

108TH CONGRESS
2D SESSION

H. R. 4029

To amend the Internal Revenue Code of 1986 to establish a 15-year recovery period for depreciation of designated low-income buildings and to allow passive losses and credits attributable to qualified low-income buildings.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 2004

Mr. WYNN 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 establish a 15-year recovery period for depreciation of designated low-income buildings and to allow passive losses and credits attributable to qualified low-income buildings.

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. 15-YEAR RECOVERY PERIOD FOR DEPRECIA-**
4 **TION OF DESIGNATED LOW-INCOME BUILD-**
5 **INGS.**

6 (a) IN GENERAL.—Subparagraph (E) of section
7 168(e)(3) of the Internal Revenue Code of 1986 (relating
8 to 15-year property) is amended by striking “and” at the

1 end of clause (ii), by striking the period at the end of
 2 clause (iii) and inserting “, and”, and by adding at the
 3 end the following new clause:

4 “(iv) any designated low-income build-
 5 ing.”

6 (b) DESIGNATED LOW-INCOME BUILDING.—Sub-
 7 section (e) of section 168 of such Code (relating to classi-
 8 fication of property) is amended by adding at the end the
 9 following new paragraph:

10 “(6) DESIGNATED LOW-INCOME BUILDING.—

11 “(A) IN GENERAL.—The term ‘designated
 12 low-income building’ means any building which
 13 is a qualified low-income building (as defined in
 14 section 42(c)(2)) if—

15 “(i) no housing credit dollar amount
 16 has been allocated to such building under
 17 section 42(h), and

18 “(ii) the taxpayer has made the elec-
 19 tion described in subparagraph (B) with
 20 respect to such building.

21 “(B) ELECTION.—An election is described
 22 in this subparagraph if made by the taxpayer at
 23 such time and in such manner as the Secretary
 24 may prescribe. Any election under the preceding
 25 sentence, once made, shall be irrevocable.

1 “(C) COORDINATION WITH LOW-INCOME
2 HOUSING CREDIT.—No credit shall be allowed
3 under section 42 with respect to any designated
4 low-income building.

5 “(D) RECAPTURE OF ACCELERATED DE-
6 PRECIATION.—A designated low-income build-
7 ing which ceases to be a qualified low-income
8 building (as defined in section 42(c)(2)) at any
9 time during the recapture period shall, under
10 regulations prescribed by the Secretary, be
11 treated as though paragraph (3)(E)(iv) were
12 never enacted. The statutory period for the as-
13 sessment of any deficiency attributable to this
14 subparagraph shall not expire before the expira-
15 tion of the 1-year period beginning on the date
16 the Secretary is notified by the taxpayer (in
17 such manner as the Secretary may prescribe) of
18 the change in status of such building. For pur-
19 poses of this subparagraph, the term ‘recapture
20 period’ has the meaning given the term ‘compli-
21 ance period’ under section 42(i)(1) except ‘20
22 taxable years’ shall be substituted for ‘15 tax-
23 able years’.”.

24 (c) ALTERNATIVE DEPRECIATION SYSTEM.—The
25 table contained in section 168(g)(3)(B) of such Code is

1 amended by inserting after the item relating to subpara-
 2 graph (E)(iii) the following:

“(E)(iv) 20”.

3 (d) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to property placed in service after
 5 the date of the enactment of this Act.

6 **SEC. 2. QUALIFIED LOW-INCOME BUILDINGS NOT SUBJECT**
 7 **TO LIMITATION ON PASSIVE ACTIVITY**
 8 **LOSSES AND CREDITS.**

9 (a) IN GENERAL.—Section 469 of the Internal Rev-
 10 enue Code of 1986 (relating to passive activity losses and
 11 credits limited) is amended by redesignating subsections
 12 (l) and (m) as subsections (m) and (n), respectively, and
 13 by inserting after subsection (k) the following new sub-
 14 section:

15 “(l) SPECIAL RULE FOR QUALIFIED LOW-INCOME
 16 BUILDINGS.—Subsection (a) shall not apply to that por-
 17 tion of the passive activity loss and passive activity credit
 18 for any taxable year which is attributable to any qualified
 19 low-income building (as defined in section 42(c)(2)).”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Paragraph (3) of section 469(i) of such
 22 Code is amended by striking subparagraph (D) and
 23 by redesignating subparagraphs (E) and (F) as sub-
 24 paragraphs (D) and (E), respectively.

1 (2) Subparagraph (D) of section 469(i) of such
2 Code (as so redesignated) is amended to read as fol-
3 lows:

4 “(D) ORDERING RULES TO REFLECT EX-
5 CEPTIONS AND SEPARATE PHASE-OUTS.—If
6 subparagraph (B) or (C) applies for a taxable
7 year, paragraph (1) shall be applied—

8 “(i) first to the portion of the passive
9 activity loss to which subparagraph (C)
10 does not apply,

11 “(ii) second to the portion of such loss
12 to which subparagraph (C) applies,

13 “(iii) third to the portion of the pas-
14 sive activity credit to which subparagraph
15 (B) does not apply, and

16 “(iv) fourth to the portion of such
17 credit to which subparagraph (B) ap-
18 plies.”.

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

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