

109TH CONGRESS  
2D SESSION

# H. R. 4960

To amend the Internal Revenue Code of 1986 to allow 5-year amortization of goodwill and other section 197 intangibles that are acquired from a small business.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2006

Mr. CANTOR (for himself and Mr. POMEROY) 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 allow 5-year amortization of goodwill and other section 197 intangibles that are acquired from a small business.

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 “Tax Fairness for Small  
5       Business Act of 2006”.

1 **SEC. 2. 5-YEAR AMORTIZATION OF CERTAIN INTANGIBLES**  
2 **ACQUIRED FROM ELIGIBLE SMALL BUSI-**  
3 **NESSES AFTER DECEMBER 31, 2005.**

4 (a) IN GENERAL.—Section 197 of the Internal Rev-  
5 enue Code of 1986 (relating to amortization of goodwill  
6 and certain other intangibles) is amended by redesignating  
7 subsection (g) as subsection (h) and inserting after sub-  
8 section (f) the following new subsection:

9 “(g) 5-YEAR AMORTIZATION OF INTANGIBLES AC-  
10 QUIRED FROM ELIGIBLE SMALL BUSINESSES AFTER DE-  
11 CEMBER 31, 2005.—

12 “(1) IN GENERAL.—In the case of any qualified  
13 amortizable section 197 intangible, subsection (a)  
14 shall be applied by substituting ‘5-year period’ for  
15 ‘15-year period’.

16 “(2) QUALIFIED AMORTIZABLE SECTION 197 IN-  
17 TANGIBLE.—For purposes of this subsection, the  
18 term ‘qualified amortizable section 197 intangible’  
19 means any amortizable section 197 intangible which  
20 is acquired in a transaction (or series of trans-  
21 actions) involving the acquisition of assets consti-  
22 tuting a trade or business or substantial portion  
23 thereof from an eligible small business (as defined in  
24 section 474(c)) after December 31, 2005.

25 “(3) MAXIMUM AMOUNT PER BUSINESS.—

1           “(A) IN GENERAL.—The aggregate ad-  
2           justed basis of qualified amortizable section 197  
3           intangibles of each eligible small business which  
4           the taxpayer may amortize under paragraph (1)  
5           shall not exceed \$5,000,000.

6           “(B) ALLOCATION OF DOLLAR AMOUNT.—

7                   “(i) CONTROLLED GROUP.—For pur-  
8           poses of applying the dollar limitations in  
9           subparagraph (A)—

10                   “(I) all component members of a  
11           controlled group shall be treated as  
12           one taxpayer, and

13                   “(II) such dollar limitations shall  
14           be allocated among the component  
15           members of such controlled group in  
16           such manner as the Secretary pre-  
17           scribes.

18           For purposes of the preceding sentence,  
19           the term ‘controlled group’ has the mean-  
20           ing given to such term by section 1563(a),  
21           except that ‘more than 50 percent’ shall be  
22           substituted for ‘at least 80 percent’ each  
23           place it appears in section 1563(a)(1).

24                   “(ii) PARTNERSHIPS AND S CORPORA-  
25           TIONS.—In the case of a partnership, the

1           dollar limitations in subparagraph (A)  
2           shall apply with respect to the partnership  
3           and with respect to each partner. A similar  
4           rule shall apply in the case of an S cor-  
5           poration and its shareholders.

6           “(C) SUBSECTION NOT TO APPLY TO  
7           TRUSTS.—This subsection shall not apply to  
8           trusts.

9           “(D) ESTATES.—The benefit of the special  
10          deduction provided by this subsection shall be  
11          allowed to estates in the same manner as in the  
12          case of an individual. The allowable deduction  
13          shall be apportioned between the income bene-  
14          ficiary and the fiduciary in the manner pre-  
15          scribed by the Secretary. Any amount so appor-  
16          tioned to a beneficiary shall be taken into ac-  
17          count for purposes of determining the amount  
18          allowable as a deduction under this subsection  
19          to such beneficiary.”.

20          (b) EFFECTIVE DATE.—The amendment made by  
21          this section shall apply to acquisitions of qualified amortiz-  
22          able section 197 intangibles (as defined in section  
23          197(g)(2) of the Internal Revenue Code of 1986, as added  
24          by this section) after December 31, 2005.

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