

109TH CONGRESS  
2D SESSION

# H. R. 4913

To amend the Internal Revenue Code of 1986 to encourage the use of corrosion prevention and mitigation measures in the construction and maintenance of business property.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2006

Mr. FITZPATRICK of Pennsylvania (for himself and Mr. AL GREEN of Texas) 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 encourage the use of corrosion prevention and mitigation measures in the construction and maintenance of business property.

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 “Corrosion Prevention  
5       Act of 2006”.

1 **SEC. 2. CREDIT FOR CORROSION PREVENTION AND MITI-**  
 2 **GATION MEASURES.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-  
 4 chapter A of chapter 1 of the Internal Revenue Code of  
 5 1986 (relating to business-related credits) is amended by  
 6 adding at the end the following new section:

7 **“SEC. 45N. CORROSION PREVENTION AND MITIGATION**  
 8 **MEASURES.**

9 “(a) IN GENERAL.—For purposes of section 38, the  
 10 corrosion prevention and mitigation credit determined  
 11 under this section for the taxable year is an amount equal  
 12 to 50 percent of the excess of—

13 “(1) qualified corrosion prevention and mitiga-  
 14 tion expenditures with respect to qualified property,  
 15 over

16 “(2) the amount such expenditures would have  
 17 been, taking into account amounts paid or incurred  
 18 to satisfy Federal, State, or local requirements.

19 “(b) QUALIFIED CORROSION PREVENTION AND MITI-  
 20 GATION EXPENDITURES.—For purposes of this section—

21 “(1) IN GENERAL.—The term ‘qualified corro-  
 22 sion prevention and mitigation expenditures’ means  
 23 amounts paid or incurred by the taxpayer during the  
 24 taxable year for engineering design, materials, and  
 25 application and installation of corrosion prevention  
 26 and mitigation technology.

1           “(2) CERTIFICATION MAY BE REQUIRED.—The  
2       Secretary shall require by regulation that no amount  
3       be taken into account under paragraph (1) for any  
4       design, material, application, or installation unless  
5       such design, material, application, or installation  
6       meets such certification requirements as the Sec-  
7       retary shall require. Such requirements shall provide  
8       for accreditation of certifying persons by an inde-  
9       pendent entity with expertise in corrosion prevention  
10      and mitigation technology.

11           “(3) CORROSION PREVENTION AND MITIGATION  
12      TECHNOLOGY.—Corrosion prevention and mitigation  
13      technology includes a system comprised of at least  
14      one of the following: a corrosion-protective coating  
15      or paint; chemical treatment; corrosion-resistant  
16      metals; and cathodic protection. The Secretary from  
17      time to time by regulations or other guidance modify  
18      the list contained in the preceding sentence to reflect  
19      changes in corrosion prevention and mitigation tech-  
20      nology.

21           “(4) QUALIFIED PROPERTY.—The term ‘quali-  
22      fied property’ means property which is—

23                   “(A) comprised primarily of a metal sus-  
24                   ceptible to corrosion,

1 “(B) of a character subject to the allow-  
 2 ance for depreciation,

3 “(C) originally placed in service by the tax-  
 4 payer, and

5 “(D) located in the United States.

6 “(c) RECAPTURE OF CREDIT.—

7 “(1) IN GENERAL.—If, as of the close of any  
 8 taxable year, there is a recapture event with respect  
 9 to any qualified property for which a credit was al-  
 10 lowed under subsection (a), the tax of the taxpayer  
 11 under this chapter for such taxable year shall be in-  
 12 creased by an amount equal to the product of—

13 “(A) the applicable recapture percentage,  
 14 and

15 “(B) the aggregate decrease in the credits  
 16 allowed under section 38 for all prior taxable  
 17 years which would have resulted if the qualified  
 18 corrosion prevention and mitigation expendi-  
 19 tures of the taxpayer with respect to such prop-  
 20 erty had been zero.

21 “(2) APPLICABLE RECAPTURE PERCENTAGE.—

22 “(A) IN GENERAL.—For purposes of this  
 23 subsection, the applicable recapture percentage  
 24 shall be determined from the following table:

<b>“If the property ceases to be qualified property within:</b>	<b>The recapture percentage is:</b>
(i) One full year after placed in service .....	100
(ii) One full year after the close of the period described in clause (i) .....	80
(iii) One full year after the close of the period described in clause (ii) .....	60
(iv) One full year after the close of the period described in clause (iii) .....	40
(v) One full year after the close of the period described in clause (iv) .....	20.

1                   “(B) RECAPTURE EVENT DEFINED.—For  
2                   purposes of this subsection, the term ‘recapture  
3                   event’ means—

4                   “(i) CESSATION OF USE.—The ces-  
5                   sation of use of the qualified property.

6                   “(ii) CHANGE IN OWNERSHIP.—

7                   “(I) IN GENERAL.—Except as  
8                   provided in subclauses (II), the dis-  
9                   position of a taxpayer’s interest in the  
10                  qualified property with respect to  
11                  which the credit described in sub-  
12                  section (a) was allowable.

13                  “(II) AGREEMENT TO ASSUME  
14                  RECAPTURE LIABILITY.—Subclause  
15                  (I) shall not apply if the person ac-  
16                  quiring the qualified property agrees  
17                  in writing to assume the recapture li-  
18                  ability of the person disposing of the  
19                  qualified property. In the event of  
20                  such an assumption, the person ac-

1           quiring the qualified property shall be  
2           treated as the taxpayer for purposes  
3           of assessing any recapture liability  
4           (computed as if there had been no  
5           change in ownership).

6           “(III) SPECIAL RULE FOR TAX  
7           EXEMPT ENTITIES.—Subclause (II)  
8           shall not apply to any tax exempt en-  
9           tity (as defined in section 168(h)(2)).

10          “(iii) SPECIAL RULES.—

11               “(I) TAX BENEFIT RULE.—The  
12           tax for the taxable year shall be in-  
13           creased under paragraph (1) only with  
14           respect to credits allowed by reason of  
15           this section which were used to reduce  
16           tax liability. In the case of credits not  
17           so used to reduce tax liability, the  
18           carryforwards and carrybacks under  
19           section 39 shall be appropriately ad-  
20           justed.

21               “(II) NO CREDITS AGAINST  
22           TAX.—Any increase in tax under this  
23           subsection shall not be treated as a  
24           tax imposed by this chapter for pur-  
25           poses of determining the amount of

1 any credit under this chapter or for  
2 purposes of section 55.

3 “(III) NO RECAPTURE BY REA-  
4 SON OF CASUALTY LOSS.—The in-  
5 crease in tax under this subsection  
6 shall not apply to a cessation of oper-  
7 ation of the property as qualified  
8 property by reason of a casualty loss  
9 to the extent such loss is restored by  
10 reconstruction or replacement within a  
11 reasonable period established by the  
12 Secretary.

13 “(d) DENIAL OF DOUBLE BENEFIT.—For purposes  
14 of this subtitle—

15 “(1) BASIS ADJUSTMENTS.—

16 “(A) IN GENERAL.—If a credit is deter-  
17 mined under this section for any expenditure  
18 with respect to any property, the increase in the  
19 basis of such property which would (but for this  
20 subsection) result from such expenditure shall  
21 be reduced by the amount of the credit so al-  
22 lowed.

23 “(B) CERTAIN DISPOSITIONS.—If, during  
24 any taxable year, there is a recapture amount  
25 determined with respect to any property the

1 basis of which was reduced under subparagraph  
2 (A), the basis of such property (immediately be-  
3 fore the event resulting in such recapture) shall  
4 be increased by an amount equal to such recap-  
5 ture amount. For purposes of the preceding  
6 sentence, the term ‘recapture amount’ means  
7 any increase in tax (or adjustment in  
8 carrybacks or carryovers) determined under  
9 subsection (c).

10 “(2) OTHER DEDUCTIONS AND CREDITS.—No  
11 deduction or credit shall be allowed under this chap-  
12 ter for any expense taken into account under this  
13 section.

14 “(e) REGULATIONS.—The Secretary shall prescribe  
15 such regulations as may be appropriate to carry out this  
16 section.”.

17 (b) CREDIT MADE PART OF GENERAL BUSINESS  
18 CREDIT.—Subsection (b) of section 38 of such Code (re-  
19 lating to current year business credit) is amended by strik-  
20 ing “plus” at the end of paragraph (29), by striking the  
21 period at the end of paragraph (30) and inserting “, plus”,  
22 and by adding at the end thereof the following new para-  
23 graph:

24 “(31) Corrosion prevention and mitigation cred-  
25 it determined under section 45N(a).”.



1       (c) CLERICAL AMENDMENT.—The table of sections  
2 for subpart D of part IV of subchapter A of chapter 1  
3 of such Code is amended by inserting after the item relat-  
4 ing to section 45M the following new item:

“Sec. 45N. Corrosion prevention and mitigation measures.”.

5       (d) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to taxable years beginning after  
7 the date of the enactment of this Act.

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