

107TH CONGRESS
2D SESSION

S. 2000

To amend the Internal Revenue Code of 1986 to provide for a special depreciation allowance for certain property acquired after December 31, 2001, and before January 1, 2004.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2002

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

A BILL

To amend the Internal Revenue Code of 1986 to provide for a special depreciation allowance for certain property acquired after December 31, 2001, and before January 1, 2004.

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. SPECIAL DEPRECIATION ALLOWANCE FOR**
4 **CERTAIN PROPERTY ACQUIRED AFTER DE-**
5 **CEMBER 31, 2001, AND BEFORE JANUARY 1,**
6 **2004.**

7 (a) IN GENERAL.—Section 168 of the Internal Rev-
8 enue Code of 1986 (relating to accelerated cost recovery

1 system) is amended by adding at the end the following
 2 new subsection:

3 “(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY
 4 ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE
 5 JANUARY 1, 2004.—

6 “(1) ADDITIONAL ALLOWANCE.—In the case of
 7 any qualified property—

8 “(A) the depreciation deduction provided
 9 by section 167(a) for the taxable year in which
 10 such property is placed in service shall include
 11 an allowance equal to 30 percent of the ad-
 12 justed basis of the qualified property, and

13 “(B) the adjusted basis of the qualified
 14 property shall be reduced by the amount of
 15 such deduction before computing the amount
 16 otherwise allowable as a depreciation deduction
 17 under this chapter for such taxable year and
 18 any subsequent taxable year.

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

21 “(A) IN GENERAL.—The term ‘qualified
 22 property’ means property—

23 “(i)(I) to which this section applies
 24 which has a recovery period of 20 years or
 25 less or which is water utility property,

1 “(II) which is computer software (as
2 defined in section 167(f)(1)(B)) for which
3 a deduction is allowable under section
4 167(a) without regard to this subsection,

5 “(III) which is qualified leasehold im-
6 provement property, or

7 “(IV) which is eligible for depreciation
8 under section 167(g),

9 “(ii) the original use of which com-
10 mences with the taxpayer after December
11 31, 2001,

12 “(iii) which is—

13 “(I) acquired by the taxpayer
14 after December 31, 2001, and before
15 January 1, 2004, but only if no writ-
16 ten binding contract for the acquisi-
17 tion was in effect before January 1,
18 2002, or

19 “(II) acquired by the taxpayer
20 pursuant to a written binding contract
21 which was entered into after Decem-
22 ber 31, 2001, and before January 1,
23 2004, and

24 “(iv) which is placed in service by the
25 taxpayer before January 1, 2004, or, in

1 the case of property described in subpara-
 2 graph (B), before January 1, 2005.

3 “(B) CERTAIN PROPERTY HAVING LONGER
 4 PRODUCTION PERIODS TREATED AS QUALIFIED
 5 PROPERTY.—

6 “(i) IN GENERAL.—The term ‘quali-
 7 fied property’ includes property—

8 “(I) which meets the require-
 9 ments of clauses (i), (ii), and (iii) of
 10 subparagraph (A),

11 “(II) which has a recovery period
 12 of at least 10 years or is transpor-
 13 tation property, and

14 “(III) which is subject to section
 15 263A by reason of clause (ii) or (iii)
 16 of subsection (f)(1)(B) thereof.

17 “(ii) ONLY PRE-JANUARY 1, 2004,
 18 BASIS ELIGIBLE FOR ADDITIONAL ALLOW-
 19 ANCE.—In the case of property which is
 20 qualified property solely by reason of
 21 clause (i), paragraph (1) shall apply only
 22 to the extent of the adjusted basis thereof
 23 attributable to manufacture, construction,
 24 or production before January 1, 2004.

1 “(iii) TRANSPORTATION PROPERTY.—

2 For purposes of this subparagraph, the
 3 term ‘transportation property’ means tan-
 4 gible personal property used in the trade
 5 or business of transporting persons or
 6 property.

7 “(C) EXCEPTIONS.—

8 “(i) ALTERNATIVE DEPRECIATION
 9 PROPERTY.—The term ‘qualified property’
 10 shall not include any property to which the
 11 alternative depreciation system under sub-
 12 section (g) applies, determined—

13 “(I) without regard to paragraph
 14 (7) of subsection (g) (relating to elec-
 15 tion to have system apply), and

16 “(II) after application of section
 17 280F(b) (relating to listed property
 18 with limited business use).

19 “(ii) ELECTION OUT.—If a taxpayer
 20 makes an election under this clause with
 21 respect to any class of property for any
 22 taxable year, this subsection shall not
 23 apply to all property in such class placed
 24 in service during such taxable year.

25 “(D) SPECIAL RULES.—

“(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer’s own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after December 31, 2001, and before January 1, 2004.

“(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

“(I) is originally placed in service after December 31, 2001, by a person, and

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

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

“(E) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

1 “(i) AUTOMOBILES.—In the case of a
 2 passenger automobile (as defined in section
 3 280F(d)(5)) which is qualified property,
 4 the Secretary shall increase the limitation
 5 under section 280F(a)(1)(A)(i) by \$4,600.

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

10 “(3) QUALIFIED LEASEHOLD IMPROVEMENT
 11 PROPERTY.—For purposes of this subsection—

12 “(A) IN GENERAL.—The term ‘qualified
 13 leasehold improvement property’ means any im-
 14 provement to an interior portion of a building
 15 which is nonresidential real property if—

16 “(i) such improvement is made under
 17 or pursuant to a lease (as defined in sub-
 18 section (h)(7))—

19 “(I) by the lessee (or any subles-
 20 see) of such portion, or

21 “(II) by the lessor of such por-
 22 tion,

23 “(ii) such portion is to be occupied ex-
 24 clusively by the lessee (or any sublessee) of
 25 such portion, and

1 “(iii) such improvement is placed in
 2 service more than 3 years after the date
 3 the building was first placed in service.

4 “(B) CERTAIN IMPROVEMENTS NOT IN-
 5 CLUDED.—Such term shall not include any im-
 6 provement for which the expenditure is attrib-
 7 utable to—

8 “(i) the enlargement of the building,

9 “(ii) any elevator or escalator,

10 “(iii) any structural component bene-
 11 fitting a common area, and

12 “(iv) the internal structural frame-
 13 work of the building.

14 “(C) DEFINITIONS AND SPECIAL RULES.—

15 For purposes of this paragraph—

16 “(i) BINDING COMMITMENT TO LEASE
 17 TREATED AS LEASE.—A binding commit-
 18 ment to enter into a lease shall be treated
 19 as a lease, and the parties to such commit-
 20 ment shall be treated as lessor and lessee,
 21 respectively.

22 “(ii) RELATED PERSONS.—A lease be-
 23 tween related persons shall not be consid-
 24 ered a lease. For purposes of the preceding

1 sentence, the term ‘related persons’
 2 means—

3 “(I) members of an affiliated
 4 group (as defined in section 1504),
 5 and

6 “(II) persons having a relation-
 7 ship described in subsection (b) of
 8 section 267; except that, for purposes
 9 of this clause, the phrase ‘80 percent
 10 or more’ shall be substituted for the
 11 phrase ‘more than 50 percent’ each
 12 place it appears in such subsection.

13 “(D) IMPROVEMENTS MADE BY LESSOR.—
 14 In the case of an improvement made by the per-
 15 son who was the lessor of such improvement
 16 when such improvement was placed in service,
 17 such improvement shall be qualified leasehold
 18 improvement property (if at all) only so long as
 19 such improvement is held by such person.”.

20 (b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM
 21 TAX.—

22 (1) IN GENERAL.—Section 56(a)(1)(A) of the
 23 Internal Revenue Code of 1986 (relating to deprecia-
 24 tion adjustment for alternative minimum tax) is

1 amended by adding at the end the following new
2 clause:

3 “(iii) ADDITIONAL ALLOWANCE FOR
4 CERTAIN PROPERTY ACQUIRED AFTER DE-
5 CEMBER 31, 2001, AND BEFORE JANUARY 1,
6 2004.—The deduction under section 168(k)
7 shall be allowed.”

8 (2) CONFORMING AMENDMENT.—Clause (i) of
9 section 56(a)(1)(A) of the Internal Revenue Code of
10 1986 is amended by striking “clause (ii)” both
11 places it appears and inserting “clauses (ii) and
12 (iii)”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to property placed in service after
15 December 31, 2001, in taxable years ending after such
16 date.

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