

109TH CONGRESS
1ST SESSION

S. 1632

To amend the Internal Revenue Code of 1986 to provide a special depreciation allowance for certain property acquired during the 3-year period beginning August 29, 2005.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 8, 2005

Mr. SMITH 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 a special depreciation allowance for certain property acquired during the 3-year period beginning August 29, 2005.

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 AU-**
5 **GUST 28, 2005, AND BEFORE DECEMBER 31,**
6 **2008.**

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 “(1) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY
4 ACQUIRED AFTER AUGUST 28, 2005, AND BEFORE DE-
5 CEMBER 31, 2008.—

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,

1 “(II) which is water utility property,
2 or

3 “(III) which is computer software (as
4 defined in section 167(f)(1)(B)) for which
5 a deduction is allowable under section
6 167(a) without regard to this subsection,

7 “(ii) the original use of which com-
8 mences with the taxpayer after August 28,
9 2005,

10 “(iii) which is—

11 “(I) acquired by the taxpayer
12 after August 28, 2005, and before De-
13 cember 31, 2008, but only if no writ-
14 ten binding contract for the acquisi-
15 tion was in effect before August 29,
16 2005, or

17 “(II) acquired by the taxpayer
18 pursuant to a written binding contract
19 which was entered into after August
20 28, 2005, and before December 31,
21 2008, and

22 “(iv) which is placed in service by the
23 taxpayer before January 1, 2009, or, in
24 the case of property described in subpara-
25 graph (B), before January 1, 2010.

1 “(B) CERTAIN PROPERTY HAVING LONGER
2 DEPRECIATION PERIODS TREATED AS QUALI-
3 FIED PROPERTY.—

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

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

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

12 “(III) which is subject to section
13 263A, and

14 “(IV) meets the requirements of
15 clause (ii) or (iii) of subsection
16 (f)(1)(B) (determined as if such
17 clauses also apply to property which
18 has a long useful life (within the
19 meaning of section 263A(f))).

20 “(ii) ONLY PRE-DECEMBER 31, 2008,
21 BASIS ELIGIBLE FOR ADDITIONAL ALLOW-
22 ANCE.—In the case of property which is
23 qualified property solely by reason of
24 clause (i), paragraph (1) shall apply only
25 to the extent of the adjusted basis thereof

1 attributable to manufacture, construction,
2 or production before December 31, 2008.

3 “(iii) TRANSPORTATION PROPERTY.—

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

9 “(C) EXCEPTIONS.—

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

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

18 “(II) after application of section
19 280F(b) (relating to listed property
20 with limited business use).

21 “(ii) ELECTION OUT.—If a taxpayer
22 makes an election under this clause with
23 respect to any class of property for any
24 taxable year, this subsection shall not

1 apply to all property in such class placed
2 in service during such taxable year.

3 “(iii) QUALIFIED LEASEHOLD IM-
4 PROVEMENT PROPERTY.—The term ‘quali-
5 fied property’ shall not include any quali-
6 fied leasehold improvement property (as
7 defined in section 168(e)(6)).

8 “(D) SPECIAL RULES.—

9 “(i) SELF-CONSTRUCTED PROP-
10 ERTY.—In the case of a taxpayer manufac-
11 turing, constructing, or producing property
12 for the taxpayer’s own use, the require-
13 ments of clause (iii) of subparagraph (A)
14 shall be treated as met if the taxpayer be-
15 gins manufacturing, constructing, or pro-
16 ducing the property after August 28, 2005,
17 and before December 31, 2008.

18 “(ii) SALE-LEASEBACKS.—For pur-
19 poses of subparagraph (A)(ii), if prop-
20 erty—

21 “(I) is originally placed in service
22 after August 28, 2005, by a person,
23 and

24 “(II) sold and leased back by
25 such person within 3 months after the

1 date such property was originally
2 placed in service,
3 such property shall be treated as originally
4 placed in service not earlier than the date
5 on which such property is used under the
6 leaseback referred to in subclause (II).

7 “(E) COORDINATION WITH SECTION
8 280F.—For purposes of section 280F—

9 “(i) AUTOMOBILES.—In the case of a
10 passenger automobile (as defined in section
11 280F(d)(5)) which is qualified property,
12 the Secretary shall increase the limitation
13 under section 280F(a)(1)(A)(i) by \$4,600.

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

18 “(F) DEDUCTION ALLOWED IN COMPUTING
19 MINIMUM TAX.—For purposes of determining
20 alternative minimum taxable income under sec-
21 tion 55, the deduction under subsection (a) for
22 qualified property shall be determined under
23 this section without regard to any adjustment
24 under section 56.”.

1 (b) **EFFECTIVE DATE.**—The amendments made by
2 this section shall apply to property placed in service after
3 August 28, 2005, in taxable years ending after such date.

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