

110TH CONGRESS
1ST SESSION

S. 1197

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

IN THE SENATE OF THE UNITED STATES

APRIL 24, 2007

Mr. KERRY (for himself and 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 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 2007”.

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.—

1 “(A) IN GENERAL.—Except as provided in
 2 this section, the term ‘class life’ means the class
 3 life (if any) which would be applicable with re-
 4 spect to any property as of January 1, 1986,
 5 under subsection (m) of section 167, as in ef-
 6 fect on the day before the date of the enact-
 7 ment of the Revenue Reconciliation Act of 1990
 8 (determined without regard to paragraph (4)
 9 thereof and as if the taxpayer had made an
 10 election under such subsection).

11 “(B) SECRETARIAL AUTHORITY.—

12 “(i) IN GENERAL.—Except as pro-
 13 vided in clause (ii), the Secretary, after
 14 consultation with Congress, may prescribe
 15 by regulation—

16 “(I) a new class life for any prop-
 17 erty, or

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

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

23 “(I) residential rental property or
 24 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, as amended by the Tax Relief and
9 Health Care Act of 2006, is amended by adding at the
10 end the following new subsection:

11 “(m) MASS ASSET ACCOUNTING.—

12 “(1) ELECTION.—

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

23 “(B) ELECTION TO APPLY TO ALL ASSETS
24 OF THE TAXPAYER WITH SAME RECOVERY PE-
25 RIOD.—An election made under subparagraph

1 (A) shall be made in such manner as the Sec-
2 retary may by regulations prescribe and shall
3 apply to all qualified property of the taxpayer
4 which has the same applicable recovery period
5 for such taxable year and all subsequent taxable
6 years.

7 “(C) ELECTION IRREVOCABLE.—Any elec-
8 tion made under this paragraph shall be irrev-
9 ocable except with the consent of the Secretary.
10 The Secretary shall prescribe rules for the prop-
11 er accounting of assets in a mass asset account
12 in the case of any such revocation.

13 “(2) SPECIAL RULES.—

14 “(A) MODIFICATION OF DEPRECIATION
15 METHOD.—In applying the applicable deprecia-
16 tion method to any mass asset account, sub-
17 section (b) shall be applied without regard to
18 paragraph (1)(B) thereof.

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

24 “(i) 100 percent of the deduction oth-
25 erwise allowed under this section in the

1 case of qualified property placed in service
2 before the beginning of the taxable year,
3 and

4 “(ii) 50 percent of the deduction oth-
5 erwise allowed under this section with re-
6 spect to qualified property placed in service
7 during the taxable year.

8 “(C) SALE OF QUALIFIED PROPERTY.—

9 “(i) IN GENERAL.—In the case of the
10 sale of any property the adjusted basis of
11 which has been added to a mass asset ac-
12 count, the balance of the mass asset ac-
13 count to which such property was assigned
14 shall be reduced (but not below zero) by
15 the amount of the proceeds from such sale.

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

22 “(3) QUALIFIED PROPERTY.—

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

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

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

6 “(B) INFLATION ADJUSTMENT.—

7 “(i) IN GENERAL.—In the case of any
8 taxable year beginning after 2007, the
9 \$10,000 amount under subparagraph
10 (A)(ii) shall be increased by an amount
11 equal to—

12 “(I) such dollar amount, multi-
13 plied by

14 “(II) the cost-of-living adjust-
15 ment determined under section 1(f)(3)
16 for the calendar year in which the tax-
17 able year begins, determined by sub-
18 stituting ‘calendar year 2006’ for ‘cal-
19 endar year 1992’ in subparagraph (B)
20 thereof.

21 “(ii) ROUNDING.—If any amount as
22 adjusted under the clause (i) is not a mul-
23 tiple of \$1,000, such amount shall be
24 rounded to the next lowest multiple of
25 \$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 2010)” 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 2010)” 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 2010”.

1 (e) COMPUTER SOFTWARE.—Clause (ii) of section
2 179(d)(1)(A) is amended by striking “and before 2010”.

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