

109TH CONGRESS
1ST SESSION

S. 2100

To amend the Internal Revenue Code of 1986 to improve the deduction
for depreciation.

IN THE SENATE OF THE UNITED STATES

DECEMBER 14, 2005

Mr. SMITH (for himself and Mr. KERRY) 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 improve
the deduction for depreciation.

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 “Tax Depreciation,
5 Modernization, and Simplification Act of 2005”.

6 **SEC. 2. AUTHORITY TO MODIFY CLASS LIVES.**

7 (a) IN GENERAL.—Paragraph (1) of section 168(i)
8 of the Internal Revenue Code of 1986 is amended to read
9 as follows:

10 “(1) CLASS LIFE.—

“(A) IN GENERAL.—Except as provided in this section, the term ‘class life’ means the class life (if any) which would be applicable with respect to any property as of January 1, 1986, under subsection (m) of section 167, as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990 (determined without regard to paragraph (4) thereof and as if the taxpayer had made an election under such subsection).

“(B) SECRETARIAL AUTHORITY.—

“(i) IN GENERAL.—Except as provided in clause (ii), the Secretary, after consultation with Congress, may prescribe by regulation—

“(I) a new class life for any property, or

“(II) a class life for any property which does not have a class life within the meaning of subparagraph (A).

“(ii) EXCEPTIONS.—Clause (i) shall not apply to—

“(I) residential rental property or nonresidential real property, or

1 “(II) property for which a class
2 life, classification, or recovery period
3 is assigned under subsection (e)(3)
4 (other than subparagraph (C)(v)
5 thereof) or subparagraph (B), (C), or
6 (D) of subsection (g)(3).

7 “(iii) STANDARDS.—Any class life
8 prescribed or modified under clause (i)
9 shall reasonably reflect the anticipated use-
10 ful life and the anticipated decline in value
11 over time of the property to the industry
12 or other group, and shall take into account
13 when the property is technologically or
14 functionally obsolete for the original pur-
15 pose under which it was acquired.

16 “(iv) CONSULTATION.—Not later than
17 60 days before the date on which the Sec-
18 retary publishes any proposed regulation
19 under clause (i), the Secretary shall submit
20 to Congress the proposed regulation to-
21 gether with a report containing the infor-
22 mation considered by the Secretary in
23 modifying or prescribing any class life
24 under the regulation.

1 “(v) MONITORING.—The Secretary,
 2 through an office established in the Treas-
 3 ury, shall monitor and analyze actual expe-
 4 rience with respect to depreciable assets to
 5 which this subparagraph applies.

6 “(C) EFFECT OF MODIFICATION.—Any
 7 class life with respect to any property pre-
 8 scribed or modified under subparagraph (B)
 9 shall be used in classifying such property under
 10 subsection (e) and in applying subsection (g).”.

11 (b) APPLICATION OF CONGRESSIONAL REVIEW
 12 ACT.—For purposes of applying chapter 8 of title 5,
 13 United States Code, to any regulation prescribed under
 14 section 168(i)(1)(B) of the Internal Revenue Code of
 15 1986, each class life prescribed under such section shall
 16 be considered to be a separate rule.

17 (c) EFFECTIVE DATE.—The amendment made by
 18 this section shall take effect on the date of the enactment
 19 of this Act.

20 **SEC. 3. ELIMINATION OF MID-QUARTER CONVENTION.**

21 (a) IN GENERAL.—Subsection (d) of section 168 of
 22 the Internal Revenue Code of 1986 is amended—

23 (1) by striking paragraph (3) and redesignating
 24 paragraph (4) as paragraph (3), and

1 (2) in paragraph (3), as redesignated by para-
2 graph (1), by striking subparagraph (C).

3 (b) 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. 4. MASS ASSET ACCOUNTING.**

7 (a) IN GENERAL.—Section 168 of the Internal Rev-
8 enue Code of 1986 is amended by adding at the end the
9 following new subsection:

10 “(l) MASS ASSET ACCOUNTING.—

11 “(1) ELECTION.—

12 “(A) IN GENERAL.—In lieu of the deduc-
13 tion otherwise allowed under this section with
14 respect to an item of qualified property, the
15 taxpayer may elect to add the adjusted basis of
16 such property to the mass asset account of the
17 taxpayer to which such qualified property is as-
18 signed and to determine the deduction under
19 this section using the applicable depreciation
20 method with respect to such mass asset ac-
21 count.

22 “(B) ELECTION TO APPLY TO ALL ASSETS
23 OF THE TAXPAYER WITH SAME RECOVERY PE-
24 RIOD.—An election made under subparagraph
25 (A) shall be made in such manner as the Sec-

retary may by regulations prescribe and shall apply to all qualified property of the taxpayer which has the same applicable recovery period for such taxable year and all subsequent taxable years.

“(C) ELECTION IRREVOCABLE.—Any election made under this paragraph shall be irrevocable except with the consent of the Secretary. The Secretary shall prescribe rules for the proper accounting of assets in a mass asset account in the case of any such revocation.

“(2) SPECIAL RULES.—

“(A) MODIFICATION OF DEPRECIATION METHOD.—In applying the applicable depreciation method to any mass asset account, subsection (b) shall be applied without regard to paragraph (1)(B) thereof.

“(B) ADJUSTMENT TO REFLECT HALF-YEAR CONVENTION.—In applying the deduction allowable under subsection (a) to any mass asset account, the amount of the deduction under subsection (a) shall be—

“(i) 100 percent of the deduction otherwise allowed under this section in the case of qualified property placed in service

before the beginning of the taxable year,
and

“(ii) 50 percent of the deduction otherwise allowed under this section with respect to qualified property placed in service during the taxable year.

“(C) SALE OF QUALIFIED PROPERTY.—

“(i) IN GENERAL.—In the case of the sale of any property the adjusted basis of which has been added to a mass asset account, the balance of the mass asset account to which such property was assigned shall be reduced (but not below zero) by the amount of the proceeds from such sale.

“(ii) RECOGNITION OF GAIN.—If the proceeds from the sale of any property the adjusted basis of which has been added to a mass asset account exceed the balance of such mass asset account, then the excess shall be treated as ordinary income.

“(3) QUALIFIED PROPERTY.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘qualified property’ means any tangible property—

“(i) to which an applicable depreciation method under paragraph (1) or (2) of subsection (b) applies, and

“(ii) the cost of which is not more than \$10,000.

“(B) INFLATION ADJUSTMENT.—

“(i) IN GENERAL.—In the case of any taxable year beginning after 2006, the \$10,000 amount under subparagraph (A)(ii) shall be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2005’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(ii) ROUNDING.—If any amount as adjusted under the clause (i) is not a multiple of \$1,000, such amount shall be rounded to the next lowest multiple of \$1,000.

1 “(4) MASS ASSET ACCOUNT.—The term ‘mass
2 asset account’ means an account of the taxpayer
3 which reflects the adjusted basis of all qualified
4 property to which the same applicable depreciation
5 method and applicable recovery period applies.”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to property placed in service after
8 the date of the enactment of this Act.

9 **SEC. 5. PERMANENT EXTENSION OF EXPENSING FOR**
10 **SMALL BUSINESSES.**

11 (a) DOLLAR LIMITATION.—Paragraph (1) of section
12 179(b) of the Internal Revenue Code of 1986 is amended
13 by striking “\$25,000 (\$100,000 in the case of taxable
14 years beginning after 2002 and before 2008)” and insert-
15 ing “\$100,000”.

16 (b) REDUCTION IN LIMITATION.—Paragraph (2) of
17 section 179(b) of such Code is amended by striking
18 “\$200,000 (\$400,000 in the case of taxable years begin-
19 ning after 2002 and before 2008)” and inserting
20 “\$400,000”.

21 (c) INFLATION ADJUSTMENTS.—Subparagraph (A)
22 of section 179(b)(5) of such Code is amended by striking
23 “and before 2008”.

24 (d) ELECTION.—Paragraph (2) of section 179(c) of
25 such Code is amended by striking “and before 2008”.

- 1 (e) COMPUTER SOFTWARE.—Clause (ii) of section
2 179(d)(1)(A) is amended by striking “and before 2008”.

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