

110TH CONGRESS  
1ST SESSION

# H. R. 4112

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.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 7, 2007

Mr. WYNN 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 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 DEPRECIATION OF DESIGNATED LOW-INCOME BUILDINGS.**

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

4 “(ix) 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 “(8) 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)(viii) the following:

“(E)(ix) ..... 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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