

Calendar No. 465

113TH CONGRESS
2D SESSION**H. R. 4718**

IN THE SENATE OF THE UNITED STATES

JULY 14, 2014

Received; read the first time

JULY 15, 2014

Read the second time and placed on the calendar

AN ACT

To amend the Internal Revenue Code of 1986 to modify
and make permanent bonus 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. BONUS DEPRECIATION MODIFIED AND MADE**
4 **PERMANENT.**

5 (a) MADE PERMANENT; INCLUSION OF QUALIFIED
6 RETAIL IMPROVEMENT PROPERTY.—Section 168(k)(2) of
7 the Internal Revenue Code of 1986 is amended to read
8 as follows:

9 “(2) QUALIFIED PROPERTY.—For purposes of
10 this subsection—

1 “(A) IN GENERAL.—The term ‘qualified
2 property’ means property—

3 “(i)(I) to which this section applies
4 which has a recovery period of 20 years or
5 less,

6 “(II) which is computer software (as
7 defined in section 167(f)(1)(B)) for which
8 a deduction is allowable under section
9 167(a) without regard to this subsection,

10 “(III) which is water utility property,

11 “(IV) which is qualified leasehold im-
12 provement property, or

13 “(V) which is qualified retail improve-
14 ment property, and

15 “(ii) the original use of which com-
16 mences with the taxpayer.

17 “(B) EXCEPTION FOR ALTERNATIVE DE-
18 PRECIATION PROPERTY.—The term ‘qualified
19 property’ shall not include any property to
20 which the alternative depreciation system under
21 subsection (g) applies, determined—

22 “(i) without regard to paragraph (7)
23 of subsection (g) (relating to election to
24 have system apply), and

“(ii) after application of section 280F(b) (relating to listed property with limited business use).

“(C) SPECIAL RULES.—

“(i) SALE-LEASEBACKS.—For purposes of clause (ii) and subparagraph (A)(ii), if property is—

“(I) originally placed in service by a person, and

“(II) sold and leased back by such person within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

“(ii) SYNDICATION.—For purposes of subparagraph (A)(ii), if—

“(I) property is originally placed in service by the lessor of such property,

“(II) such property is sold by such lessor or any subsequent purchaser within 3 months after the date

1 such property was originally placed in
2 service (or, in the case of multiple
3 units of property subject to the same
4 lease, within 3 months after the date
5 the final unit is placed in service, so
6 long as the period between the time
7 the first unit is placed in service and
8 the time the last unit is placed in
9 service does not exceed 12 months),
10 and

11 “(III) the user of such property
12 after the last sale during such 3-
13 month period remains the same as
14 when such property was originally
15 placed in service,

16 such property shall be treated as originally
17 placed in service not earlier than the date
18 of such last sale.

19 “(D) COORDINATION WITH SECTION
20 280F.—For purposes of section 280F—

21 “(i) AUTOMOBILES.—In the case of a
22 passenger automobile (as defined in section
23 280F(d)(5)) which is qualified property,
24 the Secretary shall increase the limitation
25 under section 280F(a)(1)(A)(i) by \$8,000.

1 “(ii) LISTED PROPERTY.—The deduc-
2 tion allowable under paragraph (1) shall be
3 taken into account in computing any re-
4 capture amount under section 280F(b)(2).

5 “(iii) INFLATION ADJUSTMENT.—In
6 the case of any taxable year beginning in
7 a calendar year after 2014, the \$8,000
8 amount in clause (i) shall be increased by
9 an amount equal to—

10 “(I) such dollar amount, multi-
11 plied by

12 “(II) the automobile price infla-
13 tion adjustment determined under sec-
14 tion 280F(d)(7)(B)(i) for the calendar
15 year in which such taxable year begins
16 by substituting ‘2013’ for ‘1987’ in
17 subclause (II) thereof.

18 If any increase under the preceding sen-
19 tence is not a multiple of \$100, such in-
20 crease shall be rounded to the nearest mul-
21 tiple of \$100.

22 “(E) DEDUCTION ALLOWED IN COMPUTING
23 MINIMUM TAX.—For purposes of determining
24 alternative minimum taxable income under sec-
25 tion 55, the deduction under section 167 for

1 qualified property shall be determined without
 2 regard to any adjustment under section 56.”.

3 (b) EXPANSION OF ELECTION TO ACCELERATE AMT
 4 CREDITS IN LIEU OF BONUS DEPRECIATION.—Section
 5 168(k)(4) of such Code is amended to read as follows:

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

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

11 “(i) paragraphs (1)(A), (2)(D)(i), and
 12 (5)(A)(i) shall not apply for such taxable
 13 year,

14 “(ii) the applicable depreciation meth-
 15 od used under this section with respect to
 16 any qualified property shall be the straight
 17 line method, and

18 “(iii) the limitation imposed by section
 19 53(c) for such taxable year shall be in-
 20 creased by the bonus depreciation amount
 21 which is determined for such taxable year
 22 under subparagraph (B).

23 “(B) BONUS DEPRECIATION AMOUNT.—
 24 For purposes of this paragraph—

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

5 “(I) the aggregate amount of de-
6 preciation which would be allowed
7 under this section for qualified prop-
8 erty placed in service by the taxpayer
9 during such taxable year if paragraph
10 (1) applied to all such property, over

11 “(II) the aggregate amount of
12 depreciation which would be allowed
13 under this section for qualified prop-
14 erty placed in service by the taxpayer
15 during such taxable year if paragraph
16 (1) did not apply to any such prop-
17 erty.

18 The aggregate amounts determined under
19 subclauses (I) and (II) shall be determined
20 without regard to any election made under
21 subsection (b)(2)(D), (b)(3)(D), or (g)(7)
22 and without regard to subparagraph
23 (A)(ii).

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

4 “(I) 50 percent of the minimum
5 tax credit under section 53(b) for the
6 first taxable year ending after Decem-
7 ber 31, 2013, or

8 “(II) the minimum tax credit
9 under section 53(b) for such taxable
10 year determined by taking into ac-
11 count only the adjusted net minimum
12 tax for taxable years ending before
13 January 1, 2014 (determined by
14 treating credits as allowed on a first-
15 in, first-out basis).

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

20 “(I) as 1 taxpayer for purposes
21 of this paragraph, and

22 “(II) as having elected the appli-
23 cation of this paragraph if any such
24 corporation so elects.

“(C) 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).

“(D) 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 which is a partner in a partnership and which makes an election under subparagraph (A) for the taxable year, for purposes of determining such corporation’s distributive share of partnership items under section 702 for such taxable year—

“(I) paragraphs (1)(A), (2)(D)(i), and (5)(A)(i) shall not apply, and

“(II) the applicable depreciation method used under this section with

1 respect to any qualified property shall
2 be the straight line method.

3 “(iii) CERTAIN PARTNERSHIPS.—In
4 the case of a partnership in which more
5 than 50 percent of the capital and profits
6 interests are owned (directly or indirectly)
7 at all times during the taxable year by 1
8 corporation (or by corporations treated as
9 1 taxpayer under subparagraph (B)(iii)),
10 each partner shall compute its bonus de-
11 preciation amount under clause (i) of sub-
12 paragraph (B) by taking into account its
13 distributive share of the amounts deter-
14 mined by the partnership under subclauses
15 (I) and (II) of such clause for the taxable
16 year of the partnership ending with or
17 within the taxable year of the partner.”.

18 (c) SPECIAL RULES FOR TREES AND VINES BEARING
19 FRUITS AND NUTS.—Section 168(k) of such Code is
20 amended—

21 (1) by striking paragraph (5), and

22 (2) by inserting after paragraph (4) the fol-
23 lowing new paragraph:

24 “(5) SPECIAL RULES FOR TREES AND VINES
25 BEARING FRUITS AND NUTS.—

1 “(A) IN GENERAL.—In the case of any
2 tree or vine bearing fruits or nuts which is
3 planted, or is grafted to a plant that has al-
4 ready been planted, by the taxpayer in the ordi-
5 nary course of the taxpayer’s farming business
6 (as defined in section 263A(e)(4))—

7 “(i) a depreciation deduction equal to
8 50 percent of the adjusted basis of such
9 tree or vine shall be allowed under section
10 167(a) for the taxable year in which such
11 tree or vine is so planted or grafted, and

12 “(ii) the adjusted basis of such tree or
13 vine shall be reduced by the amount of
14 such deduction.

15 “(B) ELECTION OUT.—If a taxpayer
16 makes an election under this subparagraph for
17 any taxable year, this paragraph shall not apply
18 to any tree or vine planted or grafted during
19 such taxable year. An election under this sub-
20 paragraph may be revoked only with the con-
21 sent of the Secretary.

22 “(C) ADDITIONAL DEPRECIATION MAY BE
23 CLAIMED ONLY ONCE.—If this paragraph ap-
24 plies to any tree or vine, such tree or vine shall

1 not be treated as qualified property in the tax-
 2 able year in which placed in service.

3 “(D) COORDINATION WITH ELECTION TO
 4 ACCELERATE AMT CREDITS.—If a corporation
 5 makes an election under paragraph (4) for any
 6 taxable year, the amount under paragraph
 7 (4)(B)(i)(I) for such taxable year shall be in-
 8 creased by the amount determined under sub-
 9 paragraph (A)(i) for such taxable year.

10 “(E) DEDUCTION ALLOWED IN COMPUTING
 11 MINIMUM TAX.—Rules similar to the rules of
 12 paragraph (2)(E) shall apply for purposes of
 13 this paragraph.”.

14 (d) CONFORMING AMENDMENTS.—

15 (1) Section 168(e)(8) of such Code is amended
 16 by striking subparagraph (D).

17 (2) Section 168(k) of such Code is amended by
 18 adding at the end the following new paragraph:

19 “(6) ELECTION OUT.—If a taxpayer makes an
 20 election under this paragraph with respect to any
 21 class of property for any taxable year, this sub-
 22 section shall not apply to all property in such class
 23 placed in service (or, in the case of paragraph (5),
 24 planted or grafted) during such taxable year. An

1 election under this paragraph may be revoked only
2 with the consent of the Secretary.”.

3 (3) Section 168(l)(5) of such Code is amended
4 by striking “section 168(k)(2)(G)” and inserting
5 “section 168(k)(2)(E)”.

6 (4) Section 263A(c) of such Code is amended
7 by adding at the end the following new paragraph:

8 “(7) COORDINATION WITH SECTION
9 168(k)(5).—This section shall not apply to any
10 amount allowable as a deduction by reason of section
11 168(k)(5) (relating to special rules for trees and
12 vines bearing fruits and nuts).”.

13 (5) Section 460(c)(6)(B) of such Code is
14 amended by striking “which—” and all that follows
15 and inserting “which has a recovery period of 7
16 years or less.”.

17 (6) Section 168(k) of such Code is amended by
18 striking “ACQUIRED AFTER DECEMBER 31, 2007,
19 AND BEFORE JANUARY 1, 2014” in the heading
20 thereof.

21 (e) EFFECTIVE DATES.—

22 (1) IN GENERAL.—Except as otherwise pro-
23 vided in this subsection, the amendments made by
24 this section shall apply to property placed in service
25 after December 31, 2013.

1 (2) EXPANSION OF ELECTION TO ACCELERATE
2 AMT CREDITS IN LIEU OF BONUS DEPRECIATION.—

3 (A) IN GENERAL.—The amendment made
4 by subsection (b) (other than so much of such
5 amendment as relates to section
6 168(k)(4)(D)(iii) of such Code, as added by
7 such amendment) shall apply to taxable years
8 ending after December 31, 2013.

9 (B) TRANSITIONAL RULE.—In the case of
10 a taxable year beginning before January 1,
11 2014, and ending after December 31, 2013, the
12 bonus depreciation amount determined under
13 section 168(k)(4) of such Code for such year
14 shall be the sum of—

15 (i) such amount determined without
16 regard to the amendments made by this
17 section and—

18 (I) by taking into account only
19 property placed in service before Jan-
20 uary 1, 2014, and

21 (II) by multiplying the limitation
22 under section 168(k)(4)(C)(ii) of such
23 Code (determined without regard to
24 the amendments made by this section)
25 by a fraction the numerator of which

1 is the number of days in the taxable
2 year before January 1, 2014, and the
3 denominator of which is the number
4 of days in the taxable year, and

5 (ii) such amount determined after
6 taking into account the amendments made
7 by this section and—

8 (I) by taking into account only
9 property placed in service after De-
10 cember 31, 2013, and

11 (II) by multiplying the limitation
12 under section 168(k)(4)(B)(ii) of such
13 Code (as amended by this section) by
14 a fraction the numerator of which is
15 the number of days in the taxable
16 year after December 31, 2013, and
17 the denominator of which is the num-
18 ber of days in the taxable year.

19 (3) SPECIAL RULES FOR CERTAIN TREES AND
20 VINES.—The amendment made by subsection (c)(2)
21 shall apply to trees and vines planted or grafted
22 after December 31, 2013.

23 **SEC. 2. BUDGETARY EFFECTS.**

24 (a) STATUTORY PAY-AS-YOU-GO SCORECARDS.—The
25 budgetary effects of this Act shall not be entered on either

1 PAYGO scorecard maintained pursuant to section 4(d) of
2 the Statutory Pay-As-You-Go Act of 2010.

3 (b) SENATE PAYGO SCORECARDS.—The budgetary
4 effects of this Act shall not be entered on any PAYGO
5 scorecard maintained for purposes of section 201 of S.
6 Con. Res. 21 (110th Congress).

Passed the House of Representatives July 11, 2014.

Attest:

KAREN L. HAAS,

Clerk.

Calendar No. 465

113TH CONGRESS
2D Session

H. R. 4718

AN ACT

To amend the Internal Revenue Code of 1986 to
modify and make permanent bonus depreciation.

JULY 15, 2014

Read the second time and placed on the calendar