

112TH CONGRESS  
2D SESSION

# H. R. 4196

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 HOUSE OF REPRESENTATIVES

MARCH 13, 2012

Mr. TIBERI (for himself, Mr. LARSON of Connecticut, Mr. PAULSEN, Mr. NEAL, Mr. MARCHANT, and Mr. PASCRELL) 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 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 DEPRECI-  
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.

1           “(D) CREDIT REFUNDABLE.—For pur-  
2           poses of section 6401(b), the aggregate increase  
3           in the credits allowable under part IV of sub-  
4           chapter A for any taxable year resulting from  
5           the application of this paragraph shall be treat-  
6           ed as allowed under subpart C of such part  
7           (and not any other subpart).

8           “(E) OTHER RULES.—

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

12          “(ii) PARTNERSHIPS WITH ELECTING  
13          PARTNERS.—In the case of a corporation  
14          making an election under subparagraph  
15          (A) and which is a partner in a partner-  
16          ship, for purposes of determining such cor-  
17          poration’s distributive share of partnership  
18          items under section 702—

19                  “(I) paragraph (1) shall not  
20                  apply to any eligible qualified prop-  
21                  erty, and

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

1           “(iii) CERTAIN PARTNERSHIPS.—In  
2           the case of a partnership in which more  
3           than 50 percent of the capital and profits  
4           interests are owned (directly or indirectly)  
5           at all times during the taxable year by one  
6           corporation (or by corporations treated as  
7           1 taxpayer under subparagraph (B)(iii)),  
8           for purposes of subparagraph (B), each  
9           partner shall take into account its distribu-  
10          tive share of the amounts determined by  
11          the partnership under subclauses (I) and  
12          (II) of clause (i) of such subparagraph for  
13          the taxable year of the partnership ending  
14          with or within the taxable year of the part-  
15          ner. The preceding sentence shall apply  
16          only to amounts determined with respect to  
17          property placed in service after December  
18          31, 2011.

19           “(iv) SPECIAL RULE FOR PASSENGER  
20          AIRCRAFT.—In the case of any passenger  
21          aircraft, the written binding contract limi-  
22          tation under paragraph (2)(A)(iii)(I) shall  
23          not apply for purposes of subparagraphs  
24          (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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