

108TH CONGRESS  
1ST SESSION

# H. R. 1222

To permit a special amortization deduction for intangible assets acquired from eligible small businesses to take account of the actual economic useful life of such assets and to encourage growth in industries for which intangible assets are an important source of revenue.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2003

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

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## A BILL

To permit a special amortization deduction for intangible assets acquired from eligible small businesses to take account of the actual economic useful life of such assets and to encourage growth in industries for which intangible assets are an important source of revenue.

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. SPECIAL AMORTIZATION DEDUCTION FOR CER-**  
2 **TAIN INTANGIBLE PROPERTY ACQUIRED**  
3 **FROM ELIGIBLE SMALL BUSINESSES AFTER**  
4 **DECEMBER 31, 2002.**

5 (a) IN GENERAL.—Section 197 of the Internal Rev-  
6 enue Code of 1986 (relating to amortization of goodwill  
7 and certain other intangibles) is amended by redesignating  
8 subsection (g) as subsection (h) and inserting after sub-  
9 section (f) the following new subsection:

10 “(g) SPECIAL DEDUCTION FOR CERTAIN PROPERTY  
11 ACQUIRED FROM ELIGIBLE SMALL BUSINESSES AFTER  
12 DECEMBER 31, 2002.—

13 “(1) SPECIAL DEDUCTION.—In the case of any  
14 amortizable section 197 intangible—

15 “(A) the amortization deduction provided  
16 by subsection (a) for the taxable year in which  
17 such property is acquired shall include an allow-  
18 ance equal to 100 percent of the adjusted basis  
19 of the taxpayer’s qualified section 197 intan-  
20 gible property, and

21 “(B) the adjusted basis of the qualified  
22 section 197 intangible property shall be reduced  
23 by the amount of such deduction before com-  
24 puting the amount otherwise allowable as an  
25 amortization deduction under subsection (a) for

1           such taxable year and any subsequent taxable  
2           year.

3           “(2) QUALIFIED SECTION 197 INTANGIBLE  
4           PROPERTY.—For purposes of this subsection, the  
5           term ‘qualified section 197 intangible property’  
6           means any amortizable section 197 intangible which  
7           is acquired in a transaction (or series of trans-  
8           actions) involving the acquisition of assets consti-  
9           tuting a trade or business or substantial portion  
10          thereof from an eligible small business (as defined in  
11          section 474(c)) after December 31, 2002.

12          “(3) LIMITATIONS.—

13                 “(A) MAXIMUM DOLLAR AMOUNT.—The  
14                 aggregate amount of adjusted basis of qualified  
15                 section 197 intangible property which a tax-  
16                 payer may take into account under this sub-  
17                 section for any taxable year shall not exceed  
18                 \$5,000,000 (\$2,500,000 in the case of a sepa-  
19                 rate return of a married individual (as defined  
20                 in section 7703)).

21                 “(B) ALLOCATION OF DOLLAR AMOUNT.—

22                         “(i) CONTROLLED GROUP.—For pur-  
23                         poses of applying the dollar limitation  
24                         under subparagraph (A)—

1                   “(I) all component members of a  
2                   controlled group shall be treated as  
3                   one taxpayer, and

4                   “(II) the Secretary shall, under  
5                   regulations prescribed by him, appor-  
6                   tion such dollar limitation among the  
7                   component members of such con-  
8                   trolled group.

9                   For purposes of the preceding sentence,  
10                  the term ‘controlled group’ has the mean-  
11                  ing assigned to it by section 1563(a), ex-  
12                  cept that the phrase ‘more than 50 per-  
13                  cent’ shall be substituted for the phrase ‘at  
14                  least 80 percent’ each place it appears in  
15                  section 1563(a)(1).

16                  “(ii) PARTNERSHIPS AND S CORPORA-  
17                  TIONS.—In the case of a partnership, the  
18                  dollar limitation contained in subparagraph  
19                  (A) shall apply with respect to the partner-  
20                  ship and with respect to each partner. A  
21                  similar rule shall apply in the case of an  
22                  S corporation and its shareholders.

23                  “(C) SUBSECTION NOT TO APPLY TO  
24                  TRUSTS.—This subsection shall not apply to  
25                  trusts.

1           “(D) ESTATES.—The benefit of the special  
2           deduction provided by this subsection shall be  
3           allowed to estates in the same manner as in the  
4           case of an individual. The allowable deduction  
5           shall be apportioned between the income bene-  
6           ficiary and the fiduciary under regulations pre-  
7           scribed by the Secretary. Any amount so appor-  
8           tioned to a beneficiary shall be taken into ac-  
9           count for purposes of determining the amount  
10          allowable as a deduction under this subsection  
11          to such beneficiary.”

12          (b) EFFECTIVE DATE.—The amendment made by  
13          this section shall apply to taxable years beginning after  
14          December 31, 2002.

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