

111TH CONGRESS
1ST SESSION

S. 2723

To amend the Internal Revenue Code of 1986 to provide a special depreciation allowance and recovery period for noncommercial aircraft property.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 3, 2009

Mr. BROWNBACK (for himself and Mr. ROBERTS) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide a special depreciation allowance and recovery period for noncommercial aircraft property.

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. SPECIAL DEPRECIATION ALLOWANCE AND RE-**
4 **COVERY PERIOD FOR NONCOMMERCIAL AIR-**
5 **CRAFT PROPERTY.**

6 (a) IN GENERAL.—Section 168 of the Internal Rev-
7 enue Code of 1986 is amended by adding at the end the
8 following:

9 “(o) SPECIAL ALLOWANCE FOR NONCOMMERCIAL
10 AIRPLANES.—

1 “(1) ADDITIONAL ALLOWANCE.—

2 “(A) IN GENERAL.—In the case of any
3 qualified noncommercial aircraft to which this
4 subparagraph applies—

5 “(i) the depreciation deduction pro-
6 vided by section 167(a) for the taxable
7 year in which such property is placed in
8 service shall include an allowance equal to
9 50 percent of the adjusted basis of the
10 qualified noncommercial aircraft property,
11 and

12 “(ii) the adjusted basis of the quali-
13 fied noncommercial aircraft property shall
14 be reduced by the amount of such deduc-
15 tion before computing the amount other-
16 wise allowable as a depreciation deduction
17 under this chapter for such taxable year
18 and any subsequent taxable year.

19 “(B) APPLICATION TO AIRCRAFT PUR-
20 CHASED IN 2010 OR 2011.—Subparagraph (A)
21 applies to qualified noncommercial aircraft
22 property placed in service after December 31,
23 2009, and before January 1, 2012, which is—

24 “(i) acquired by the taxpayer after
25 December 31, 2009, and before January 1,

1 2012, but only if no written binding con-
2 tract for the acquisition was in effect be-
3 fore January 1, 2010, or

4 “(ii) acquired by the taxpayer pursu-
5 ant to a written binding contract which
6 was entered into after December 31, 2009,
7 and before January 1, 2012.

8 “(2) RECOVERY PERIOD.—For purposes of this
9 section—

10 “(A) IN GENERAL.—Qualified noncommer-
11 cial aircraft to which this subparagraph applies
12 shall be treated as 3-year property.

13 “(B) APPLICATION TO AIRCRAFT PUR-
14 CHASED BEFORE 2015.—Subparagraph (A) ap-
15 plies to qualified noncommercial aircraft placed
16 in service after the date of the enactment of
17 this subsection and before January 1, 2015,
18 which is—

19 “(i) acquired by the taxpayer after the
20 date of the enactment of this subsection
21 and before January 1, 2015, but only if no
22 written binding contract for the acquisition
23 was in effect before such date of the enact-
24 ment, or

1 “(ii) acquired by the taxpayer pursu-
2 ant to a written binding contract which
3 was entered into after December 31, 2008,
4 and before January 1, 2015.

5 “(3) QUALIFIED NONCOMMERCIAL AIRCRAFT
6 PROPERTY.—For purposes of this subsection—

7 “(A) IN GENERAL.—The term ‘qualified
8 noncommercial aircraft property’ means any
9 aircraft—

10 “(i) which is not used in the trade or
11 business of transporting persons or prop-
12 erty,

13 “(ii) to which this section applies, and

14 “(iii) the original use of which com-
15 mences with the taxpayer after—

16 “(I) December 31, 2009, for pur-
17 poses of paragraph (1), and

18 “(II) the date of the enactment
19 of this subsection for purposes of
20 paragraph (2).

21 “(B) EXCEPTIONS.—

22 “(i) BONUS DEPRECIATION PROPERTY
23 UNDER SUBSECTION (k).—The term ‘quali-
24 fied noncommercial aircraft property’ shall

1 not include any property to which sub-
2 section (k)(1) applies.

3 “(ii) ALTERNATIVE DEPRECIATION
4 PROPERTY.—The term ‘qualified non-
5 commercial aircraft property’ shall not in-
6 clude any property to which the alternative
7 depreciation system under subsection (g)
8 applies, determined—

9 “(I) without regard to paragraph
10 (7) of subsection (g) (relating to elec-
11 tion to have system apply), and

12 “(II) after application of section
13 280F(b) (relating to listed property
14 with limited business use).

15 “(iii) ELECTION OUT.—If a taxpayer
16 makes an election under this clause with
17 respect to any class of property for any
18 taxable year, this subsection shall not
19 apply to all property in such class placed
20 in service during such taxable year.

21 “(C) SPECIAL RULE FOR SELF-CON-
22 STRUCTED PROPERTY.—In the case of a tax-
23 payer manufacturing, constructing, or pro-
24 ducing property for the taxpayer’s own use, if

1 the taxpayer begins manufacturing, con-
2 structing, or producing the property—

3 “(i) after December 31, 2009, and be-
4 fore January 1, 2012, for purposes of
5 paragraph (1), and

6 “(ii) after the date of the enactment
7 of this subsection and before January 1,
8 2015, for purposes of paragraph (2),

9 the requirements of paragraph (1)(B) or (2)(B)
10 (as the case may be) shall be treated as met.

11 “(D) DEDUCTION ALLOWED IN COM-
12 PUTING MINIMUM TAX.—For purposes of deter-
13 mining alternative minimum taxable income
14 under section 55, the deduction under sub-
15 section (a) for qualified noncommercial aircraft
16 property shall be determined under this section
17 without regard to any adjustment under section
18 56.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to property placed in service after
21 the date of the enactment of this Act, in taxable years
22 ending after such date.

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