

107TH CONGRESS
2D SESSION

H. R. 5278

To amend the Internal Revenue Code of 1986 to encourage investment in high productivity property, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2002

Mr. ENGLISH (for himself and Mr. NEAL of Massachusetts) 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 encourage investment in high productivity property, 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 “High Productivity and
5 Economic Growth Act of 2002”.

6 **SEC. 2. ADOPTION OF THE HIGH PRODUCTIVITY INVEST-**
7 **MENT DEDUCTION.**

8 (a) IN GENERAL.—Part VI of subchapter B of chap-
9 ter 1 of the Internal Revenue Code of 1986 (relating to
10 itemized deductions for individuals and corporations) is

1 amended by inserting after section 168 the following new
2 section:

3 **“SEC. 168A. HIGH PRODUCTIVITY INVESTMENT DEDUC-**
4 **TION.**

5 “(a) TREATMENT AS EXPENSES.—A taxpayer may
6 elect to treat the cost of any high productivity property
7 as an expense not chargeable to capital account. Any cost
8 so treated shall be allowed as a deduction in the taxable
9 year in which the high productivity property is placed in
10 service.

11 “(b) DEFINITION OF HIGH PRODUCTIVITY PROP-
12 erty.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (3), the term ‘high productivity property’
15 means any—

16 “(A) computer,

17 “(B) computer related peripheral equip-
18 ment,

19 “(C) computer based machinery,

20 “(D) electronic diagnostic equipment,

21 “(E) electronic control equipment,

22 “(F) other electronic, electromechanical,
23 laser or computer based equipment,

24 “(G) computer software,

1 “(H) equipment used in the manufacture
2 of semiconductors,

3 “(I) high technology medical equipment,

4 “(J) advanced technology communications
5 equipment,

6 “(K) optical fiber and photonics equip-
7 ment,

8 “(L) advanced environmental products,

9 “(M) advanced life science products, or

10 “(N) new high productivity assets.

11 “(2) DEFINITIONS.—For purposes of this sub-
12 section:

13 “(A) COMPUTER.—The term ‘computer’
14 means a programmable electronically activated
15 device which—

16 “(i) is capable of accepting informa-
17 tion, applying prescribed processes to the
18 information, and supplying the results of
19 those processes, and

20 “(ii) consists of a central processing
21 unit containing extensive storage, logic,
22 arithmetic and control capabilities.

23 “(B) COMPUTER RELATED PERIPHERAL
24 EQUIPMENT.—The term ‘computer related pe-
25 ripheral equipment’ means any auxiliary ma-

chine or other equipment (whether on-line or off-line) which is designed to be placed under the control of the central processing unit of a computer (as determined without regard to whether such machine or equipment is an integral part of other property which is not a computer).

“(C) COMPUTER BASED MACHINERY.—The term ‘computer based machinery’ means any machine which—

“(i) cuts, forms, shapes, drills, bores, mixes, paints, seals, welds, or otherwise transforms material, or

“(ii) handles, conveys, assembles, or packages materials or products,

by responding to electronically stored information and programmed commands.

“(D) ELECTRONIC DIAGNOSTIC EQUIPMENT.—The term ‘electronic diagnostic equipment’ means equipment that uses electronic components to sense or monitor location, size, volume, surface characteristics, pressure, temperature, speed, chemical composition, or other similar characteristics.

1 “(E) ELECTRONIC CONTROL EQUIP-
2 MENT.—The term ‘electronic control equipment’
3 means equipment that electronically controls
4 pressure, temperature, size, volume, composi-
5 tion purity or other similar characteristics.

6 “(F) HIGH TECHNOLOGY MEDICAL EQUIP-
7 MENT.—The term ‘high technology medical
8 equipment’ means any electronic,
9 electromechanical, or computer-based high tech-
10 nology equipment used in the screening, moni-
11 toring, observation, diagnosis, or treatment of
12 patients in a laboratory, medical, or hospital en-
13 vironment.

14 “(G) ADVANCED TECHNOLOGY COMMU-
15 NICATIONS EQUIPMENT.—The term ‘advanced
16 technology communications equipment’ means
17 equipment used in the transmission or reception
18 of voice, data, video, paging, messaging, or
19 other communications services that are deliv-
20 ered using packet technology. A packet is a unit
21 of data, or sequence of binary digits, that is
22 routed between an origin and a destination on
23 a packet-switched network.

24 “(H) OPTICAL FIBER AND PHOTONICS
25 EQUIPMENT.—The term ‘optical fiber and

1 photonics equipment’ means optical fiber and
2 the equipment and materials used to generate,
3 manipulate and direct light particles over such
4 fiber.

5 “(I) ADVANCED ENVIRONMENTAL PROD-
6 UCTS.—The term ‘advanced environmental
7 product’ means any high cell density ceramic or
8 other device used for the control of nitrogen
9 oxide and particulate emissions.

10 “(J) ADVANCED LIFE SCIENCES PROD-
11 UCTS.—The term ‘advanced life sciences prod-
12 uct’ means any polymer, ceramic or high-purity
13 glass product used in biological research.

14 “(K) NEW HIGH PRODUCTIVITY ASSETS.—

15 “(i) IN GENERAL.—The term ‘new
16 high productivity assets’ means any asset
17 utilizing 1 or more technological or sci-
18 entific processes which were not in com-
19 mon commercial use before January 1,
20 2001.

21 “(ii) DETERMINATIONS.—The Sec-
22 retary shall establish procedures pursuant
23 to which taxpayers can seek a public ruling
24 that a particular class of assets qualifies as
25 new high productivity assets. The proce-

1 dures shall require the Secretary to provide
2 a determination within 90 days of receipt
3 of a properly completed request for a pub-
4 lic ruling.

5 “(3) EXCLUDED PROPERTY.—The term ‘high
6 productivity property’ shall not include—

7 “(A) an entire car, locomotive, aircraft,
8 ship or other vehicle solely because the vehicle
9 is controlled in whole or part by a computer or
10 other electronic equipment,

11 “(B) any equipment of a kind used pri-
12 marily for entertainment or amusement of the
13 user, and

14 “(C) typewriters, calculators, copiers, du-
15 plication equipment, and other similar equip-
16 ment.

17 “(c) ELECTION.— An election under this section for
18 any taxable year shall—

19 “(1) be made on an asset by asset basis, and

20 “(2) be made on the taxpayer’s return of the
21 tax imposed by this chapter for the taxable year.

22 “(d) SPECIAL RULES.—

23 “(1) COST.—For purposes of this section, the
24 cost of property does not include so much of the
25 basis of such property as is determined by reference

1 to the basis of other property held at any time by
2 the person acquiring such property.

3 “(2) ANTICHURNING RULES.—

4 “(A) IN GENERAL.—This section shall not
5 apply to any property acquired by the taxpayer
6 after September 10, 2002, if—

7 “(i) the property was owned or used
8 at any time during the period beginning on
9 January 1, 2001, and ending on Sep-
10 tember 10, 2002, by the taxpayer or a re-
11 lated person,

12 “(ii) the property was owned or used
13 at any time during the period described in
14 clause (i), and, as part of the transaction,
15 the user of the property does not change,

16 “(iii) the taxpayer leases such prop-
17 erty to a person (or a person related to
18 such person) who owned or used such
19 property at any time during the period de-
20 scribed in clause (i), or

21 “(iv) the property is acquired in a
22 transaction as part of which the user of
23 such property does not change and the
24 property was acquired from a person to
25 which clause (ii) or clause (iii) applies.

1 “(B) APPLICABLE COST RECOVERY
2 RULES.—Section 168 shall apply to any prop-
3 erty to which this section does not apply by rea-
4 son of this paragraph.

5 “(C) SPECIAL RULES.—For purposes of
6 this paragraph—

7 “(i) property shall not be treated as
8 owned before it is placed in service, and

9 “(ii) whether the user of a property
10 changes will be determined in accordance
11 with regulations prescribed by the Sec-
12 retary.

13 “(3) RECAPTURE IN CERTAIN CASES.—The
14 Secretary shall, by regulations, provide for the re-
15 capturing the benefit under any deduction allowable
16 under subsection (a) with respect to any property
17 which is not used predominantly in a trade or busi-
18 ness at any time.

19 “(4) ALTERNATIVE DEPRECIATION SYSTEM AP-
20 PLIES.—The election under subsection (a) may not
21 be made with respect to property which at any time
22 during the taxable year in which such property is
23 placed in service is—

24 “(A) described in paragraph (1) of section
25 168A(g), or

1 “(B) ‘listed property’ ‘not predominantly
 2 used in a qualified business use’ as such terms
 3 apply for purposes of paragraph (1) of
 4 280F(b).”.

5 (b) CONFORMING AMENDMENT.—The table of sec-
 6 tions for part VI of subchapter B of chapter 1 of such
 7 Code is amended by adding after section 168 the following
 8 new item:

“Sec. 168A. High productivity investment deduction.”.

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to property placed in service after
 11 September 10, 2002, with respect to taxable years begin-
 12 ning after such date.

13 **SEC. 3. 30 PERCENT EXPENSING FOR CERTAIN PROPERTY**
 14 **ACQUIRED AFTER SEPTEMBER 10, 2001, MADE**
 15 **PERMANENT.**

16 (a) REPEAL OF LIMITATIONS.—

17 (1) ACQUISITION LIMITATION.—Section
 18 168(k)(2) of the Internal Revenue Code of 1986 is
 19 amended by striking “, and before September 11,
 20 2004” each place it appears in subparagraphs
 21 (A)(iii) and (D)(i).

22 (2) PLACED IN SERVICE LIMITATION.—Sub-
 23 paragraph (A) of section 168(k)(2) of such Code is
 24 amended by inserting “and” at the end of clause

1 (ii), by striking “, and” at the end of clause (iii) and
 2 inserting a period, and by striking clause (iv).

3 (3) BASIS LIMITATION FOR CERTAIN PROP-
 4 ERTY.—Subparagraph (B) of section 168(k)(2) of
 5 such Code is amended by striking clause (ii) and re-
 6 designating clause (iii) as clause (ii).

7 (b) SYNDICATIONS.—Subparagraph (D) of section
 8 168(k)(2) of such Code (relating to special rules) is
 9 amended by adding at the end the following:

10 “(iii) SYNDICATIONS.—For purposes
 11 of subparagraph (A)(ii), if property—

12 “(I) is treated as originally
 13 placed in service after September 10,
 14 2001, either directly or by a lessor of
 15 such property or pursuant to subpara-
 16 graph (D)(ii), and

17 “(II) is sold within 6 months
 18 after such property is so placed in
 19 service,

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

23 (c) CONFORMING AMENDMENT.—The heading of
 24 subsection (k) of section 168 of such Code is amended by
 25 striking “, AND BEFORE SEPTEMBER 11, 2004”.

1 (d) EFFECTIVE DATES.—

2 (1) IN GENERAL.—Except as provided in para-
 3 graph (2), the amendments made by this section
 4 shall apply to property placed in service after Sep-
 5 tember 10, 2002, in taxable years beginning after
 6 such date.

7 (2) SUBSECTION (b).—The amendment made
 8 by subsection (b) shall take effect as if included in
 9 the amendments made by section 101 of the Job
 10 Creation and Worker Assistance Act of 2002.

11 **SEC. 4. DEPRECIATION RULES NOT MODIFIED FOR PUR-**
 12 **POSES OF ALTERNATIVE MINIMUM TAX.**

13 (a) DETERMINATION OF ALTERNATIVE TAXABLE IN-
 14 COME.—Paragraph (1) of section 56(a) of the Internal
 15 Revenue Code of 1986 (relating to depreciation) is amend-
 16 ed by adding at the end the following new subparagraph:

17 “(E) TERMINATION.—This paragraph
 18 shall not apply to property placed in service
 19 after September 10, 2002, in taxable years be-
 20 ginning after such date.”.

21 (b) DETERMINATION OF ADJUSTED CURRENT EARN-
 22 INGS.—Subparagraph (A) of section 56(g)(4) of such
 23 Code (relating to depreciation) is amended by adding at
 24 the end the following new clause:

1 “(vi) TERMINATION.—This subpara-
2 graph shall not apply to property placed in
3 service after September 10, 2002, in tax-
4 able years beginning after such date.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to property placed in service after
7 September 10, 2002, in taxable years beginning after such
8 date.

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