

107TH CONGRESS  
1ST SESSION

# S. 236

To amend the Internal Revenue Code of 1986 to expand the expense treatment for small businesses and to reduce the depreciation recovery period for restaurant buildings and franchise operations, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 1, 2001

Mr. HUTCHINSON 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 expand the expense treatment for small businesses and to reduce the depreciation recovery period for restaurant buildings and franchise operations, 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; AMENDMENT OF 1986 CODE.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Small Business Tax Fairness Act of 2001”.

6       (b) **AMENDMENT OF 1986 CODE.**—Except as other-  
7       wise expressly provided, whenever in this Act an amend-  
8       ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference  
2 shall be considered to be made to a section or other provi-  
3 sion of the Internal Revenue Code of 1986.

4 **SEC. 2. EXPANSION OF EXPENSE TREATMENT FOR SMALL**  
5 **BUSINESSES.**

6 (a) IN GENERAL.—Section 179(b)(1) is amended to  
7 read as follows:

8 “(1) DOLLAR LIMITATION.—

9 “(A) IN GENERAL.—The aggregate cost  
10 which may be taken into account under sub-  
11 section (a) for any taxable year shall not exceed  
12 \$100,000.

13 “(B) INFLATION ADJUSTMENT.—In the  
14 case of any taxable year beginning in a calendar  
15 year after 2001, the dollar amount contained in  
16 subparagraph (A) shall be increased by an  
17 amount equal to—

18 “(i) such dollar amount, multiplied by

19 “(ii) the cost-of-living adjustment de-  
20 termined under section 1(f)(3) for the cal-  
21 endar year in which the taxable year be-  
22 gins, by substituting ‘calendar year 2000’  
23 for ‘calendar year 1992’ in subparagraph  
24 (B) thereof.

1           If any amount as adjusted under this subpara-  
2           graph is not a multiple of \$1,000, such amount  
3           shall be rounded to the nearest multiple of  
4           \$1,000.”.

5           (b) EXPANSION OF PHASE-OUT OF LIMITATION.—

6 Section 179(b)(2) is amended to read as follows:

7           “(2) REDUCTION IN LIMITATION.—

8                   “(A) IN GENERAL.—The limitation under  
9           paragraph (1) for any taxable year shall be re-  
10          duced (but not below zero) by the amount by  
11          which the cost of section 179 property for  
12          which a deduction is allowable (without regard  
13          to this subsection) under subsection (a) for  
14          such taxable year exceeds \$400,000.”

15                   “(B) INFLATION ADJUSTMENT.—In the  
16          case of any taxable year beginning in a calendar  
17          year after 2001, the dollar amount contained in  
18          subparagraph (A) shall be increased by an  
19          amount equal to—

20                           “(i) such dollar amount, multiplied by

21                           “(ii) the cost-of-living adjustment de-  
22          termined under section 1(f)(3) for the cal-  
23          endar year in which the taxable year be-  
24          gins, by substituting ‘calendar year 2000’

1 for ‘calendar year 1992’ in subparagraph  
2 (B) thereof.

3 If any amount as adjusted under this subpara-  
4 graph is not a multiple of \$10,000, such  
5 amount shall be rounded to the nearest multiple  
6 of \$10,000.”.

7 (c) TIME OF DEDUCTION.—The second sentence of  
8 section 179(a) (relating to election to expense certain de-  
9 preciable business assets) is amended by inserting “(or,  
10 if the taxpayer elects, the preceding taxable year if the  
11 property was purchased in such preceding year)” after  
12 “service”.

13 (d) COMPUTER SOFTWARE ELIGIBLE FOR EXPENS-  
14 ING.—

15 (1) IN GENERAL.—The heading and first sen-  
16 tence of section 179(d)(1) are amended to read as  
17 follows:

18 “(1) SECTION 179 PROPERTY.—For purposes of  
19 this section, the term ‘section 179 property’ means  
20 property—

21 “(A) which is—

22 “(i) tangible property to which section  
23 168 applies, or

1           “(ii) computer software (as defined in  
2           section 197(e)(3)(B)) to which section 167  
3           applies,

4           “(B) which is section 1245 property (as  
5           defined in section 1245(a)(3)), and

6           “(C) which is acquired by purchase for use  
7           in the active conduct of a trade or business.”.

8           (2) NO COMPUTER SOFTWARE INCLUDED AS  
9           SECTION 197 INTANGIBLE.—

10           (A) IN GENERAL.—Section 197(e)(3)(A) is  
11           amended to read as follows:

12           “(A) IN GENERAL.—Any computer soft-  
13           ware.”.

14           (B) CONFORMING AMENDMENT.—Section  
15           167(f)(1)(B) is amended by striking “; except  
16           that such term shall not include any such soft-  
17           ware which is an amortizable section 197 intan-  
18           gible”.

19           (e) EFFECTIVE DATE.—The amendments made by  
20           this section shall apply to taxable years beginning after  
21           December 31, 2000.

1 **SEC. 3. DEPRECIATION RECOVERY PERIOD FOR RES-**  
 2 **TAURANT BUILDINGS AND FRANCHISE OPER-**  
 3 **ATIONS.**

4 (a) 15-YEAR RECOVERY PERIOD.—Section  
 5 168(e)(3)(E) (relating to 15-year property) is amended by  
 6 striking “and” at the end of clause (ii), by striking the  
 7 period at the end of clause (iii) and inserting a comma,  
 8 and by adding at the end the following new clauses:

9 “(iv) any section 1250 property which  
 10 is a retail restaurant facility or an im-  
 11 provement thereto, and

12 “(v) any section 1250 property which  
 13 is a franchise operation subject to section  
 14 1253.”.

15 (b) RETAIL RESTAURANT FACILITY.—Section 168(e)  
 16 (relating to classification of property) is amended by add-  
 17 ing at the end the following new paragraph:

18 “(6) RETAIL RESTAURANT FACILITY.—The  
 19 term ‘retail restaurant facility’ means any building  
 20 if—

21 “(A) more than 50 percent of the build-  
 22 ing’s square footage is devoted to preparation  
 23 of, and seating for on-premises consumption of,  
 24 prepared meals, and

25 “(B) the building is owned by—

1                   “(i) the person operating the meal  
2                   preparation facility in such building, or

3                   “(ii) a person who is related (within  
4                   the meaning of section 267(b) or  
5                   707(b)(1)) to the person described in  
6                   clause (i).”

7           (c) ALTERNATIVE SYSTEM.—The table contained in  
8 section 168(g)(3)(B) is amended by inserting after the  
9 item relating to subparagraph (E)(iii) the following new  
10 items:

“(E)(iv) .....	15
“(E)(v) .....	15”.

11           (d) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to property placed in service after  
13 the date of the enactment of this Act and to all improve-  
14 ments made after the date of enactment.

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