113TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
113–432

AMERICA'S SMALL BUSINESS TAX RELIEF ACT OF 2014

MAY 2, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CAMP, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 4457]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4457) to amend the Internal Revenue Code of 1986 to permanently extend increased expensing limitations, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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39–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "America's Small Business Tax Relief Act of 2014".

SEC. 2. EXPENSING CERTAIN DEPRECIABLE BUSINESS ASSETS FOR SMALL BUSINESS.

(a) IN GENERAL.—

(1) DOLLAR LIMITATION.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1986 is amended by striking "shall not exceed—" and all that follows and inserting "shall not exceed $500,000.".

(2) REDUCTION IN LIMITATION.—Paragraph (2) of section 179(b) of such Code is amended by striking "exceeds—" and all that follows and inserting "exceeds $2,000,000.".

(b) COMPUTER SOFTWARE.—Clause (ii) of section 179(d)(1)(A) of such Code is amended by striking ", to which section 167 applies, and which is placed in service in a taxable year beginning after 2002 and before 2014" and inserting "and to which section 167 applies".

(c) ELECTION.—Paragraph (2) of section 179(c) of such Code is amended—

(1) by striking "may not be revoked" and all that follows through "and before 2014", and

(2) by striking "IRREVOCABLE" in the heading thereof.

(d) AIR CONDITIONING AND HEATING UNITS.—Paragraph (1) of section 179(d) of such Code is amended by striking "and shall not include air conditioning or heating units".

(e) QUALIFIED REAL PROPERTY.—Subsection (f) of section 179 of such Code is amended—

(1) by striking "beginning in 2010, 2011, 2012, or 2013" in paragraph (1), and

(2) by striking paragraphs (3) and (4).

(f) INFLATION ADJUSTMENT.—Subsection (b) of section 179 of such Code is amended by adding at the end the following new paragraph:

"(6) INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of any taxable year beginning after 2014, the dollar amounts in paragraphs (1) and (2) shall each be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(c)(2)(A) for such calendar year, determined by substituting 'calendar year 2013' for 'calendar year 2012' in clause (ii) thereof.

"(B) ROUNDING.—The amount of any increase under subparagraph (A) shall be rounded to the nearest multiple of $10,000.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2013.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

Similar to a provision contained in the discussion draft of the "Tax Reform Act of 2014" released on February 26, 2014, the bill, H.R. 4457, reported by the Committee on Ways and Means, provides that the maximum amount that a taxpayer may expense, for taxable years beginning after 2013, is $500,000 of the cost of qualifying property placed in service for the taxable year, with such amount reduced (but not below zero) by the amount by which the cost of such qualifying property exceeds $2,000,000. An identical temporary provision applied for tax years 2010, 2011, 2012, and 2013, but it expired for tax years beginning after December 31, 2013, causing these amounts to revert to $25,000 and $200,000, respectively. Under H.R. 4457, both the $500,000 and $2,000,000 limits would be indexed for inflation beginning in taxable years after 2014. H.R. 4457 also treats off-the-shelf computer software, qualified real property, and air conditioning and heating units placed in service in taxable years beginning after 2013 as eligible for expensing.

B. Background and Need for Legislation

While the Committee continues actively to pursue comprehensive tax reform as a critical means of promoting economic growth and job creation, the Committee also believes that it is important to provide small businesses permanent, immediate tax relief to help encourage economic growth and job creation. By restoring and making permanent for small businesses and farms the ability to expense purchases of property and equipment up to $500,000, with such expensing phased out (but not below zero) for purchases exceeding $2,000,000, H.R. 4457 eliminates the significant reduction in the benefit of expensing that resulted from the expiration of these temporary expensing levels after 2013. Making the 2013 levels permanent provides much-needed certainty for small businesses and farms, which have struggled through the economic challenges of the past six years, enabling them to make investments critical to the growth and expansion of their businesses and to hire new employees. H.R. 4457 also provides certainty by permanently treating investments in computer software, heating and air conditioning units, and certain investments in real property, as property eligible for expensing. To ensure that small businesses' ability to expense new investments in property and equipment will keep pace with the rising cost of such investments in future years, H.R. 4457 indexes the expensing limits for inflation. Collectively, these changes will help small businesses and farms upgrade equipment and facilities, allowing them to reduce maintenance costs, take advantage of labor-saving advances, become more energy efficient, and adopt technology that is environmentally friendly.

C. Legislative History

BACKGROUND

H.R. 4457 was introduced on April 10, 2014, and was referred to the Committee on Ways and Means.

COMMITTEE ACTION

The Committee on Ways and Means marked up H.R. 4457, the America's Small Business Tax Relief Act of 2014, on April 29, 2014, and ordered the bill, as amended, favorably reported (with a quorum being present).

COMMITTEE HEARINGS

The need for permanent rules regarding small business expensing was discussed at no fewer than seven hearings during the 112th and 113th Congresses:

- Full Committee hearing on Fundamental Tax Reform (January 20, 2011);
- Select Revenue Measures Subcommittee Hearing on Small Businesses and Tax Reform (March 3, 2011);

- Full Committee hearing on the Interaction of Tax and Financial Accounting on Tax Reform (February 8, 2012);
- Full Committee hearing on the Treatment of Closely-Held Businesses in the Context of Tax Reform (March 7, 2012);
- Full Committee hearing on Tax Reform and the U.S. Manufacturing Sector (July 19, 2012);
- Select Revenue Measures Subcommittee hearing on the Small Business and Pass-Through Entity Tax Reform Discussion Draft (May 15, 2013); and
- Full Committee hearing on the Benefits of Permanent Tax Policy for America's Job Creators (April 8, 2014).

II. EXPLANATION OF THE BILL

A. EXPENSING CERTAIN DEPRECIABLE BUSINESS ASSETS FOR SMALL BUSINESS (SEC. 179 OF THE CODE)

PRESENT LAW

A taxpayer may elect under section 179 to deduct (or "expense") the cost of qualifying property, rather than to recover such costs through depreciation deductions, subject to limitation.[1] For taxable years beginning in 2013, the maximum amount a taxpayer may expense is $500,000 of the cost of qualifying property placed in service for the taxable year.[2] The $500,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $2,000,000.[3] The $500,000 and $2,000,000 amounts are not indexed for inflation. In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. Qualifying property excludes investments in air conditioning and heating units.[4] For taxable years beginning before 2014, qualifying property also includes off-the-shelf computer software and qualified real property (i.e., qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property).[5] Of the $500,000 expense amount available under section 179, the maximum amount available with respect to qualified real property is $250,000 for each taxable year.[6]

For taxable years beginning in 2014 and thereafter, a taxpayer may elect to deduct up to $25,000 of the cost of qualifying property placed in service for the taxable year, subject to limitation. The $25,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. The $25,000 and $200,000 amounts

[1] Additional section 179 incentives have been provided with respect to qualified property meeting applicable requirements that is used by a business in an enterprise zone (sec. 1397A), a renewal community (sec. 1400J), the New York Liberty Zone (sec. 1400L(f)), and the Gulf Opportunity Zone (sec. 1400N(e)). In addition, section 179(e) provides for an enhanced section 179 deduction for qualified disaster assistance property.

[2] For the years 2003 through 2006, the relevant dollar amount is $100,000 (indexed for inflation); in 2007, the dollar limitation is $125,000; for the 2008 and 2009 years, the relevant dollar amount is $250,000; and for 2010, 2011, and 2012, the relevant dollar limitation is $500,000. Sec. 179(b)(1).

[3] For the years 2003 through 2006, the relevant dollar amount is $400,000 (indexed for inflation); in 2007, the dollar limitation is $500,000; for the 2008 and 2009 years, the relevant dollar amount is $800,000; and for 2010, 2011, and 2012, the relevant dollar limitation is $2,000,000. Sec. 179(b)(2).

[4] Sec. 179(d)(1) flush language.

[5] Secs. 179(d)(1)(A)(ii) and (f).

[6] Sec. 179(f)(3).

are not indexed for inflation. In general, qualifying property is defined as depreciable tangible personal property (not including off-the-shelf computer software, qualified real property, or air conditioning and heating units) that is purchased for use in the active conduct of a trade or business.

The amount eligible to be expensed for a taxable year may not exceed the taxable income for such taxable year that is derived from the active conduct of a trade or business (determined without regard to this provision).[7] Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to limitations). However, amounts attributable to qualified real property that are disallowed under the trade or business income limitation may only be carried over to taxable years in which the definition of eligible section 179 property includes qualified real property.[8] Thus, if a taxpayer's section 179 deduction for 2012 with respect to qualified real property is limited by the taxpayer's active trade or business income, such disallowed amount may be carried over to 2013. Any such carryover amounts that are not used in 2013 are treated as property placed in service in 2013 for purposes of computing depreciation. That is, the unused carryover amount from 2012 is considered placed in service on the first day of the 2013 taxable year.[9]

No general business credit under section 38 is allowed with respect to any amount for which a deduction is allowed under section 179.[10] If a corporation makes an election under section 179 to deduct expenditures, the full amount of the deduction does not reduce earnings and profits. Rather, the expenditures that are deducted reduce corporate earnings and profits ratably over a five-year period.[11]

An expensing election is made under rules prescribed by the Secretary.[12] In general, any election or specification made with respect to any property may not be revoked except with the consent of the Commissioner. However, an election or specification under section 179 may be revoked by the taxpayer without consent of the Commissioner for taxable years beginning after 2002 and before 2014.[13]

REASONS FOR CHANGE

The Committee believes that section 179 expensing provides two important benefits for small businesses. First, it lowers the cost of capital for tangible property used in a trade or business. With a lower cost of capital, the Committee believes small businesses will invest in more equipment and employ more workers. Second, it eliminates depreciation recordkeeping requirements with respect to

[7] Sec. 179(b)(3).

[8] Section 179(f)(4) details the special rules that apply to disallowed amounts.

[9] For example, assume that during 2012, a company's only asset purchases are section 179-eligible equipment costing $100,000 and qualifying leasehold improvements costing $200,000. Assume the company has no other asset purchases during 2012, and has a taxable income limitation of $150,000. The maximum section 179 deduction the company can claim for 2012 is $150,000, which is allocated pro rata between the properties, such that the carryover to 2013 is allocated $100,000 to the qualified leasehold improvements and $50,000 to the equipment.

Assume further that in 2013, the company had no asset purchases and had no taxable income. The $100,000 carryover from 2012 attributable to qualified leasehold improvements is treated as placed in service as of the first day of the company's 2013 taxable year. The $50,000 carryover allocated to equipment is carried over to 2013 under section 179(b)(3)(B).

[10] Sec. 179(d)(9).

[11] Sec. 312(k)(3)(B).

[12] Sec. 179(c)(1).

[13] Sec. 179(c)(2).

expensed property. To increase the value of these benefits and to increase the number of taxpayers eligible, the provision increases the amount allowed to be expensed under section 179 and increases the amount of the phase-out threshold. In addition, to counteract the negative effect of inflation on the limit and phase-out threshold of this provision for small businesses, the provision indexes such amounts for inflation.

The Committee also believes that qualified real property (i.e., qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property) should continue to be included in the section 179 expensing provision to encourage small businesses to invest in these types of real property. Similarly, the Committee believes that investments in air conditioning and heating units used in the active conduct of a trade or business should be included within the definition of qualifying property to remove a disincentive for small businesses to invest in more efficient cooling and heating equipment. Further, the Committee believes that purchased computer software should continue to be included in the section 179 expensing provision so that it is not disadvantaged relative to developed software. In addition, the Committee believes that the process of making and revoking section 179 elections should continue to be simpler and more efficient for taxpayers by eliminating the requirement of the consent of the Commissioner.

EXPLANATION OF PROVISION

The provision provides that the maximum amount a taxpayer may expense, for taxable years beginning after 2013, is $500,000 of the cost of qualifying property placed in service for the taxable year. The $500,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $2,000,000. The $500,000 and $2,000,000 amounts are indexed for inflation for taxable years beginning after 2014.

In addition, the provision makes permanent, for taxable years beginning after 2013, the treatment of off-the-shelf computer software as qualifying property. The provision also makes permanent the treatment of qualified real property as eligible section 179 property for taxable years beginning after 2013. Further, the provision removes the limitation related to the amount of qualified real property that qualifies as section 179 property for taxable years beginning after 2013. The provision also strikes the flush language in section 179(d)(1) that excludes air conditioning and heating units from the definition of qualifying property.

The provision permits the taxpayer to revoke without the consent of the Commissioner any election, and any specification contained therein, made under section 179 after 2002.

EFFECTIVE DATE

The provision applies to taxable years beginning after December 31, 2013.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 4457, the America's Small Business Tax Relief Act of 2014, on April 29, 2014.

The bill, H.R. 4457, was ordered favorably reported as amended by a roll call vote of 21 yeas to 14 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Camp	✓			Mr. Levin		✓	
Mr. Johnson	✓			Mr. Rangel		✓	
Mr. Brady	✓			Mr. McDermott		✓	
Mr. Ryan	✓			Mr. Lewis		✓	
Mr. Nunes	✓			Mr. Neal		✓	
Mr. Tiberi	✓			Mr. Becerra		✓	
Mr. Reichert	✓			Mr. Doggett		✓	
Mr. Boustany	✓			Mr. Thompson		✓	
Mr. Roskam	✓			Mr. Larson		✓	
Mr. Gerlach				Mr. Blumenauer		✓	
Mr. Price	✓			Mr. Kind			
Mr. Buchanan	✓			Mr. Pascrell		✓	
Mr. Smith	✓			Mr. Crowley		✓	
Mr. Schock	✓			Ms. Schwartz			
Ms. Jenkins	✓			Mr. Davis		✓	
Mr. Paulsen	✓			Ms. Sanchez		✓	
Mr. Marchant	✓						
Ms. Black	✓						
Mr. Reed	✓						
Mr. Young	✓						
Mr. Kelly	✓						
Mr. Griffin							
Mr. Renacci	✓						

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 4457, as reported.

The bill, as reported, is estimated to have the following effect on Federal budget receipts for fiscal years 2014–2024:

Fiscal Years
[Billions of Dollars]

2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014–19	2014–24
−1.8	−18.2	−10.1	−8.6	−7.1	−5.7	−4.8	−4.3	−3.7	−4.0	−4.6	−51.6	−73.1

NOTE: Details do not add to totals due to rounding.

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that the revenue-reducing tax provisions involve increased tax expenditures. (See amounts in table in Part IV.A., above.)

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. Congress,
Congressional Budget Office,
Washington, DC, May 1, 2014.

Hon. Dave Camp,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4457, the America's Small Business Tax Relief Act of 2014.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Logan Timmerhoff.

Sincerely,

Douglas W. Elmendorf.

Enclosure.

H.R. 4457—America's Small Business Tax Relief Act of 2014

H.R. 4457 would amend section 179 of the Internal Revenue Code, which mostly affects small- to medium-sized businesses, to retroactively and permanently extend from January 1, 2014, increased limitations on the amount of investment that can be immediately deducted from taxable income. H.R. 4457 also indexes the limitations for inflation and expands the definition of property that qualifies for that immediate deduction.

Permanently extending to $500,000 the annual cost of property eligible for expensing under section 179, expanding the qualifying property eligible under section 179, and indexing the amounts for inflation, would allow firms to deduct immediately from their taxable income the full costs of up to $500,000 in investment of certain equipment from their taxable income, instead of spreading the costs out over time. The benefit of the immediate expensing phases out if total qualifying investment exceeds $2 million, indexed for inflation.

The staff of the Joint Committee on Taxation (JCT) estimates that enacting H.R. 4457 would reduce revenues, thus increasing federal deficits, by about $73 billion over the 2014–2024 period.

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending and revenues. Enacting H.R. 4457 would result in revenue losses in each year beginning in 2014. The estimated increases in the deficit are shown in the following table.

JCT has determined that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Logan Timmerhoff. The estimate was approved by David Weiner, Assistant Director for Tax Analysis.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 4457, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON WAYS AND MEANS ON APRIL 29, 2014

	By fiscal year, in millions of dollars—												
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014–2019	2014–2024
NET INCREASE IN THE DEFICIT													
Statutory Pay-As-You-Go Effects	1,812	18,216	10,140	8,579	7,145	5,738	4,819	4,322	3,746	3,971	4,646	51,630	73,135

Source: Staff of the Joint Committee on Taxation.
Note: Components may not sum to totals because of rounding.

D. Macroeconomic Impact Analysis

In compliance with clause 3(h)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the effects of the bill on economic activity are so small as to be incalculable within the context of a model of the aggregate economy.

The bill permanently extends an increase in the amount of investment in equipment (and a small, targeted subset of real property) that may be deducted immediately, or expensed, as opposed to depreciated over longer periods of time. The ability to expense, rather than depreciate investment expenses reduces the cost to firms of making these investments, thus reducing their after tax cost of capital and providing an incentive for increased investment.[14] Some research on the effects of expensing on business in-

[14] Economic theory of the effects of "cost of capital" on investment was first formalized by Dale Jorgenson in 1963 "Capital Theory and Investment Behavior," American Economic Review, 54,

Continued

vestment has confirmed that investment increases when more generous expensing policy is in effect.[15] Additionally, there is some evidence that expensing is particularly helpful to smaller, start-up firms that may have less access to capital markets.[16] Other research has raised questions about the efficacy of expensing as opposed to investment tax credits in encouraging investment in light of the fact that investment tax credits produce a more favorable picture in firm financial statements. But such studies still find an overall positive effect of increased expensing on investment.[17]

Increased investment can be expected to result in an increase in the amount of economic growth and in the long run growth potential of the economy. Thus, we expect that the bill is likely to result in a small increase in overall economic growth. However, the increase in allowed expensing under the bill, from $25,000 in 2014 to $500,000, and the size of firms it applies to (firms using this provision cannot invest more than $2,500,000 in 2014) limit the expected impact of the incentive. JCT estimates that the amount of investment that could potentially take advantage of the provision is less than 10 percent of projected baseline investment. The availability of this incentive to a small subset of firms also poses the possibility that it could distort efficient investment decisions by favoring investment by certain types of firms over other types of firms.

Finally, in the short-run, the net reduction in tax receipts resulting from the bill could provide for a small increase in overall demand, thus resulting in some economic growth. In the longer term, the resulting increase in deficits would result in higher interest rates, reducing the positive investment incentive effects from the expensing.

Overall, we estimate that the effects of the bill on economic activity are so small relative to the size of the economy as to be incalculable within the context of a model of the aggregate economy.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's review of the provisions of H.R. 4457 that the Committee concluded that it

pp. 247–59. Jorgenson, along with Robert Hall added effects of taxation, particularly depreciation policy to this framework in "Tax Policy and Investment Behavior, American Economic Review," 57 (3) pp 391–414 in 1967. Many macroeconomic simulation models, including the JCT staff Macroeconomic Equilibrium Growth model, use this framework to model investment decisions.

[15] See, for example, Bond, Stephen, and Jing Xin, "Corporate Taxation and Capital Accumulation," Oxford University Centre for Business Taxation Working Paper, Said Business School, Oxford, UK, 2010.

[16] Steven M. Fazzari, R. Glenn Hubbard, Bruce C. Petersen, Alan Blinder, and James Poterba discuss the importance of the availability of retained earnings for firms with financing challenges in "Financing Constraints and Corporate Investment," Brookings Papers on Economic Activity, 1988(1), 1988 , pp. 141–206. Gian Luca Clementi and Jugo Hopenhayn explain that small firms are more likely to experience cash flow constraints in financing investment in "A Theory of Financing Constraints and Firm Dynamics," The Quarterly Journal of Economics, 121(1), MIT press, 2006, pp 229–265.

[17] See, for example, Edgerton, Jesse, "Investment, Accounting, and the Salience of the Corporate Income Tax," Finance and Discussion Series, Division of Research and Statistics and Monetary Affairs, Federal Reserve Board, Washington, D.C., March 21, 2011.

is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. Applicability of House Rule XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the bill, and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

E. Tax Complexity Analysis

The following statement is made pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives. Section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (the "IRS Reform Act") requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses. For each such provision identified by the staff of the Joint Committee on Taxation a summary description of the provision is provided along with an estimate of the number and type of affected taxpayers, and a discussion regarding the relevant complexity and administrative issues.

Following the analysis of the staff of the Joint Committee on Taxation are the comments of the IRS and Treasury regarding each of the provisions included in the complexity analysis.

1. EXPENSING CERTAIN DEPRECIABLE BUSINESS ASSETS FOR SMALL BUSINESSES

Summary description of the provision

The bill provides that the maximum amount a taxpayer may expense, for taxable years beginning after 2013, is $500,000 of the cost of qualifying property placed in service for the taxable year. The $500,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $2,000,000. The $500,000 and $2,000,000 amounts are indexed for inflation for taxable years beginning after 2014.

In addition, the bill makes permanent, for taxable years beginning after 2013, the treatment of off-the-shelf computer software as qualifying property. The bill also makes permanent the treatment of qualified real property as eligible section 179 property for taxable years beginning after 2013. Further, the bill removes the limitation related to the amount of qualified real property that qualifies as section 179 property for taxable years beginning after 2013. The bill also strikes the flush language in section 179(d)(1) that excludes air conditioning and heating units from the definition of qualifying property.

The bill permits the taxpayer to revoke without the consent of the Commissioner any election, and any specification contained therein, made under section 179 after 2002.

Number of affected taxpayers

It is estimated that the provision will affect over ten percent of small business tax returns.

Discussion

While taxpayers purchasing section 179 property will still be required to complete and file Form 4562, Depreciation and Amortization (Including Information on Listed Property), significantly less detail is required to be included on such form. Accordingly, the compliance burden of many taxpayers will be reduced.

COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

May 1, 2014

Mr. Thomas A. Barthold
Chief of Staff
Joint Committee on Taxation
Washington, D.C. 20515

Dear Mr. Barthold:

I am responding to your letter dated April 29, 2014, in which you requested a complexity analysis related to H.R. 4457, America's Small Business Tax Relief Act of 2014.

Enclosed are the combined comments of the Internal Revenue Service and the Treasury Department for inclusion in the complexity analysis in the House Committee on Ways and Means report on H.R. 4457, America's Small Business Tax Relief Act of 2014. Our analysis covers one provision that you preliminarily identified in your letter: expensing certain depreciable business assets for small businesses. Please note that for purposes of this complexity analysis, IRS staff assumed timely enactment of this legislation. If legislation is not enacted before the end of the year, there would be complexity for IRS and for taxpayers that is not addressed in this response.

Our comments are based on the description of the provision provided in your letter. This analysis does not include administrative cost estimates for the changes that would be required. Due to the short turnaround time, our comments are provisional and subject to change upon a more complete and in-depth analysis of the provision.

Sincerely,

John A. Koskinen

Enclosure

COMPLEXITY ANALYSIS OF THE COMMITTEE REPORT ON AMERICA'S SMALL BUSINESS TAX RELIEF ACT OF 2014

Expensing Certain Depreciable Business Assets for Small Businesses

Provision:

The bill provides that the maximum amount a taxpayer may expense, for taxable years beginning after 2013, is $500,000 of the cost of qualifying property placed in service for the taxable year. The $500,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $2,000,000. The $500,000 and $2,000,000 amounts are indexed for inflation for taxable years beginning after 2014.

In addition, the bill makes permanent, for taxable years beginning after 2013, the treatment of off-the-shelf computer software as qualifying property. The bill also makes permanent the treatment of qualified real property as eligible section 179 property for taxable years beginning after 2013. Further, the bill removes the limitation related to the amount of qualified real property that qualifies as section 179 property for taxable years beginning after 2013. The bill also strikes the flush language in section 179(d)(l) that excludes air conditioning and heating units from the definition of qualifying property.

The bill permits the taxpayer to revoke without the consent of the Commissioner any election, and any specification contained therein, made under section 179 after 2002.

IRS/Treasury Comments:

- The maximum amount a taxpayer may expense for a taxable year; the treatment of off-the-shelf computer software; removing the limitation for amount of qualified real property; and the inclusion of air conditioning and heating units in the definition of qualified property would have no significant impact on Form 4562 or any other tax forms.
- The Instructions for Form 4562, Publication 946, and other instructions and publications would be revised to reflect these changes.
- No internal training would be required by this provision.
- Internal communications would be shared with all employees.
- No programming changes would be required by this provision.

F. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. Duplication of Federal Programs

In compliance with Sec. 3(j)(2) of H. Res. 5 (113th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program, (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169).

H. Disclosure of Directed Rule Makings

In compliance with Sec. 3(k) of H. Res. 5 (113th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

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Subtitle A—Income Taxes

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CHAPTER 1—NORMAL TAXES AND SURTAXES

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Subchapter B—Computation of Taxable Income

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PART VI—ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS

*　*　*　*　*　*　*

SEC. 179. ELECTION TO EXPENSE CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) * * *

(b) LIMITATIONS.—

(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year ⟦shall not exceed—

⟦(A) $250,000 in the case of taxable years beginning after 2007 and before 2010,

⟦(B) $500,000 in the case of taxable years beginning in 2010, 2011, 2012, or 2013, and

⟦(C) $25,000 in the case of taxable years beginning after 2013.⟧ *shall not exceed $500,000.*

(2) REDUCTION IN LIMITATION.—The limitation under paragraph (1) for any taxable year shall be reduced (but not below zero) by the amount by which the cost of section 179 property placed in service during such taxable year ⟦exceeds—

⟦(A) $800,000 in the case of taxable years beginning after 2007 and before 2010,

⟦(B) $2,000,000 in the case of taxable years beginning in 2010, 2011, 2012, or 2013, and

⟦(C) $200,000 in the case of taxable years beginning after 2013.⟧ *exceeds $2,000,000.*

* * * * * * *

(6) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—In the case of any taxable year beginning after 2014, the dollar amounts in paragraphs (1) and (2) shall each be increased by an amount equal to—

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment determined under section 1(c)(2)(A) for such calendar year, determined by substituting "calendar year 2013" for "calendar year 2012" in clause (ii) thereof.

(B) ROUNDING.—The amount of any increase under subparagraph (A) shall be rounded to the nearest multiple of $10,000.

(c) ELECTION.—

(1) * * *

(2) ELECTION ⟦IRREVOCABLE⟧.—Any election made under this section, and any specification contained in any such election, ⟦may not be revoked except with the consent of the Secretary. Any such election or specification with respect to any taxable year beginning after 2002 and before 2014⟧ may be revoked by the taxpayer with respect to any property, and such revocation, once made, shall be irrevocable.

(d) DEFINITIONS AND SPECIAL RULES.—

(1) SECTION 179 PROPERTY.—For purposes of this section, the term "section 179 property" means property—

(A) which is—

(i) * * *

(ii) computer software (as defined in section 197(e)(3)(B)) which is described in section 197(e)(3)(A)(i)⟦, to which section 167 applies, and which is placed in service in a taxable year beginning after 2002 and before 2014] *and to which section 167 applies*,

* * * * * * *

Such term shall not include any property described in section 50(b) [and shall not include air conditioning or heating units].

* * * * * * *

(f) SPECIAL RULES FOR QUALIFIED REAL PROPERTY.—

(1) IN GENERAL.—If a taxpayer elects the application of this subsection for any taxable year [beginning in 2010, 2011, 2012, or 2013], the term "section 179 property" shall include any qualified real property which is—

(A) * * *

* * * * * * *

[(3) LIMITATION.—For purposes of applying the limitation under subsection (b)(1)(B), not more than $250,000 of the aggregate cost which is taken into account under subsection (a) for any taxable year may be attributable to qualified real property.

[(4) CARRYOVER LIMITATION.—

[(A) IN GENERAL.—Notwithstanding subsection (b)(3)(B), no amount attributable to qualified real property may be carried over to a taxable year beginning after 2013.

[(B) TREATMENT OF DISALLOWED AMOUNTS.—Except as provided in subparagraph (C), to the extent that any amount is not allowed to be carried over to a taxable year beginning after 2013 by reason of subparagraph (A), this title shall be applied as if no election under this section had been made with respect to such amount.

[(C) AMOUNTS CARRIED OVER FROM 2010, 2011 AND 2012.—If subparagraph (B) applies to any amount (or portion of an amount) which is carried over from a taxable year other than the taxpayer's last taxable year beginning in 2013, such amount (or portion of an amount) shall be treated for purposes of this title as attributable to property placed in service on the first day of the taxpayer's last taxable year beginning in 2013. For the last taxable year beginning in 2013, the amount determined under subsection (b)(3)(A) for such taxable year shall be determined without regard to this paragraph.

[(D) ALLOCATION OF AMOUNTS.—For purposes of applying this paragraph and subsection (b)(3)(B) to any taxable year, the amount which is disallowed under subsection (b)(3)(A) for such taxable year which is attributed to qualified real property shall be the amount which bears the same ratio to the total amount so disallowed as—

[(i) the aggregate amount attributable to qualified real property placed in service during such taxable year, increased by the portion of any amount carried over to such taxable year from a prior taxable year which is attributable to such property, bears to

[(ii) the total amount of section 179 property placed in service during such taxable year, increased by the aggregate amount carried over to such taxable year from any prior taxable year.

For purposes of the preceding sentence, only section 179 property with respect to which an election was made under subsection (c)(1) (determined without regard to subparagraph (B) of this paragraph) shall be taken into account.]

* * * * * * *

VII. DISSENTING VIEWS

These bills would add a combined $310 billion to the deficit. Even though these bills were introduced individually with some bipartisan support, the opposition to these bills was based on the position that these tax provisions should not be made permanent by adding to the deficit without any revenue offset.

To put the combined cost ($310 billion) into context, this total represents more than one-half of the entire federal deficit this year—the lowest it has been since President Obama took office. It represents nearly two-thirds of all non-defense domestic discretionary spending in 2014. It is more than three times what we spend annually on education, job training, and social services. It is five times more than we spend on veterans. And, it is five times more than we spend on medical research and public health.

We also opposed the manner in which Republicans were proceeding—selecting six to make permanent without any offset from the approximately 60 tax provisions that expired last year. This approach was both fiscally irresponsible and fundamentally hypocritical.

We found it hypocritical that, four months ago, Republicans let emergency unemployment insurance—expire for more than 1.3 million Americans by arguing that an adequate offset had yet to be proposed. In early April, the Senate came to a bipartisan agreement on an offset after months of painstaking negotiations. Yet House Republicans still refuse to act.

Further, we found it also hypocritical that the Republicans were in favor of passing these six tax bills at a cost of $310 billion without an offset at the same time that they were requiring an offset for a provision stripped from another bill under consideration at the markup that helped foster children at a cost of $12 million.

The consideration of these six tax bills should have been part of the consideration of all the expired tax provisions commonly referred to as "tax extenders." The Republicans did not take up other tax extenders that also are important to Democratic Committee Members. Left to an uncertain fate are provisions like the Work Opportunity Tax Credit, the New Markets Tax Credit, and the renewable energy tax credits, as well as the long-term status of the Earned Income Tax Credit, the Child Tax Credit, and the American Opportunity Tax Credit.

Sincerely,

SANDER M. LEVIN
Ranking Member.

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