

110TH CONGRESS
2D SESSION

H. R. 5141

To amend the Internal Revenue Code of 1986 to encourage investment in high productivity property, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2008

Mr. ENGLISH of Pennsylvania 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 encourage investment in high productivity property, and for other purposes.

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 “Job Creation Economic
5 Stimulus Act of 2008”.

6 **SEC. 2. ADOPTION OF THE HIGH PRODUCTIVITY INVEST-**
7 **MENT DEDUCTION.**

8 (a) IN GENERAL.—Part VI of subchapter B of chap-
9 ter 1 of the Internal Revenue Code of 1986 (relating to
10 itemized deductions for individuals and corporations) is

1 amended by inserting after section 168 the following new
2 section:

3 **“SEC. 168A. HIGH PRODUCTIVITY INVESTMENT DEDUC-**
4 **TION.**

5 “(a) TREATMENT AS EXPENSES.—A taxpayer may
6 elect to treat the cost of any high productivity property
7 as an expense not chargeable to capital account. Any cost
8 so treated shall be allowed as a deduction in the taxable
9 year in which the high productivity property is placed in
10 service.

11 “(b) DEFINITION OF HIGH PRODUCTIVITY PROP-
12 erty.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (3), the term ‘high productivity property’
15 means any—

16 “(A) computer,

17 “(B) computer related peripheral equip-
18 ment,

19 “(C) computer based machinery,

20 “(D) electronic diagnostic equipment,

21 “(E) electronic control equipment,

22 “(F) other electronic, electromechanical,
23 laser or computer based equipment,

24 “(G) computer software,

1 “(H) equipment used in the manufacture
2 of semiconductors,

3 “(I) high technology medical equipment,

4 “(J) advanced technology communications
5 equipment,

6 “(K) optical fiber and photonics equip-
7 ment,

8 “(L) advanced environmental products,

9 “(M) advanced life science products, or

10 “(N) new high productivity assets.

11 “(2) DEFINITIONS.—For purposes of this sub-
12 section:

13 “(A) COMPUTER.—The term ‘computer’
14 means a programmable electronically activated
15 device which—

16 “(i) is capable of accepting informa-
17 tion, applying prescribed processes to the
18 information, and supplying the results of
19 those processes, and

20 “(ii) consists of a central processing
21 unit containing extensive storage, logic,
22 arithmetic and control capabilities.

23 “(B) COMPUTER RELATED PERIPHERAL
24 EQUIPMENT.—The term ‘computer related pe-
25 ripheral equipment’ means any auxiliary ma-

chine or other equipment (whether on-line or off-line) which is designed to be placed under the control of the central processing unit of a computer (as determined without regard to whether such machine or equipment is an integral part of other property which is not a computer).

“(C) COMPUTER BASED MACHINERY.—The term ‘computer based machinery’ means any machine which—

“(i) cuts, forms, shapes, drills, bores, mixes, paints, seals, welds, or otherwise transforms material, or

“(ii) handles, conveys, assembles, or packages materials or products,

by responding to electronically stored information and programmed commands.

“(D) ELECTRONIC DIAGNOSTIC EQUIPMENT.—The term ‘electronic diagnostic equipment’ means equipment that uses electronic components to sense or monitor location, size, volume, surface characteristics, pressure, temperature, speed, chemical composition, or other similar characteristics.

1 “(E) ELECTRONIC CONTROL EQUIP-
2 MENT.—The term ‘electronic control equipment’
3 means equipment that electronically controls
4 pressure, temperature, size, volume, composi-
5 tion purity or other similar characteristics.

6 “(F) HIGH TECHNOLOGY MEDICAL EQUIP-
7 MENT.—The term ‘high technology medical
8 equipment’ means any electronic,
9 electromechanical, or computer-based high tech-
10 nology equipment used in the screening, moni-
11 toring, observation, diagnosis, or treatment of
12 patients in a laboratory, medical, or hospital en-
13 vironment.

14 “(G) ADVANCED TECHNOLOGY COMMU-
15 NICATIONS EQUIPMENT.—The term ‘advanced
16 technology communications equipment’ means
17 equipment used in the transmission or reception
18 of voice, data, video, paging, messaging, or
19 other communications services that are deliv-
20 ered using packet technology. A packet is a unit
21 of data, or sequence of binary digits, that is
22 routed between an origin and a destination on
23 a packet-switched network.

24 “(H) OPTICAL FIBER AND PHOTONICS
25 EQUIPMENT.—The term ‘optical fiber and

1 photonics equipment’ means optical fiber and
2 the equipment and materials used to generate,
3 manipulate and direct light particles over such
4 fiber.

5 “(I) ADVANCED ENVIRONMENTAL PROD-
6 UCTS.—The term ‘advanced environmental
7 product’ means any high cell density ceramic or
8 other device used for the control of nitrogen
9 oxide and particulate emissions.

10 “(J) ADVANCED LIFE SCIENCES PROD-
11 UCTS.—The term ‘advanced life sciences prod-
12 uct’ means any polymer, ceramic or high-purity
13 glass product used in biological research.

14 “(K) NEW HIGH PRODUCTIVITY ASSETS.—

15 “(i) IN GENERAL.—The term ‘new
16 high productivity assets’ means any asset
17 utilizing 1 or more technological or sci-
18 entific processes which were not in com-
19 mon commercial use before January 1,
20 2007.

21 “(ii) DETERMINATIONS.—The Sec-
22 retary shall establish procedures pursuant
23 to which taxpayers can seek a public ruling
24 that a particular class of assets qualifies as
25 new high productivity assets. The proce-

1 dures shall require the Secretary to provide
2 a determination within 90 days of receipt
3 of a properly completed request for a pub-
4 lic ruling.

5 “(3) EXCLUDED PROPERTY.—The term ‘high
6 productivity property’ shall not include—

7 “(A) an entire car, locomotive, aircraft,
8 ship or other vehicle solely because the vehicle
9 is controlled in whole or part by a computer or
10 other electronic equipment,

11 “(B) any equipment of a kind used pri-
12 marily for entertainment or amusement of the
13 user, and

14 “(C) typewriters, calculators, copiers, du-
15 plication equipment, and other similar equip-
16 ment.

17 “(c) ELECTION.—An election under this section for
18 any taxable year shall—

19 “(1) be made on an asset by asset basis, and

20 “(2) be made on the taxpayer’s return of the
21 tax imposed by this chapter for the taxable year.

22 “(d) SPECIAL RULES.—

23 “(1) COST.—For purposes of this section, the
24 cost of property does not include so much of the
25 basis of such property as is determined by reference

1 to the basis of other property held at any time by
2 the person acquiring such property.

3 “(2) ANTICHURNING RULES.—

4 “(A) IN GENERAL.—This section shall not
5 apply to any property acquired by the taxpayer
6 after December 31, 2007, if—

7 “(i) the property was owned or used
8 at any time during the period beginning on
9 January 1, 2007, and ending on December
10 31, 2007, by the taxpayer or a related per-
11 son,

12 “(ii) the property was owned or used
13 at any time during the period described in
14 clause (i), and, as part of the transaction,
15 the user of the property does not change,

16 “(iii) the taxpayer leases such prop-
17 erty to a person (or a person related to
18 such person) who owned or used such
19 property at any time during the period de-
20 scribed in clause (i), or

21 “(iv) the property is acquired in a
22 transaction as part of which the user of
23 such property does not change and the
24 property was acquired from a person to
25 which clause (ii) or clause (iii) applies.

1 “(B) APPLICABLE COST RECOVERY
 2 RULES.—Section 168 shall apply to any prop-
 3 erty to which this section does not apply by rea-
 4 son of this paragraph.

5 “(C) SPECIAL RULES.—For purposes of
 6 this paragraph—

7 “(i) property shall not be treated as
 8 owned before it is placed in service, and

9 “(ii) whether the user of a property
 10 changes will be determined in accordance
 11 with regulations prescribed by the Sec-
 12 retary.

13 “(3) RECAPTURE IN CERTAIN CASES.—The
 14 Secretary shall, by regulations, provide for the re-
 15 capturing the benefit under any deduction allowable
 16 under subsection (a) with respect to any property
 17 which is not used predominantly in a trade or busi-
 18 ness at any time.

19 “(4) ALTERNATIVE DEPRECIATION SYSTEM AP-
 20 PLIES.—The election under subsection (a) may not
 21 be made with respect to property which at any time
 22 during the taxable year in which such property is
 23 placed in service is—

24 “(A) described in paragraph (1) of section
 25 168A(g), or

1 “(B) ‘listed property’ ‘not predominantly
2 used in a qualified business use’ as such terms
3 apply for purposes of paragraph (1) of
4 280F(b).

5 “(e) TERMINATION.—This section shall only apply to
6 property which is—

7 “(1) acquired by the taxpayer after December
8 31, 2007, and before January 1, 2009, but only if
9 no written binding contract for the acquisition was
10 in effect before January 1, 2008, or

11 “(2)(A) acquired by the taxpayer pursuant to a
12 written binding contract which was entered into
13 after December 31, 2007, and before January 1,
14 2009, and

15 “(B) placed in service in taxable years begin-
16 ning after December 31, 2009.”.

17 (b) CONFORMING AMENDMENT.—The table of sec-
18 tions for part VI of subchapter B of chapter 1 of such
19 Code is amended by adding after section 168 the following
20 new item:

 “Sec. 168A. High productivity investment deduction.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to property placed in service after
23 December 31, 2007, with respect to taxable years begin-
24 ning after such date.

1 **SEC. 3. 50 PERCENT ALLOWANCE FOR DEPRECIATION FOR**
2 **CERTAIN PROPERTY ACQUIRED DURING 2008.**

3 (a) IN GENERAL.—Paragraph (4) of section 168(k)
4 of the Internal Revenue Code of 1986 (relating to 50-per-
5 cent bonus for certain property) is amended—

6 (1) by striking “May 5, 2003” each place it ap-
7 pears and inserting “December 31, 2007”,

8 (2) by striking “January 1, 2005” each place
9 it appears and inserting “January 1, 2009”,

10 (3) by striking “May 6, 2003” in subparagraph
11 (B)(ii)(I) and inserting “January 1, 2008”,

12 (4) by striking “January 1, 2006” in subpara-
13 graph (B)(iii) and inserting “January 1, 2010”, and

14 (5) by striking “OF 30-PERCENT BONUS” in the
15 heading for subparagraph (E).

16 (b) REPEAL OF BASIS LIMITATION FOR CERTAIN
17 PROPERTY.—Subparagraph (B) of section 168(k)(2) of
18 such Code is amended by striking clause (ii) and redesign-
19 ating clause (iii) as clause (ii).

20 (c) SYNDICATIONS.—Paragraph (4) of section 168(k)
21 of such Code (relating to 50-percent depreciation for cer-
22 tain property) is amended by adding at the end the fol-
23 lowing:

24 “(F) SYNDICATIONS.—For purposes of ap-
25 plying paragraph (2)(A)(ii) by reason of this
26 paragraph, if property—

1 “(i) is treated as originally placed in
 2 service after December 31, 2007, either di-
 3 rectly or by a lessor of such property or
 4 pursuant to paragraph (2)(D)(ii), and

5 “(ii) is sold within 6 months after
 6 such property is so placed in service,
 7 such property shall be treated as originally
 8 placed in service not earlier than the date of
 9 such sale.”.

10 (d) EFFECTIVE DATE.—

11 (1) IN GENERAL.—The amendments made by
 12 this section shall apply to property placed in service
 13 in taxable years beginning after December 31, 2007.

14 (2) EXCEPTION FOR CERTAIN PROPERTY.—The
 15 amendments made by this section shall not apply to
 16 any property to which section 105 of the Gulf Op-
 17 portunity Zone Act of 2005 applies.

18 **SEC. 4. DEPRECIATION RULES NOT MODIFIED FOR PUR-**
 19 **POSES OF ALTERNATIVE MINIMUM TAX.**

20 (a) DETERMINATION OF ALTERNATIVE TAXABLE IN-
 21 COME.—Paragraph (1) of section 56(a) of the Internal
 22 Revenue Code of 1986 (relating to depreciation) is amend-
 23 ed by adding at the end the following new subparagraph:

1 “(E) TERMINATION.—This paragraph
2 shall not apply to property placed in service in
3 a taxable year beginning in 2008 or 2009.”.

4 (b) DETERMINATION OF ADJUSTED CURRENT EARN-
5 INGS.—Subparagraph (A) of section 56(g)(4) of such
6 Code (relating to depreciation) is amended by adding at
7 the end the following new clause:

8 “(vi) TERMINATION.—This subpara-
9 graph shall not apply to property placed in
10 service in a taxable year beginning in 2008
11 or 2009.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to property placed in service after
14 December 31, 2007, in taxable years beginning after such
15 date.

16 **SEC. 5. LONG-TERM CONTRACT ACCOUNTING.**

17 (a) IN GENERAL.—Section 168(k)(2) of the Internal
18 Revenue Code of 1986 is amended by adding after sub-
19 paragraph (G) the following new subparagraph:

20 “(H) LONG-TERM CONTRACT ACCOUNT-
21 ING.—The percentage of completion method
22 under section 460 shall be applied as if this
23 subsection had not been enacted.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 subsection (a) shall apply to property placed in service

1 after the date of the enactment of this Act in taxable years
 2 ending after such date.

3 **SEC. 6. LONG-TERM UNUSED CREDITS ALLOWED AGAINST**
 4 **MINIMUM TAX.**

5 (a) IN GENERAL.—Subsection (c) of section 53 of the
 6 Internal Revenue Code of 1986 (relating to limitation) is
 7 amended by adding at the end the following new para-
 8 graph:

9 “(2) SPECIAL RULE FOR CORPORATIONS WITH
 10 LONG-TERM UNUSED CREDITS.—

11 “(A) IN GENERAL.—If a corporation to
 12 which section 56(g) applies has a long-term un-
 13 used minimum tax credit for a taxable year, the
 14 credit allowable under subsection (a) for the
 15 taxable year shall not exceed the greater of—

16 “(i) the limitation determined under
 17 paragraph (1) for the taxable year, or

18 “(ii) the least of the following for the
 19 taxable year:

20 “(I) The sum of the tax imposed
 21 by section 55 and the regular tax re-
 22 duced by the sum of the credits al-
 23 lowed under subparts A, B, D, E, and
 24 F of this part.

1 “(II) The long-term unused min-
2 imum tax credit.

3 “(III) The sum of—

4 “(aa) 50 percent of qualified
5 investment, plus

6 “(bb) the qualified invest-
7 ment carryover to the taxable
8 year.

9 “(B) LONG-TERM UNUSED MINIMUM TAX
10 CREDIT.—For purposes of this paragraph—

11 “(i) IN GENERAL.—The long-term un-
12 used minimum tax credit for any taxable
13 year is the portion of the minimum tax
14 credit determined under subsection (b) at-
15 tributable to the adjusted net minimum tax
16 for taxable years beginning after 1986 and
17 ending before the 3rd taxable year imme-
18 diately preceding the taxable year for
19 which the determination is being made.

20 “(ii) FIRST-IN, FIRST-OUT ORDERING
21 RULE.—For purposes of clause (i), credits
22 shall be treated as allowed under sub-
23 section (a) on a first-in, first-out basis.

1 “(C) QUALIFIED INVESTMENT AND QUALI-
2 FIED INVESTMENT CARRYOVER.—For purposes
3 of this paragraph—

4 “(i) QUALIFIED INVESTMENT.—Quali-
5 fied investment is property described in
6 section 1245(a)(3) placed in service in the
7 taxable year.

8 “(ii) QUALIFIED INVESTMENT CARRY-
9 OVER.—The qualified investment carryover
10 is the amount by which 50 percent of
11 qualified investment exceeds the amount of
12 tax in paragraph (2)(A)(ii)(I). The quali-
13 fied investment carryover may be carried
14 only to the first taxable year following the
15 current year.

16 “(D) TERMINATION.—Subparagraph (A)
17 shall not apply to any taxable year beginning
18 after December 31, 2008.”.

19 (b) CONFORMING AMENDMENTS.—Section 53(c) of
20 such Code is amended—

21 (1) by striking “The” and inserting the fol-
22 lowing:

23 “(1) IN GENERAL.—The”; and

- 1 (2) by redesignating paragraphs (1) and (2) as
- 2 subparagraphs (A) and (B), respectively.

○