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113TH CONGRESS
1ST SESSION

H. R. 2598

To amend the Internal Revenue Code of 1986 to reduce the depreciation recovery periods for energy efficient commercial buildings, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2013

Mr. LANGEVIN (for himself, Mr. BLUMENAUER, and Mr. WELCH) 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 reduce the depreciation recovery periods for energy efficient commercial buildings, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Building Efficiently Act of 2013’’.

SEC. 2. SHORTER DEPRECIATION RECOVERY PERIODS FOR ENERGY EFFICIENT BUILDINGS.

(a) 25-YEAR RECOVERY PERIOD FOR ENERGY EFFICIENT NONRESIDENTIAL REAL PROPERTY.—

(1) IN GENERAL.—Section 168(e)(3) of the Internal Revenue Code of 1986 is amended by inserting after subparagraph (F) the following new subparagraph:

"(G) 25-YEAR PROPERTY.—The term '25-year property' means any qualified energy efficient nonresidential real property.".

(2) QUALIFIED ENERGY EFFICIENT NONRESIDENTIAL REAL PROPERTY DEFINED.—Subsection (i) of section 168 of such Code is amended by adding at the end the following:

"(20) QUALIFIED ENERGY EFFICIENT NONRESIDENTIAL REAL PROPERTY.—

"(A) IN GENERAL.—The term 'qualified energy efficient nonresidential real property' means a building which is nonresidential real property which is described in subparagraph (B), (C), or (D).

"(B) NEW OR RECONSTRUCTED BUILDING.—A building is described in this subparagraph if—

"(i) the certification requirements of subparagraph (E) with respect to the building are met, "(ii) the original use of the building commences with the taxpayer, and

"(iii) the building is placed in service after the date of the enactment of this paragraph.

"(C) IMPROVEMENTS TO EXISTING BUILDING.—A building is described in this subparagraph if, only after improvements are made to the building—

"(i) the certification requirements of subparagraph (E) with respect to the building are met,

"(ii) the original use of the improved building commences with the taxpayer,

"(iii) the improved building is placed in service after the date of the enactment of this paragraph, and

"(iv) the taxpayer elects to the application of this paragraph with respect to the building.

"(D) BUILDINGS ACQUIRED BY PURCHASE.—A building is described in this subparagraph if the building—

"(i) is acquired by purchase from an unrelated person, "(ii) meets the certification requirements of subparagraph (E), and

"(iii) is placed in service after the date of the enactment of this paragraph.

"(E) CERTIFICATION REQUIREMENTS.—The requirements of this subparagraph are met if, with respect to a building, the building is certified in accordance with section 179D(d)(6) as being constructed, reconstructed, or retrofitted, as the case may be, under a plan designed to reduce energy and power consumption of the building by 40 percent or more in comparison to—

"(i) in the case a retrofits made to an existing building, the baseline annual energy and power consumption of the building, or

"(ii) in any other case, a reference building which meets the minimum requirements of Standard 90.1–2004 using methods of calculation under section 179D(d)(2).

"(F) BASELINE ANNUAL ENERGY AND POWER CONSUMPTION.—The baseline annual energy and power consumption of any building shall be determined by using—

"(i) a building energy performance benchmarking tool designated for purposes of this paragraph by the Administrator of the Environmental Protection Agency, which is based upon energy and power consumption data during the 1-year period ending on the date on which retrofits under the plan are placed in service, or

"(ii) such other methods of calculation as certified by the Secretary in accordance with 179D(d)(3).

"(G) STANDARD 90.1–2004.—The term 'Standard 90.1–2004' means Standard 90.1–2004 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America (as in effect on July 30, 2012).

"(H) RELATED PERSONS.—For purposes of subparagraph (D), a person is related to another person if—

"(i) the persons are members of an affiliated group (as defined in section 1504), or "(ii) the persons have a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase '80 percent or more' shall be substituted for the phrase 'more than 50 percent' each place it appears in such subsection and rules similar to the rules of subsections (c) and (e) (other than paragraphs (4) and (5) thereof) shall apply.

"(I) DENIAL OF DOUBLE BENEFIT.—If this section applies to a building by reason of subsection (e)(3)(G), the deduction under section 179D shall not be allowed.".

(b) 20-YEAR RECOVERY PERIOD FOR ENERGY EFFICIENT RESIDENTIAL RENTAL PROPERTY.—

(1) IN GENERAL.—Subparagraph (F) of section 168(e)(3) of such Code (relating to 20-year property) is amended to read as follows:

"(F) 20-YEAR PROPERTY.—The term '20-year property' means—

"(i) initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant, and "(ii) any qualified energy efficient residential rental property.".

(2) QUALIFIED ENERGY EFFICIENT RESIDENTIAL RENTAL PROPERTY DEFINED.—Subsection (i) of section 168 of such Code, as amended by subsection (a), is amended by adding at the end the following:

"(21) QUALIFIED ENERGY EFFICIENT RESIDENTIAL RENTAL PROPERTY.—

"(A) IN GENERAL.—The term 'qualified energy efficient nonresidential real property' means a building which is residential rental property which is described in subparagraph (B), (C), or (D).

"(B) NEW OR RECONSTRUCTED BUILDING.—A building is described in this subparagraph if—

"(i) the certification requirements of subparagraph (E) with respect to the building are met,

"(ii) the original use of which commences with the taxpayer, and

"(iii) the building is placed in service after the date of the enactment of this paragraph.

"(C) IMPROVEMENTS TO EXISTING BUILDING.—A building is described in this subparagraph if, only after improvements are made to the building—

"(i) the certification requirements of subparagraph (E) with respect to the building are met,

"(ii) the original use of the improved building commences with the taxpayer,

"(iii) the improved building is placed in service after the date of the enactment of this paragraph, and

"(iv) the taxpayer elects to the application of this paragraph with respect to the building.

"(D) BUILDINGS ACQUIRED BY PURCHASE.—A building is described in this subparagraph if the building—

"(i) is acquired by purchase from an unrelated person,

"(ii) meets the certification requirements of subparagraph (E), and

"(iii) is placed in service after the date of the enactment of this paragraph.

"(E) CERTIFICATION REQUIREMENTS.—The requirements of this subparagraph are met if, with respect to a building, the building is certified in accordance with section 45L(d) as being constructed, reconstructed, or retrofitted, as the case may be, under a plan designed to reduce energy and power consumption of the building by 40 percent or more in comparison to—

"(i) in the case a retrofits made to an existing building, the baseline annual energy and power consumption of the building, or

"(ii) in any other case, a reference building which meets the minimum requirements of the International Energy Conservation Code 2004 using methods of calculation under section 45L(d).

"(F) BASELINE ANNUAL ENERGY AND POWER CONSUMPTION.—The baseline annual energy and power consumption of any building shall be determined by using—

"(i) a building energy performance benchmarking tool designated for purposes of this paragraph by the Administrator of the Environmental Protection Agency, which is based upon energy and power consumption data during the 1-year period ending on the date on which retrofits under the plan are placed in service, or

"(ii) such other methods of calculation as certified by the Secretary in accordance with 45L(d).

"(G) RELATED PERSONS.—For purposes of subparagraph (D), a person is related to another person if—

"(i) the persons are members of an affiliated group (as defined in section 1504), or

"(ii) the persons have a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase '80 percent or more' shall be substituted for the phrase 'more than 50 percent' each place it appears in such subsection and rules similar to the rules of subsections (c) and (e) (other than paragraphs (4) and (5) thereof) shall apply.

"(H) DENIAL OF DOUBLE BENEFIT.—If this section applies to a building by reason of subsection (e)(3)(F)(ii), the deduction under section 179D shall not be allowed.''.

(c) CONFORMING AMENDMENTS.—

(1) The table contained in section 168(c) of such Code is amended by inserting after the item relating to 20-year property the following new item:

''25-year property .... 25 years''.

(2) The table contained in section 467(e)(3)(A) of such Code is amended—

(A) by inserting ''which is not 25-year property'' after ''nonresidential real property'', and

(B) by inserting after the item relating to residential rental property and nonresidential real property the following new item:

''25-year property .... 19 years.''.

(3) Clauses (iv), (v), and (ix) of section 168(e)(3)(E) of such Code are each amended by inserting ''(not described in subparagraph (G))'' after ''property''.

(d) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Paragraph (3) of section 168(b) of such Code (relating to property to which straight line method applies) is amended by redesignating subparagraphs (F), (G), (H), and (I) as subparagraphs (G), (H), (I), and (J), respectively, and by inserting after subparagraph (E) the following new subparagraph:

"(F) Property described in subsection (e)(3)(F)(ii) or subsection (e)(3)(G).".

(e) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) of such Code is amended by striking the item relating to subparagraph (F) and inserting the following new items:

"(F)(i)	25
(F)(ii)	20
(G)	25".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2012.

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