

110TH CONGRESS  
2D SESSION

# S. 3316

To amend the Internal Revenue Code of 1986 to encourage the use of corrosion prevention and mitigation measures in the construction and maintenance of business property.

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IN THE SENATE OF THE UNITED STATES

JULY 23, 2008

Mr. BROWN introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to encourage the use of corrosion prevention and mitigation measures in the construction and maintenance of business property.

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 “Corrosion Prevention  
5 Act of 2008”.

1 **SEC. 2. CREDIT FOR CORROSION PREVENTION AND MITI-**  
 2 **GATION MEASURES.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-  
 4 chapter A of chapter 1 of the Internal Revenue Code of  
 5 1986 (relating to business-related credits) is amended by  
 6 adding at the end the following new section:

7 **“SEC. 45Q. CORROSION PREVENTION AND MITIGATION**  
 8 **MEASURES.**

9 “(a) IN GENERAL.—For purposes of section 38, the  
 10 corrosion prevention and mitigation credit determined  
 11 under this section for the taxable year is an amount equal  
 12 to 50 percent of the excess of—

13 “(1) qualified corrosion prevention and mitiga-  
 14 tion expenditures with respect to qualified property,  
 15 over

16 “(2) the amount such expenditures would have  
 17 been, taking into account—

18 “(A) amounts paid or incurred to satisfy  
 19 Federal, State, or local requirements, and

20 “(B) amounts paid for corrosion preven-  
 21 tion practices, as certified by a person certified  
 22 pursuant to subsection (b)(2).

23 “(b) QUALIFIED CORROSION PREVENTION AND MITI-  
 24 GATION EXPENDITURES.—For purposes of this section—

25 “(1) IN GENERAL.—The term ‘qualified corro-  
 26 sion prevention and mitigation expenditures’ means

1 amounts paid or incurred by the taxpayer during the  
2 taxable year for engineering design, materials, and  
3 application and installation of corrosion prevention  
4 and mitigation technology.

5 “(2) CERTIFICATION MAY BE REQUIRED.—The  
6 Secretary shall require by regulation that no amount  
7 be taken into account under paragraph (1) for any  
8 design, material, application, or installation unless  
9 such design, material, application, or installation  
10 meets such certification requirements as the Sec-  
11 retary may provide. Such requirements shall provide  
12 for accreditation of certifying persons by an inde-  
13 pendent entity with expertise in corrosion prevention  
14 and mitigation technology.

15 “(3) CORROSION PREVENTION AND MITIGATION  
16 TECHNOLOGY.—Corrosion prevention and mitigation  
17 technology includes a system comprised of at least  
18 one of the following: a corrosion-protective coating  
19 or paint; chemical treatment; corrosion-resistant  
20 metals; and cathodic protection. The Secretary from  
21 time to time by regulations or other guidance may  
22 modify the list contained in the preceding sentence  
23 to reflect changes in corrosion prevention and miti-  
24 gation technology.

1           “(4) QUALIFIED PROPERTY.—The term ‘quali-  
2       fied property’ means property which is—

3                   “(A) comprised primarily of a metal sus-  
4       ceptible to corrosion,

5                   “(B) of a character subject to the allow-  
6       ance for depreciation,

7                   “(C) originally placed in service or owned  
8       by the taxpayer, and

9                   “(D) located in the United States.

10       “(c) RECAPTURE OF CREDIT.—

11           “(1) IN GENERAL.—If, as of the close of any  
12       taxable year, there is a recapture event with respect  
13       to any qualified property for which a credit was al-  
14       lowed under subsection (a), the tax of the taxpayer  
15       under this chapter for such taxable year shall be in-  
16       creased by an amount equal to the product of—

17                   “(A) the applicable recapture percentage,  
18       and

19                   “(B) the aggregate decrease in the credits  
20       allowed under section 38 for all prior taxable  
21       years which would have resulted if the qualified  
22       corrosion prevention and mitigation expendi-  
23       tures of the taxpayer with respect to such prop-  
24       erty had been zero.

25       “(2) APPLICABLE RECAPTURE PERCENTAGE.—

1                   “(A) IN GENERAL.—For purposes of this  
 2                   subsection, the applicable recapture percentage  
 3                   shall be determined from the following table:

<b>“If the property ceases to be qualified property within:</b>	<b>The recapture percentage is:</b>
(i) One full year after such property is placed in service .....	100
(ii) One full year after the close of the period described in clause (i) .....	80
(iii) One full year after the close of the period described in clause (ii) .....	60
(iv) One full year after the close of the period described in clause (iii) .....	40
(v) One full year after the close of the period described in clause (iv) .....	20.

4                   “(B) RECAPTURE EVENT DEFINED.—For  
 5                   purposes of this subsection, the term ‘recapture  
 6                   event’ means—

7                   “(i) CESSATION OF USE.—The ces-  
 8                   sation of use of the qualified property.

9                   “(ii) CHANGE IN OWNERSHIP.—

10                   “(I) IN GENERAL.—Except as  
 11                   provided in subclause (II), the disposi-  
 12                   tion of a taxpayer’s interest in the  
 13                   qualified property with respect to  
 14                   which the credit described in sub-  
 15                   section (a) was allowable.

16                   “(II) AGREEMENT TO ASSUME  
 17                   RECAPTURE LIABILITY.—Subclause  
 18                   (I) shall not apply if the person ac-  
 19                   quiring the qualified property agrees  
 20                   in writing to assume the recapture li-

ability of the person disposing of the qualified property. In the event of such an assumption, the person acquiring the qualified property shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

“(III) SPECIAL RULE FOR TAX EXEMPT ENTITIES.—Subclause (II) shall not apply to any tax exempt entity (as defined in section 168(h)(2)).

“(iii) SPECIAL RULES.—

“(I) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

“(II) NO CREDITS AGAINST TAX.—Any increase in tax under this

1 subsection shall not be treated as a  
2 tax imposed by this chapter for pur-  
3 poses of determining the amount of  
4 any credit under this chapter or for  
5 purposes of section 55.

6 “(III) NO RECAPTURE BY REA-  
7 SON OF CASUALTY LOSS.—The in-  
8 crease in tax under this subsection  
9 shall not apply to a cessation of oper-  
10 ation of the property as qualified  
11 property by reason of a casualty loss  
12 to the extent such loss is restored by  
13 reconstruction or replacement within a  
14 reasonable period established by the  
15 Secretary.

16 “(d) DENIAL OF DOUBLE BENEFIT.—For purposes  
17 of this subtitle—

18 “(1) BASIS ADJUSTMENTS.—

19 “(A) IN GENERAL.—If a credit is deter-  
20 mined under this section for any expenditure  
21 with respect to any property, the increase in the  
22 basis of such property which would (but for this  
23 subsection) result from such expenditure shall  
24 be reduced by the amount of the credit so al-  
25 lowed.

1           “(B) CERTAIN DISPOSITIONS.—If, during  
 2           any taxable year, there is a recapture amount  
 3           determined with respect to any property the  
 4           basis of which was reduced under subparagraph  
 5           (A), the basis of such property (immediately be-  
 6           fore the event resulting in such recapture) shall  
 7           be increased by an amount equal to such recap-  
 8           ture amount. For purposes of the preceding  
 9           sentence, the term ‘recapture amount’ means  
 10          any increase in tax (or adjustment in  
 11          carrybacks or carryovers) determined under  
 12          subsection (c).

13          “(2) OTHER DEDUCTIONS AND CREDITS.—No  
 14          deduction or credit shall be allowed under this chap-  
 15          ter for any expense taken into account under this  
 16          section.

17          “(e) REGULATIONS.—The Secretary shall prescribe  
 18          such regulations as may be appropriate to carry out this  
 19          section.

20          “(f) TERMINATION.—This section shall not apply to  
 21          any taxable year beginning after December 31, 2017.”.

22          (b) CREDIT MADE PART OF GENERAL BUSINESS  
 23          CREDIT.—Subsection (b) of section 38 of the Internal  
 24          Revenue Code of 1986 (relating to current year business  
 25          credit) is amended—



1           (1) by striking “plus” at the end of paragraph  
2       (31),

3           (2) by striking the period at the end of para-  
4       graph (32) and inserting “, plus”, and

5           (3) by adding at the end the following new  
6       paragraph:

7           “(33) the corrosion prevention and mitigation  
8       credit determined under section 45Q(a).”.

9       (c) CLERICAL AMENDMENT.—The table of sections  
10   for subpart D of part IV of subchapter A of chapter 1  
11   of the Internal Revenue Code of 1986 is amended by in-  
12   serting after the item relating to section 45P the following  
13   new item:

“Sec. 45Q. Corrosion prevention and mitigation measures.”.

14       (d) EFFECTIVE DATE.—The amendments made by  
15   this section shall apply to taxable years beginning after  
16   December 31, 2008.

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