

107TH CONGRESS  
1ST SESSION

# H. R. 1272

To amend the Internal Revenue Code of 1986 to allow taxpayers using the income forecast method of depreciation to treat costs contingent on income in the same manner as fixed costs to the extent determined by reference to the estimated income under such method, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 2001

Mr. FOLEY (for himself and Mr. BECERRA) introduced the following bill;  
which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow taxpayers using the income forecast method of depreciation to treat costs contingent on income in the same manner as fixed costs to the extent determined by reference to the estimated income under such method, 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,*

1 **SECTION 1. MODIFICATION OF APPLICATION OF INCOME**  
2 **FORECAST METHOD OF DEPRECIATION IN**  
3 **CERTAIN CASES.**

4 (a) TREATMENT OF INCOME-CONTINGENT COSTS.—  
5 Subsection (g) of section 167 of the Internal Revenue  
6 Code of 1986 (relating to depreciation under income fore-  
7 cast method) is amended by adding at the end the fol-  
8 lowing new paragraph:

9 “(7) TREATMENT OF INCOME-CONTINGENT  
10 COSTS.—

11 “(A) IN GENERAL.—In the case of prop-  
12 erty for which the depreciation deduction allow-  
13 able under this section is determined under this  
14 subsection, the taxpayer may determine the ad-  
15 justed basis of such property solely for purposes  
16 of this section by including the estimated in-  
17 come-contingent costs with respect to such  
18 property in such basis for the taxable year in  
19 which such property is placed in service. Depre-  
20 ciation computed under this paragraph shall be  
21 allowable as a deduction notwithstanding sec-  
22 tions 404 and 419.

23 “(B) ESTIMATED INCOME-CONTINGENT  
24 COSTS.—For purposes of this paragraph—

25 “(i) IN GENERAL.—The term ‘esti-  
26 mated income-contingent costs’ means,

1 with respect to any property, the amount  
2 which would be the income-contingent  
3 costs with respect to such property if the  
4 income estimated (for purposes of this sub-  
5 section) to be earned in connection with  
6 the property before the close of the 10th  
7 taxable year referred to in paragraph  
8 (1)(A) were earned as of the close of the  
9 taxable year in which such property is  
10 placed in service.

11 “(ii) INCOME-CONTINGENT COSTS.—  
12 The term ‘income-contingent costs’ means,  
13 with respect to any property, costs the  
14 amount of which by contract varies with  
15 the amount of income earned in connection  
16 with such property.

17 “(C) SPECIAL RULE RELATING TO RE-  
18 COMPUTATION YEARS.—If the adjusted basis of  
19 any property is determined under this para-  
20 graph, paragraph (4) shall be applied by sub-  
21 stituting ‘for each taxable year in such period’  
22 for ‘for such period’.

23 “(D) BASIS ADJUSTMENTS.—The Sec-  
24 retary shall prescribe appropriate adjustments  
25 to the basis of property for the additional

1 amounts allowable as a deduction solely by rea-  
2 son of this paragraph.

3 “(E) COORDINATION WITH SECTION  
4 461(H).—For purposes of section 461(h), eco-  
5 nomic performance with respect to income-con-  
6 tingent costs occurs as the services or property  
7 are provided to the taxpayer.”

8 (b) ADDITIONAL RECOMPUTATION YEAR.—Para-  
9 graph (4) of section 167(g) of such Code is amended—  
10 (1) by striking “the 3d and the 10th” and in-  
11 serting “the 3d, 7th, and 10th”, and

12 (2) by striking “3d or” and inserting “3d, 7th,  
13 or”.

14 (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to property placed in service after  
16 the date of the enactment of this Act.

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