

112TH CONGRESS
2D SESSION

H. R. 5974

To amend the Internal Revenue Code of 1986 to extend bonus depreciation,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 2012

Mr. LEVIN (for himself, Mr. RANGEL, Mr. STARK, Mr. McDERMOTT, Mr. LEWIS of Georgia, Mr. NEAL, Mr. BECERRA, Mr. THOMPSON of California, Mr. LARSON of Connecticut, Mr. BLUMENAUER, Mr. KIND, Mr. PASCRELL, Ms. BERKLEY, Mr. CROWLEY, and Mr. VAN HOLLEN) 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 extend
bonus depreciation, 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.**

4 This Act may be cited as the “Invest in America Now
5 Act of 2012”.

1 **SEC. 2. EXTENSION OF ALLOWANCE FOR BONUS DEPRECIATION FOR CERTAIN BUSINESS ASSETS.**

2
3 (a) **EXTENSION OF 100 PERCENT BONUS DEPRECIATION FOR 2012.—**

4
5 (1) **IN GENERAL.—**Paragraph (5) of section
6 168(k) of the Internal Revenue Code of 1986 is
7 amended—

8 (A) by striking “January 1, 2012” each
9 place it appears and inserting “January 1,
10 2013”, and

11 (B) by striking “January 1, 2013” and in-
12 serting “January 1, 2014”.

13 (2) **CONFORMING AMENDMENTS.—**

14 (A) The heading for paragraph (5) of sec-
15 tion 168(k) of such Code is amended by strik-
16 ing “PRE-2012 PERIODS” and inserting “PRE-
17 2013 PERIODS”.

18 (B) Clause (ii) of section 460(c)(6)(B) of
19 such Code is amended by striking “January 1,
20 2011 (January 1, 2012” and inserting “Janu-
21 ary 1, 2013 (January 1, 2014”.

22 (3) **EFFECTIVE DATES.—**

23 (A) **IN GENERAL.—**Except as provided in
24 subparagraph (B), the amendments made by
25 this subsection shall apply to property placed in
26 service after December 31, 2011.

1 (B) CONFORMING AMENDMENT.—The
2 amendment made by paragraph (2)(B) shall
3 apply to property placed in service after Decem-
4 ber 31, 2010.

5 (b) EXPANSION OF ELECTION TO ACCELERATE AMT
6 CREDITS IN LIEU OF BONUS DEPRECIATION.—

7 (1) IN GENERAL.—Paragraph (4) of section
8 168(k) of the Internal Revenue Code of 1986 is
9 amended to read as follows:

10 “(4) ELECTION TO ACCELERATE AMT CREDITS
11 IN LIEU OF BONUS DEPRECIATION.—

12 “(A) IN GENERAL.—If a corporation elects
13 to have this paragraph apply for any taxable
14 year—

15 “(i) paragraph (1) shall not apply to
16 any eligible qualified property placed in
17 service by the taxpayer in such taxable
18 year,

19 “(ii) the applicable depreciation meth-
20 od used under this section with respect to
21 such property shall be the straight line
22 method, and

23 “(iii) the limitation imposed by section
24 53(c) for such taxable year shall be in-
25 creased by the bonus depreciation amount

1 which is determined for such taxable year
2 under subparagraph (B).

3 “(B) BONUS DEPRECIATION AMOUNT.—

4 For purposes of this paragraph—

5 “(i) IN GENERAL.—The bonus depre-
6 ciation amount for any taxable year is an
7 amount equal to 20 percent of the excess
8 (if any) of—

9 “(I) the aggregate amount of de-
10 preciation which would be allowed
11 under this section for eligible qualified
12 property placed in service by the tax-
13 payer during such taxable year if
14 paragraph (1) applied to all such
15 property, over

16 “(II) the aggregate amount of
17 depreciation which would be allowed
18 under this section for eligible qualified
19 property placed in service by the tax-
20 payer during such taxable year if
21 paragraph (1) did not apply to any
22 such property.

23 The aggregate amounts determined under
24 subclauses (I) and (II) shall be determined
25 without regard to any election made under

1 subsection (b)(2)(D), (b)(3)(D), or (g)(7)
2 and without regard to subparagraph
3 (A)(ii).

4 “(ii) LIMITATION.—The bonus depre-
5 ciation amount for any taxable year shall
6 not exceed the lesser of—

7 “(I) 50 percent of the minimum
8 tax credit under section 53(b) for the
9 first taxable year ending after Decem-
10 ber 31, 2011, reduced (but not below
11 zero) by the sum of the bonus depre-
12 ciation amounts for all taxable years
13 ending after such date for which an
14 election under this paragraph was
15 made which precede the taxable year
16 for which the determination is made
17 (other than amounts determined with
18 respect to property placed in service
19 by the taxpayer on or before such
20 date), or

21 “(II) the minimum tax credit
22 under section 53(b) for such taxable
23 year determined by taking into ac-
24 count only the adjusted minimum tax
25 for taxable years ending before Janu-

1 ary 1, 2012 (determined by treating
2 credits as allowed on a first-in, first-
3 out basis).

4 “(iii) AGGREGATION RULE.—All cor-
5 porations which are treated as a single em-
6 ployer under section 52(a) shall be treat-
7 ed—

8 “(I) as 1 taxpayer for purposes
9 of this paragraph, and

10 “(II) as having elected the appli-
11 cation of this paragraph if any such
12 corporation so elects.

13 “(C) ELIGIBLE QUALIFIED PROPERTY.—
14 For purposes of this paragraph, the term ‘eligi-
15 ble qualified property’ means qualified property
16 under paragraph (2), except that in applying
17 paragraph (2) for purposes of this paragraph—

18 “(i) ‘March 31, 2008’ shall be sub-
19 stituted for ‘December 31, 2007’ each
20 place it appears in subparagraph (A) and
21 clauses (i) and (ii) of subparagraph (E)
22 thereof,

23 “(ii) ‘April 1, 2008’ shall be sub-
24 stituted for ‘January 1, 2008’ in subpara-
25 graph (A)(iii)(I) thereof, and

1 “(iii) only adjusted basis attributable
2 to manufacture, construction, or produc-
3 tion—

4 “(I) after March 31, 2008, and
5 before January 1, 2010, and

6 “(II) after December 31, 2010,
7 and before January 1, 2013, shall be
8 taken into account under subpara-
9 graph (B)(ii) thereof.

10 “(D) CREDIT REFUNDABLE.—For pur-
11 poses of section 6401(b), the aggregate increase
12 in the credits allowable under part IV of sub-
13 chapter A for any taxable year resulting from
14 the application of this paragraph shall be treat-
15 ed as allowed under subpart C of such part
16 (and not any other subpart).

17 “(E) OTHER RULES.—

18 “(i) ELECTION.—Any election under
19 this paragraph may be revoked only with
20 the consent of the Secretary.

21 “(ii) PARTNERSHIPS WITH ELECTING
22 PARTNERS.—In the case of a corporation
23 making an election under subparagraph
24 (A) and which is a partner in a partner-
25 ship, for purposes of determining such cor-

1 poration’s distributive share of partnership
2 items under section 702—

3 “(I) paragraph (1) shall not
4 apply to any eligible qualified prop-
5 erty, and

6 “(II) the applicable depreciation
7 method used under this section with
8 respect to such property shall be the
9 straight line method.

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

1 property placed in service after December
2 31, 2011.

3 “(iv) SPECIAL RULE FOR PASSENGER
4 AIRCRAFT.—In the case of any passenger
5 aircraft, the written binding contract limi-
6 tation under paragraph (2)(A)(iii)(I) shall
7 not apply for purposes of subparagraphs
8 (B)(i)(I) and (C).”.

9 (2) EFFECTIVE DATE.—The amendment made
10 by this subsection shall apply to taxable years end-
11 ing after December 31, 2011.

12 (3) TRANSITIONAL RULE.—In the case of a tax-
13 able year beginning before January 1, 2012, and
14 ending after December 31, 2011, the bonus depre-
15 ciation amount determined under paragraph (4) of
16 section 168(k) of the Internal Revenue Code of 1986
17 for such year shall be the sum of—

18 (A) such amount determined under such
19 paragraph as in effect on the date before the
20 date of enactment of this Act—

21 (i) taking into account only property
22 placed in service before January 1, 2012,
23 and

24 (ii) multiplying the limitation under
25 subparagraph (C)(ii) of such paragraph (as

1 so in effect) by a fraction the numerator of
2 which is the number of days in the taxable
3 year before January 1, 2012, and the de-
4 nominator of which is the number of days
5 in the taxable year, and

6 (B) such amount determined under such
7 paragraph as amended by this Act—

8 (i) taking into account only property
9 placed in service after December 31, 2011,
10 and

11 (ii) multiplying the limitation under
12 subparagraph (B)(ii) of such paragraph
13 (as so in effect) by a fraction the numer-
14 ator of which is the number of days in the
15 taxable year after December 31, 2011, and
16 the denominator of which is the number of
17 days in the taxable year.

18 **SEC. 3. LIMITATION ON SECTION 199 DEDUCTION ATTRIB-**
19 **UTABLE TO OIL, NATURAL GAS, OR PRIMARY**
20 **PRODUCTS THEREOF.**

21 (a) DENIAL OF DEDUCTION.—Paragraph (4) of sec-
22 tion 199(c) of the Internal Revenue Code of 1986 is
23 amended by adding at the end the following new subpara-
24 graph:

1 “(E) SPECIAL RULE FOR CERTAIN OIL
2 AND GAS INCOME.—In the case of any taxpayer
3 who is a major integrated oil company (as de-
4 fined in section 167(h)(5)(B)) for the taxable
5 year, the term ‘domestic production gross re-
6 ceipts’ shall not include gross receipts from the
7 production, transportation, or distribution of
8 oil, natural gas, or any primary product (within
9 the meaning of subsection (d)(9)) thereof.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to taxable years beginning after
12 December 31, 2011.

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