

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

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.

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 “Building Efficiently
5 Act of 2013”.

6 **SEC. 2. SHORTER DEPRECIATION RECOVERY PERIODS FOR**
7 **ENERGY EFFICIENT BUILDINGS.**

8 (a) 25-YEAR RECOVERY PERIOD FOR ENERGY EFFI-
9 CIENT NONRESIDENTIAL REAL PROPERTY.—

1 (1) IN GENERAL.—Section 168(e)(3) of the In-
2 ternal Revenue Code of 1986 is amended by insert-
3 ing after subparagraph (F) the following new sub-
4 paragraph:

5 “(G) 25-YEAR PROPERTY.—The term ‘25-
6 year property’ means any qualified energy effi-
7 cient nonresidential real property.”.

8 (2) QUALIFIED ENERGY EFFICIENT NONRESI-
9 DENTIAL REAL PROPERTY DEFINED.—Subsection (i)
10 of section 168 of such Code is amended by adding
11 at the end the following:

12 “(20) QUALIFIED ENERGY EFFICIENT NONRESI-
13 DENTIAL REAL PROPERTY.—

14 “(A) IN GENERAL.—The term ‘qualified
15 energy efficient nonresidential real property’
16 means a building which is nonresidential real
17 property which is described in subparagraph
18 (B), (C), or (D).

19 “(B) NEW OR RECONSTRUCTED BUILD-
20 ING.—A building is described in this subpara-
21 graph if—

22 “(i) the certification requirements of
23 subparagraph (E) with respect to the
24 building are met,

1 “(ii) the original use of the building
2 commences with the taxpayer, and

3 “(iii) the building is placed in service
4 after the date of the enactment of this
5 paragraph.

6 “(C) IMPROVEMENTS TO EXISTING BUILD-
7 ING.—A building is described in this subpara-
8 graph if, only after improvements are made to
9 the building—

10 “(i) the certification requirements of
11 subparagraph (E) with respect to the
12 building are met,

13 “(ii) the original use of the improved
14 building commences with the taxpayer,

15 “(iii) the improved building is placed
16 in service after the date of the enactment
17 of this paragraph, and

18 “(iv) the taxpayer elects to the appli-
19 cation of this paragraph with respect to
20 the building.

21 “(D) BUILDINGS ACQUIRED BY PUR-
22 CHASE.—A building is described in this sub-
23 paragraph if the building—

24 “(i) is acquired by purchase from an
25 unrelated person,

1 “(ii) meets the certification require-
2 ments of subparagraph (E), and

3 “(iii) is placed in service after the
4 date of the enactment of this paragraph.

5 “(E) CERTIFICATION REQUIREMENTS.—

6 The requirements of this subparagraph are met
7 if, with respect to a building, the building is
8 certified in accordance with section 179D(d)(6)
9 as being constructed, reconstructed, or retro-
10 fitted, as the case may be, under a plan de-
11 signed to reduce energy and power consumption
12 of the building by 40 percent or more in com-
13 parison to—

14 “(i) in the case a retrofits made to an
15 existing building, the baseline annual en-
16 ergy and power consumption of the build-
17 ing, or

18 “(ii) in any other case, a reference
19 building which meets the minimum re-
20 quirements of Standard 90.1–2004 using
21 methods of calculation under section
22 179D(d)(2).

23 “(F) BASELINE ANNUAL ENERGY AND
24 POWER CONSUMPTION.—The baseline annual

1 energy and power consumption of any building
2 shall be determined by using—

3 “(i) a building energy performance
4 benchmarking tool designated for purposes
5 of this paragraph by the Administrator of
6 the Environmental Protection Agency,
7 which is based upon energy and power con-
8 sumption data during the 1-year period
9 ending on the date on which retrofits
10 under the plan are placed in service, or

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

14 “(G) STANDARD 90.1–2004.—The term
15 ‘Standard 90.1–2004’ means Standard 90.1–
16 2004 of the American Society of Heating, Re-
17 frigerating, and Air Conditioning Engineers and
18 the Illuminating Engineering Society of North
19 America (as in effect on July 30, 2012).

20 “(H) RELATED PERSONS.—For purposes
21 of subparagraph (D), a person is related to an-
22 other person if—

23 “(i) the persons are members of an
24 affiliated group (as defined in section
25 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

1 “(ii) any qualified energy efficient res-
2 idential rental property.”.

3 (2) QUALIFIED ENERGY EFFICIENT RESIDEN-
4 TIAL RENTAL PROPERTY DEFINED.—Subsection (i)
5 of section 168 of such Code, as amended by sub-
6 section (a), is amended by adding at the end the fol-
7 lowing:

8 “(21) QUALIFIED ENERGY EFFICIENT RESIDEN-
9 TIAL RENTAL PROPERTY.—

10 “(A) IN GENERAL.—The term ‘qualified
11 energy efficient nonresidential real property’
12 means a building which is residential rental
13 property which is described in subparagraph
14 (B), (C), or (D).

15 “(B) NEW OR RECONSTRUCTED BUILD-
16 ING.—A building is described in this subpara-
17 graph if—

18 “(i) the certification requirements of
19 subparagraph (E) with respect to the
20 building are met,

21 “(ii) the original use of which com-
22 mences with the taxpayer, and

23 “(iii) the building is placed in service
24 after the date of the enactment of this
25 paragraph.

1 “(C) IMPROVEMENTS TO EXISTING BUILD-
2 ING.—A building is described in this subpara-
3 graph if, only after improvements are made to
4 the building—

5 “(i) the certification requirements of
6 subparagraph (E) with respect to the
7 building are met,

8 “(ii) the original use of the improved
9 building commences with the taxpayer,

10 “(iii) the improved building is placed
11 in service after the date of the enactment
12 of this paragraph, and

13 “(iv) the taxpayer elects to the appli-
14 cation of this paragraph with respect to
15 the building.

16 “(D) BUILDINGS ACQUIRED BY PUR-
17 CHASE.—A building is described in this sub-
18 paragraph if the building—

19 “(i) is acquired by purchase from an
20 unrelated person,

21 “(ii) meets the certification require-
22 ments of subparagraph (E), and

23 “(iii) is placed in service after the
24 date of the enactment of this paragraph.

1 “(E) CERTIFICATION REQUIREMENTS.—

2 The requirements of this subparagraph are met
3 if, with respect to a building, the building is
4 certified in accordance with section 45L(d) as
5 being constructed, reconstructed, or retrofitted,
6 as the case may be, under a plan designed to
7 reduce energy and power consumption of the
8 building by 40 percent or more in comparison
9 to—

10 “(i) in the case a retrofits made to an
11 existing building, the baseline annual en-
12 ergy and power consumption of the build-
13 ing, or

14 “(ii) in any other case, a reference
15 building which meets the minimum re-
16 quirements of the International Energy
17 Conservation Code 2004 using methods of
18 calculation under section 45L(d).

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

23 “(i) a building energy performance
24 benchmarking tool designated for purposes
25 of this paragraph by the Administrator of

1 the Environmental Protection Agency,
2 which is based upon energy and power con-
3 sumption data during the 1-year period
4 ending on the date on which retrofits
5 under the plan are placed in service, or

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

9 “(G) RELATED PERSONS.—For purposes
10 of subparagraph (D), a person is related to an-
11 other person if—

12 “(i) the persons are members of an
13 affiliated group (as defined in section
14 1504), or

15 “(ii) the persons have a relationship
16 described in subsection (b) of section 267;
17 except that, for purposes of this clause, the
18 phrase ‘80 percent or more’ shall be sub-
19 stituted for the phrase ‘more than 50 per-
20 cent’ each place it appears in such sub-
21 section and rules similar to the rules of
22 subsections (c) and (e) (other than para-
23 graphs (4) and (5) thereof) shall apply.

24 “(H) DENIAL OF DOUBLE BENEFIT.—If
25 this section applies to a building by reason of

1 subsection (e)(3)(F)(ii), the deduction under
 2 section 179D shall not be allowed.”.

3 (c) CONFORMING AMENDMENTS.—

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

“25-year property 25 years”.

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

9 (A) by inserting “which is not 25-year
 10 property” after “nonresidential real property”,
 11 and

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

“25-year property 19 years.”.

15 (3) Clauses (iv), (v), and (ix) of section
 16 168(e)(3)(E) of such Code are each amended by in-
 17 serting “(not described in subparagraph (G))” after
 18 “property”.

19 (d) REQUIREMENT TO USE STRAIGHT LINE METH-
 20 OD.—Paragraph (3) of section 168(b) of such Code (relat-
 21 ing to property to which straight line method applies) is
 22 amended by redesignating subparagraphs (F), (G), (H),
 23 and (I) as subparagraphs (G), (H), (I), and (J), respec-

1 tively, and by inserting after subparagraph (E) the fol-
 2 lowing new subparagraph:

3 “(F) Property described in subsection
 4 (e)(3)(F)(ii) or subsection (e)(3)(G).”.

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

“ (F)(i)	25
(F)(ii)	20
(G)	25”.

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

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