of the Internal Rev-  
14           enue Code of 1986 is amended by adding at the end there-  
15           of the following new subsection:

16           “(n) NEUTRAL COST RECOVERY DEPRECIATION AD-  
17           JUSTMENT FOR RESIDENTIAL RENTAL PROPERTY AND  
18           NONRESIDENTIAL REAL PROPERTY.—

19           “(1) IN GENERAL.—In the case of any applica-  
20           ble property, the deduction under this section with  
21           respect to such property for any taxable year after  
22           the taxable year during which the property is placed  
23           in service shall be—

1           “(A) the amount determined under this  
2 section for such taxable year without regard to  
3 this subsection, multiplied by

4           “(B) the applicable neutral cost recovery  
5 ratio for such taxable year.

6           “(2) APPLICABLE NEUTRAL COST RECOVERY  
7 RATIO.—For purposes of paragraph (1), the applica-  
8 ble neutral cost recovery ratio for the applicable  
9 property for any taxable year is the number deter-  
10 mined by—

11           “(A) dividing—

12           “(i) the gross domestic product  
13 deflator for the calendar quarter ending in  
14 such taxable year which corresponds to the  
15 calendar quarter during which the property  
16 was placed in service by the taxpayer, by

17           “(ii) the gross domestic product  
18 deflator for the calendar quarter during  
19 which the property was placed in service by  
20 the taxpayer, and

21           “(B) then multiplying the number deter-  
22 mined under subparagraph (A) by the number  
23 equal to 1.03 to the nth power where ‘n’ is the  
24 number of full years in the period beginning on  
25 the 1st day of the calendar quarter during

1           which the property was placed in service by the  
2           taxpayer and ending on the day before the be-  
3           ginning of the corresponding calendar quarter  
4           ending during such taxable year.

5           The applicable neutral cost recovery ratio shall never  
6           be less than 1. The applicable neutral cost recovery  
7           ratio shall be rounded to the nearest  $\frac{1}{1000}$ .

8           “(3) SPECIAL RULE FOR EXISTING PROP-  
9           ERTY.—In the case of any applicable property which  
10          is placed in service before the date of enactment of  
11          this subsection, subparagraphs (A)(ii) and (B) of  
12          paragraph (2) shall be applied by substituting ‘cal-  
13          endar quarter which includes the date of enactment  
14          of this subsection’ for ‘calendar quarter during  
15          which the property was placed in service by the tax-  
16          payer’ each place it appears.

17          “(4) GROSS DOMESTIC PRODUCT DEFLATOR.—  
18          For purposes of paragraph (2), the gross domestic  
19          product deflator for any calendar quarter is the im-  
20          plicit price deflator for the gross domestic product  
21          for such quarter (as shown in the first revision  
22          thereof).

23          “(5) ELECTION NOT TO HAVE SUBSECTION  
24          APPLY.—This subsection shall not apply to any ap-  
25          plicable property if the taxpayer elects not to have

1 this subsection apply to such property. Such an elec-  
2 tion, once made, shall be irrevocable.

3 “(6) ADDITIONAL DEDUCTION NOT TO AFFECT  
4 BASIS OR RECAPTURE.—

5 “(A) IN GENERAL.—The additional  
6 amount determined under this section by reason  
7 of this subsection shall not be taken into ac-  
8 count in determining the adjusted basis of any  
9 applicable property or of any interest in a pass-  
10 thru entity which holds such property and shall  
11 not be treated as a deduction for depreciation  
12 for purposes of sections 1245 and 1250.

13 “(B) PASS-THRU ENTITY DEFINED.—For  
14 purposes of subparagraph (A), the term ‘pass-  
15 thru entity’ means—

16 “(i) a regulated investment company,

17 “(ii) a real estate investment trust,

18 “(iii) an S corporation,

19 “(iv) a partnership,

20 “(v) an estate or trust, and

21 “(vi) a common trust fund.

22 “(7) APPLICABLE PROPERTY.—For purposes of  
23 this subsection, the term ‘applicable property’ means  
24 residential rental property or nonresidential real

1 property (as such terms are defined in subsection  
2 (e)(2)).”.

3 (b) MINIMUM TAX TREATMENT.—Paragraph (1) of  
4 section 56(a) of the Internal Revenue Code of 1986 is  
5 amended by adding at the end thereof the following new  
6 subparagraph:

7 “(E) USE OF NEUTRAL COST RECOVERY  
8 RATIO.—In the case of property to which sec-  
9 tion 168(n) applies, the deduction allowable  
10 under this paragraph with respect to such prop-  
11 erty for any taxable year (after the taxable year  
12 during which the property is placed in service)  
13 shall be—

14 “(i) the amount so allowable for such  
15 taxable year without regard to this sub-  
16 paragraph, multiplied by

17 “(ii) the applicable neutral cost recov-  
18 ery ratio for such taxable year (as deter-  
19 mined under section 168(n)).

20 This subparagraph shall not apply to any prop-  
21 erty with respect to which there is an election  
22 in effect not to have section 168(n) apply.”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to property placed in service be-



1 fore, on, or after the date of the enactment of this Act,  
2 with respect to taxable years ending on or after such date.

3 **SEC. 4. ELIMINATION OF AMORTIZATION OF RESEARCH**  
4 **AND EXPERIMENTAL EXPENDITURES.**

5 (a) **IN GENERAL.**—Subpart A of part III of subtitle  
6 C of title I of Public Law 115–97 is amended by striking  
7 section 13206.

8 (b) **EFFECTIVE DATE.**—The amendment made by  
9 this section shall take effect on the date of the enactment  
10 of this Act.

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