

108TH CONGRESS
1ST SESSION

H. R. 1079

To amend the Internal Revenue Code of 1986 to increase expensing for small business and to allow small business to elect to determine the deduction for depreciation on a neutral cost recovery basis for property otherwise eligible to be expensed.

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2003

Mr. SMITH of Michigan (for himself, Mr. HOEKSTRA, Mr. EHLERS, and Mr. CAMP) 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 increase expensing for small business and to allow small business to elect to determine the deduction for depreciation on a neutral cost recovery basis for property otherwise eligible to be expensed.

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 “Neutral Cost Recovery
5 Act for Small Business”.

1 **SEC. 2. INCREASED EXPENSING FOR SMALL BUSINESS.**

2 (a) IN GENERAL.—Paragraph (1) of section 179(b)
3 of the Internal Revenue Code of 1986 (relating to dollar
4 limitation) is amended to read as follows:

5 “(1) DOLLAR LIMITATION.—The aggregate cost
6 which may be taken into account under subsection
7 (a) for any taxable year shall not exceed \$75,000.
8 The dollar amount otherwise applicable under the
9 preceding sentence for any taxable year shall be re-
10 duced by the basis of property which is placed in
11 service during such year and which is taken into ac-
12 count under section 168(k).”.

13 (b) INCREASE IN PHASEOUT THRESHOLD.—Para-
14 graph (2) of section 179(b) of such Code (relating to re-
15 duction in limitation) is amended by striking “\$200,000”
16 and inserting “\$325,000”.

17 (c) CERTAIN COMPUTER SOFTWARE.—Paragraph (1)
18 of section 179(d) of such Code (defining section 179 prop-
19 erty) is amended to read as follows:

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

23 “(A) which is—

24 “(i) tangible property (to which sec-
25 tion 168 applies), or

1 “(ii) computer software (as defined in
2 section 197(e)(3)(B)) which is described in
3 section 197(e)(3)(A)(i) and to which sec-
4 tion 167 applies,

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

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

9 Such term shall not include any property described
10 in section 50(b) and shall not include air condi-
11 tioning or heating units.”.

12 (d) INFLATION ADJUSTMENT OF DOLLAR LIMITA-
13 TION AND PHASEOUT THRESHOLD.—Subsection (b) of
14 section 179 of such Code is amended by adding at the
15 end the following new paragraph:

16 “(5) INFLATION ADJUSTMENTS.—

17 “(A) IN GENERAL.—In the case of any
18 taxable year beginning in a calendar year after
19 2003, the dollar amounts in paragraphs (1) and
20 (2) shall each be increased by an amount equal
21 to—

22 “(i) such dollar amount, multiplied by

23 “(ii) the cost-of-living adjustment de-
24 termined under section 1(f)(3) for the cal-
25 endar year in which the taxable year be-

1 gins, by substituting ‘calendar year 2002’
2 for ‘calendar year 1992’ in subparagraph
3 (B) thereof.

4 “(B) ROUNDING.—

5 “(i) DOLLAR LIMITATION.—If the
6 amount in paragraph (1) as increased
7 under subparagraph (A) is not a multiple
8 of \$1,000, such amount shall be rounded
9 to the nearest multiple of \$1,000.

10 “(ii) PHASEOUT AMOUNT.—If the
11 amount in paragraph (2) as increased
12 under subparagraph (A) is not a multiple
13 of \$10,000, such amount shall be rounded
14 to the nearest multiple of \$10,000.”.

15 (e) REVOCATION OF ELECTION.—Paragraph (2) of
16 section 179(c) of such Code (relating to election irrev-
17 ovable) is amended to read as follows:

18 “(2) REVOCATION OF ELECTION.—The tax-
19 payer may revoke an election under paragraph (1),
20 and any specification contained in any such election,
21 with respect to any property. Such revocation, once
22 made, shall be irrevocable.”.

23 (f) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2002.

1 **SEC. 3. NEUTRAL COST RECOVERY DEPRECIATION ADJUST-**
2 **MENT FOR CERTAIN PROPERTY PLACED IN**
3 **SERVICE AFTER DECEMBER 31, 2003.**

4 (a) IN GENERAL.—Section 168 of the Internal Rev-
5 enue Code of 1986 (relating to accelerated cost recovery
6 system) is amended by adding at the end thereof the fol-
7 lowing new subsection:

8 “(k) DEDUCTION ADJUSTMENT TO ALLOW EQUIVA-
9 LENT OF EXPENSING FOR CERTAIN PROPERTY PLACED
10 IN SERVICE AFTER DECEMBER 31, 2003.—

11 “(1) IN GENERAL.—In the case of property
12 placed in service after December 31, 2003, that the
13 taxpayer would (but for the second sentence of sec-
14 tion 179(b)(1)) be eligible to fully expense under
15 section 179, the deduction under this section with
16 respect to such property—

17 “(A) shall be determined by substituting
18 ‘150 percent’ for ‘200 percent’ in subsection
19 (b)(1) in the case of property to which the 200
20 percent declining balance method would other-
21 wise apply, and

22 “(B) for any taxable year after the taxable
23 year during which the property is placed in
24 service shall be—

1 “(i) the amount determined under this
2 section for such taxable year without re-
3 gard to this subparagraph, multiplied by

4 “(ii) the applicable neutral cost recov-
5 ery ratio for such taxable year.

6 “(2) APPLICABLE NEUTRAL COST RECOVERY
7 RATIO.—For purposes of paragraph (1)—

8 “(A) IN GENERAL.—The applicable neutral
9 cost recovery ratio for the property for any tax-
10 able year is the number determined by—

11 “(i) dividing—

12 “(I) the gross domestic product
13 deflator for the calendar quarter end-
14 ing in such taxable year which cor-
15 responds to the calendar quarter dur-
16 ing which the property was placed in
17 service by the taxpayer, by

18 “(II) the gross domestic product
19 deflator for the calendar quarter dur-
20 ing which the property was placed in
21 service by the taxpayer, and

22 “(ii) then multiplying the number de-
23 termined under clause (i) by the number
24 equal to 1.035 to the nth power where ‘n’
25 is the number of full years in the period

1 beginning on the 1st day of the calendar
2 quarter during which the property was
3 placed in service by the taxpayer and end-
4 ing on the day before the beginning of the
5 corresponding calendar quarter ending
6 during such taxable year.

7 The applicable neutral cost recovery ratio shall
8 never be less than 1. The applicable neutral
9 cost recovery ratio shall be rounded to the near-
10 est $\frac{1}{1000}$.

11 “(B) SPECIAL RULE FOR CERTAIN PROP-
12 ERTY.—In the case of property described in
13 paragraph (2) or (3) of subsection (b) or in
14 subsection (g), the applicable neutral cost recov-
15 ery ratio shall be determined without regard to
16 subparagraph (A)(ii).

17 “(3) GROSS DOMESTIC PRODUCT DEFLATOR.—
18 For purposes of paragraph (2), the gross domestic
19 product deflator for any calendar quarter is the im-
20 plicit price deflator for the gross domestic product
21 for such quarter (as shown in the first revision
22 thereof).

23 “(4) ELECTION NOT TO HAVE SUBSECTION
24 APPLY.—This subsection shall not apply to any
25 property if the taxpayer elects not to have this sub-

1 section apply to such property. Such an election,
2 once made, shall be irrevocable.

3 “(5) CHURNING TRANSACTIONS.—This sub-
4 section shall not apply to any property if this section
5 would not apply to such property were subsection
6 (f)(5)(A)(ii) applied by substituting ‘2004’ for
7 ‘1981’ and ‘2003’ for ‘1980’.

8 “(6) ADDITIONAL DEDUCTION NOT TO AFFECT
9 BASIS OR RECAPTURE.—

10 “(A) IN GENERAL.—The additional
11 amount determined under this section by reason
12 of this subsection shall not be taken into ac-
13 count in determining the adjusted basis of any
14 property or of any interest in a pass-thru entity
15 which holds such property and shall not be
16 treated as a deduction for depreciation for pur-
17 poses of sections 1245 and 1250.

18 “(B) PASS-THRU ENTITY DEFINED.—For
19 purposes of subparagraph (A), the term ‘pass-
20 thru entity’ means—

21 “(i) a regulated investment company,

22 “(ii) a real estate investment trust,

23 “(iii) an S corporation,

24 “(iv) a partnership,

25 “(v) an estate or trust, and

1 “(vi) a common trust fund.”

2 (b) MINIMUM TAX TREATMENT.—

3 (1) Paragraph (1) of section 56(a) of such Code
4 is amended by adding at the end thereof the fol-
5 lowing new subparagraph:

6 “(E) USE OF NEUTRAL COST RECOVERY
7 RATIO.—In the case of property to which sec-
8 tion 168(k) applies and which is placed in serv-
9 ice after December 31, 2003, the deduction al-
10 lowable under this paragraph with respect to
11 such property for any taxable year (after the
12 taxable year during which the property is
13 placed in service) shall be—

14 “(i) the amount so allowable for such
15 taxable year without regard to this sub-
16 paragraph, multiplied by

17 “(ii) the applicable neutral cost recov-
18 ery ratio for such taxable year (as deter-
19 mined under section 168(k)).

20 This subparagraph shall not apply to any prop-
21 erty with respect to which there is an election
22 in effect not to have section 168(k) apply.”

23 (2) Subparagraph (C) of section 56(g)(4) of
24 such Code is amended by adding at the end the fol-
25 lowing new clause:

1 “(v) NEUTRAL COST RECOVERY DE-
2 DUCTION.—Clause (i) shall not apply to
3 the additional deduction allowable by rea-
4 son of section 168(k).”

5 (c) COORDINATION WITH DEPRECIATION LIMITA-
6 TION ON CERTAIN AUTOMOBILES.—Clause (i) of section
7 280F(a)(1)(B) of such Code is amended by adding at the
8 end the following new sentence: “For purposes of this
9 clause, the unrecovered basis of any passenger automobile
10 shall be treated as including the additional amount deter-
11 mined under section 168 by reason of subsection (k) there-
12 of to the extent not allowed as a deduction by reason of
13 this paragraph for any taxable year in the recovery pe-
14 riod.”

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years ending after De-
17 cember 31, 2003.

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