

112TH CONGRESS  
2D SESSION

# S. 2240

To amend the Internal Revenue Code of 1986 to extend the allowance for  
bonus depreciation for certain business assets.

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IN THE SENATE OF THE UNITED STATES

MARCH 27, 2012

Ms. STABENOW (for herself, Mr. BLUNT, Mr. BROWN of Ohio, and Mr. ROBERTS) 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 extend  
the allowance for bonus depreciation for certain business  
assets.

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. EXTENSION OF ALLOWANCE FOR BONUS DE-**  
4 **PRECIATION FOR CERTAIN BUSINESS AS-**  
5 **SETS.**

6 (a) EXTENSION OF 100 PERCENT BONUS DEPRECIA-  
7 TION.—

1           (1) IN GENERAL.—Paragraph (5) of section  
 2           168(k) of the Internal Revenue Code of 1986 is  
 3           amended—

4                   (A) by striking “January 1, 2012” each  
 5                   place it appears and inserting “January 1,  
 6                   2013”, and

7                   (B) by striking “January 1, 2013” and in-  
 8                   serting “January 1, 2014”.

9           (2) CONFORMING AMENDMENTS.—

10                   (A) The heading for paragraph (5) of sec-  
 11                   tion 168(k) of such Code is amended by strik-  
 12                   ing “PRE-2012 PERIODS” and inserting “PRE-  
 13                   2013 PERIODS”.

14                   (B) Clause (ii) of section 460(c)(6)(B) of  
 15                   such Code is amended to read as follows:

16                           “(ii) is placed in service—

17                                   “(I) after December 31, 2009,  
 18                                   and before January 1, 2011 (January  
 19                                   1, 2012, in the case of property de-  
 20                                   scribed in section 168(k)(2)(B)), or

21                                   “(II) after December 31, 2011,  
 22                                   and before January 1, 2013 (January  
 23                                   1, 2014, in the case of property de-  
 24                                   scribed in section 168(k)(2)(B)).”.

1           (3) EFFECTIVE DATE.—The amendments made  
 2       by this subsection shall apply to property placed in  
 3       service after December 31, 2011.

4           (b) EXPANSION OF ELECTION TO ACCELERATE AMT  
 5 CREDITS IN LIEU OF BONUS DEPRECIATION.—

6           (1) IN GENERAL.—Paragraph (4) of section  
 7       168(k) of such Code is amended to read as follows:

8           “(4) ELECTION TO ACCELERATE AMT CREDITS  
 9       IN LIEU OF BONUS DEPRECIATION.—

10           “(A) IN GENERAL.—If a corporation elects  
 11       to have this paragraph apply for any taxable  
 12       year—

13           “(i) paragraph (1) shall not apply to  
 14       any eligible qualified property placed in  
 15       service by the taxpayer in such taxable  
 16       year,

17           “(ii) the applicable depreciation meth-  
 18       od used under this section with respect to  
 19       such property shall be the straight line  
 20       method, and

21           “(iii) the limitation imposed by section  
 22       53(c) for such taxable year shall be in-  
 23       creased by the bonus depreciation amount  
 24       which is determined for such taxable year  
 25       under subparagraph (B).

1 “(B) BONUS DEPRECIATION AMOUNT.—

2 For purposes of this paragraph—

3 “(i) IN GENERAL.—The bonus depre-  
 4 ciation amount for any taxable year is an  
 5 amount equal to 20 percent of the excess  
 6 (if any) of—

7 “(I) the aggregate amount of de-  
 8 preciation which would be allowed  
 9 under this section for eligible qualified  
 10 property placed in service by the tax-  
 11 payer during such taxable year if  
 12 paragraph (1) applied to all such  
 13 property, over

14 “(II) the aggregate amount of  
 15 depreciation which would be allowed  
 16 under this section for eligible qualified  
 17 property placed in service by the tax-  
 18 payer during such taxable year if  
 19 paragraph (1) did not apply to any  
 20 such property.

21 The aggregate amounts determined under  
 22 subclauses (I) and (II) shall be determined  
 23 without regard to any election made under  
 24 subsection (b)(2)(D), (b)(3)(D), or (g)(7)

1 and without regard to subparagraph  
2 (A)(ii).

3 “(ii) LIMITATION.—The bonus depre-  
4 ciation amount for any taxable year shall  
5 not exceed the lesser of—

6 “(I) 50 percent of the minimum  
7 tax credit under section 53(b) for the  
8 first taxable year ending after Decem-  
9 ber 31, 2011, or

10 “(II) the minimum tax credit  
11 under section 53(b) for such taxable  
12 year determined by taking into ac-  
13 count only the adjusted minimum tax  
14 for taxable years ending before Janu-  
15 ary 1, 2012 (determined by treating  
16 credits as allowed on a first-in, first-  
17 out basis).

18 “(iii) AGGREGATION RULE.—All cor-  
19 porations which are treated as a single em-  
20 ployer under section 52(a) shall be treat-  
21 ed—

22 “(I) as 1 taxpayer for purposes  
23 of this paragraph, and

1 “(II) as having elected the appli-  
 2 cation of this paragraph if any such  
 3 corporation so elects.

4 “(C) ELIGIBLE QUALIFIED PROPERTY.—  
 5 For purposes of this paragraph, the term ‘eligi-  
 6 ble qualified property’ means qualified property  
 7 under paragraph (2), except that in applying  
 8 paragraph (2) for purposes of this paragraph—

9 “(i) ‘March 31, 2008’ shall be sub-  
 10 stituted for ‘December 31, 2007’ each  
 11 place it appears in subparagraph (A) and  
 12 clauses (i) and (ii) of subparagraph (E)  
 13 thereof,

14 “(ii) ‘April 1, 2008’ shall be sub-  
 15 stituted for ‘January 1, 2008’ in subpara-  
 16 graph (A)(iii)(I) thereof, and

17 “(iii) only adjusted basis attributable  
 18 to manufacture, construction, or produc-  
 19 tion—

20 “(I) after March 31, 2008, and  
 21 before January 1, 2010, and

22 “(II) after December 31, 2010,  
 23 and before January 1, 2013, shall be  
 24 taken into account under subpara-  
 25 graph (B)(ii) thereof.

“(D) CREDIT REFUNDABLE.—For purposes of section 6401(b), the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this paragraph shall be treated as allowed under subpart C of such part (and not any other subpart).

“(E) OTHER RULES.—

“(i) ELECTION.—Any election under this paragraph may be revoked only with the consent of the Secretary.

“(ii) PARTNERSHIPS WITH ELECTING PARTNERS.—In the case of a corporation making an election under subparagraph (A) and which is a partner in a partnership, for purposes of determining such corporation’s distributive share of partnership items under section 702—

“(I) paragraph (1) shall not apply to any eligible qualified property, and

“(II) the applicable depreciation method used under this section with respect to such property shall be the straight line method.

“(iii) CERTAIN PARTNERSHIPS.—In the case of a partnership in which more than 50 percent of the capital and profits interests are owned (directly or indirectly) at all times during the taxable year by one corporation (or by corporations treated as 1 taxpayer under subparagraph (B)(iii)), for purposes of subparagraph (B), each partner shall take into account its distributive share of the amounts determined by the partnership under subclauses (I) and (II) of clause (i) of such subparagraph for the taxable year of the partnership ending with or within the taxable year of the partner. The preceding sentence shall apply only to amounts determined with respect to property placed in service after December 31, 2011.

“(iv) SPECIAL RULE FOR PASSENGER AIRCRAFT.—In the case of any passenger aircraft, the written binding contract limitation under paragraph (2)(A)(iii)(I) shall not apply for purposes of subparagraphs (B)(i)(I) and (C).”.



1           (2) EFFECTIVE DATE.—The amendment made  
2       by this subsection shall apply to taxable years end-  
3       ing after December 31, 2011.

4           (3) TRANSITIONAL RULE.—In the case of a tax-  
5       able year beginning before January 1, 2012, and  
6       ending after December 31, 2011, the bonus depre-  
7       ciation amount determined under paragraph (4) of  
8       section 168(k) of the Internal Revenue Code of 1986  
9       for such year shall be the sum of—

10           (A) such amount determined under such  
11       paragraph as in effect on the date before the  
12       date of enactment of this Act—

13               (i) taking into account only property  
14       placed in service before January 1, 2012,  
15       and

16               (ii) multiplying the limitation under  
17       subparagraph (C)(ii) of such paragraph (as  
18       so in effect) by a fraction the numerator of  
19       which is the number of days in the taxable  
20       year before January 1, 2012, and the de-  
21       nominator of which is the number of days  
22       in the taxable year, and

23           (B) such amount determined under such  
24       paragraph as amended by this Act—

- 1                   (i) taking into account only property  
2 placed in service after December 31, 2011,  
3 and  
4                   (ii) multiplying the limitation under  
5 subparagraph (B)(ii) of such paragraph  
6 (as so in effect) by a fraction the numer-  
7 ator of which is the number of days in the  
8 taxable year after December 31, 2011, and  
9 the denominator of which is the number of  
10 days in the taxable year.

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