

114TH CONGRESS
1ST SESSION

S. 1660

To amend the Internal Revenue Code of 1986 to modify and make permanent bonus depreciation.

IN THE SENATE OF THE UNITED STATES

JUNE 24, 2015

Mr. ROBERTS (for himself, Mr. ISAKSON, Mr. BLUNT, and Mr. TOOMEY) 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 modify and make permanent bonus depreciation.

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. BONUS DEPRECIATION MODIFIED AND MADE**
4 **PERMANENT.**

5 (a) MADE PERMANENT; APPLICABLE TO QUALIFIED
6 IMPROVEMENT PROPERTY.—

7 (1) IN GENERAL.—Section 168(k)(2) of the In-
8 ternal Revenue Code of 1986 is amended to read as
9 follows:

1 “(2) QUALIFIED PROPERTY.—For purposes of
2 this subsection—

3 “(A) IN GENERAL.—The term ‘qualified
4 property’ means property—

5 “(i)(I) to which this section applies
6 which has a recovery period of 20 years or
7 less,

8 “(II) which is computer software (as
9 defined in section 167(f)(1)(B)) for which
10 a deduction is allowable under section
11 167(a) without regard to this subsection,

12 “(III) which is water utility property,
13 or

14 “(IV) which is qualified improvement
15 property, and

16 “(ii) the original use of which com-
17 mences with the taxpayer.

18 “(B) EXCEPTION FOR ALTERNATIVE DE-
19 PRECIATION PROPERTY.—The term ‘qualified
20 property’ shall not include any property to
21 which the alternative depreciation system under
22 subsection (g) applies, determined—

23 “(i) without regard to paragraph (7)
24 of subsection (g) (relating to election to
25 have system apply), and

1 “(ii) after application of section
2 280F(b) (relating to listed property with
3 limited business use).

4 “(C) SPECIAL RULES.—

5 “(i) SALE-LEASEBACKS.—For pur-
6 poses of clause (ii) and subparagraph
7 (A)(ii), if property is—

8 “(I) originally placed in service
9 by a person, and

10 “(II) sold and leased back by
11 such person within 3 months after the
12 date such property was originally
13 placed in service,
14 such property shall be treated as originally
15 placed in service not earlier than the date
16 on which such property is used under the
17 leaseback referred to in subclause (II).

18 “(ii) SYNDICATION.—For purposes of
19 subparagraph (A)(ii), if—

20 “(I) property is originally placed
21 in service by the lessor of such prop-
22 erty,

23 “(II) such property is sold by
24 such lessor or any subsequent pur-
25 chaser within 3 months after the date

1 such property was originally placed in
2 service (or, in the case of multiple
3 units of property subject to the same
4 lease, within 3 months after the date
5 the final unit is placed in service, so
6 long as the period between the time
7 the first unit is placed in service and
8 the time the last unit is placed in
9 service does not exceed 12 months),
10 and

11 “(III) the user of such property
12 after the last sale during such 3-
13 month period remains the same as
14 when such property was originally
15 placed in service,

16 such property shall be treated as originally
17 placed in service not earlier than the date
18 of such last sale.

19 “(D) COORDINATION WITH SECTION
20 280F.—For purposes of section 280F—

21 “(i) AUTOMOBILES.—In the case of a
22 passenger automobile (as defined in section
23 280F(d)(5)) which is qualified property,
24 the Secretary shall increase the limitation
25 under section 280F(a)(1)(A)(i) by \$8,000.

1 “(ii) LISTED PROPERTY.—The deduc-
 2 tion allowable under paragraph (1) shall be
 3 taken into account in computing any re-
 4 capture amount under section 280F(b)(2).

5 “(iii) INFLATION ADJUSTMENT.—In
 6 the case of any taxable year beginning in
 7 a calendar year after 2015, the \$8,000
 8 amount in clause (i) shall be increased by
 9 an amount equal to—

10 “(I) such dollar amount, multi-
 11 plied by

12 “(II) the automobile price infla-
 13 tion adjustment determined under sec-
 14 tion 280F(d)(7)(B)(i) for the calendar
 15 year in which such taxable year begins
 16 by substituting ‘2014’ for ‘1987’ in
 17 subclause (II) thereof.

18 If any increase under the preceding sen-
 19 tence is not a multiple of \$100, such in-
 20 crease shall be rounded to the nearest mul-
 21 tiple of \$100.

22 “(E) DEDUCTION ALLOWED IN COMPUTING
 23 MINIMUM TAX.—For purposes of determining
 24 alternative minimum taxable income under sec-
 25 tion 55, the deduction under section 167 for

1 qualified property shall be determined without
 2 regard to any adjustment under section 56.”.

3 (2) QUALIFIED IMPROVEMENT PROPERTY.—
 4 Section 168(k)(3) of such Code is amended to read
 5 as follows:

6 “(3) QUALIFIED IMPROVEMENT PROPERTY.—
 7 For purposes of this subsection—

8 “(A) IN GENERAL.—The term ‘qualified
 9 improvement property’ means any improvement
 10 to an interior portion of a building which is
 11 nonresidential real property if such improve-
 12 ment is placed in service after the date such
 13 building was first placed in service.

14 “(B) CERTAIN IMPROVEMENTS NOT IN-
 15 CLUDED.—Such term shall not include any im-
 16 provement for which the expenditure is attrib-
 17 utable to—

18 “(i) the enlargement of the building,

19 “(ii) any elevator or escalator, or

20 “(iii) the internal structural frame-
 21 work of the building.”.

22 (b) EXPANSION OF ELECTION TO ACCELERATE AMT
 23 CREDITS IN LIEU OF BONUS DEPRECIATION.—Section
 24 168(k)(4) of such Code is amended to read as follows:

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

3 “(A) IN GENERAL.—If a corporation elects
4 to have this paragraph apply for any taxable
5 year—

6 “(i) paragraphs (1) and (2)(D) shall
7 not apply to any qualified property placed
8 in service during such taxable year,

9 “(ii) the applicable depreciation meth-
10 od used under this section with respect to
11 such property shall be the straight line
12 method, and

13 “(iii) the limitation imposed by section
14 53(c) for such taxable year shall be in-
15 creased by the bonus depreciation amount
16 which is determined for such taxable year
17 under subparagraph (B).

18 “(B) BONUS DEPRECIATION AMOUNT.—
19 For purposes of this paragraph—

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

24 “(I) the aggregate amount of de-
25 preciation which would be allowed

under this section for qualified property placed in service by the taxpayer during such taxable year if paragraph (1) applied to all such property (and, in the case of any such property which is a passenger automobile (as defined in section 280F(d)(5)), if paragraph (2)(D) applied to such automobile), over

“(II) the aggregate amount of depreciation which would be allowed under this section for qualified property placed in service by the taxpayer during such taxable year if paragraphs (1) and (2)(D) did not apply to any such property.

The aggregate amounts determined under subclauses (I) and (II) shall be determined without regard to any election made under subparagraph (A) or subsection (b)(2)(D), (b)(3)(D), or (g)(7).

“(ii) LIMITATION.—The bonus depreciation amount for any taxable year shall not exceed the lesser of—

1 “(I) 50 percent of the minimum
2 tax credit under section 53(b) for the
3 first taxable year ending after Decem-
4 ber 31, 2014, or

5 “(II) the minimum tax credit
6 under section 53(b) for such taxable
7 year determined by taking into ac-
8 count only the adjusted net minimum
9 tax for taxable years ending before
10 January 1, 2015 (determined by
11 treating credits as allowed on a first-
12 in, first-out basis).

13 “(iii) AGGREGATION RULE.—All cor-
14 porations which are treated as a single em-
15 ployer under section 52(a) shall be treat-
16 ed—

17 “(I) as 1 taxpayer for purposes
18 of this paragraph, and

19 “(II) as having elected the appli-
20 cation of this paragraph if any such
21 corporation so elects.

22 “(C) CREDIT REFUNDABLE.—For pur-
23 poses of section 6401(b), the aggregate increase
24 in the credits allowable under part IV of sub-
25 chapter A for any taxable year resulting from

1 the application of this paragraph shall be treat-
2 ed as allowed under subpart C of such part
3 (and not any other subpart).

4 “(D) OTHER RULES.—

5 “(i) ELECTION.—Any election under
6 this paragraph may be revoked only with
7 the consent of the Secretary.

8 “(ii) PARTNERSHIPS WITH ELECTING
9 PARTNERS.—In the case of a corporation
10 which is a partner in a partnership and
11 which makes an election under subpara-
12 graph (A) for the taxable year, for pur-
13 poses of determining such corporation’s
14 distributive share of partnership items
15 under section 702 for such taxable year—

16 “(I) paragraphs (1) and (2)(D)
17 shall not apply to any qualified prop-
18 erty placed in service during such tax-
19 able year, and

20 “(II) the applicable depreciation
21 method used under this section with
22 respect to such property shall be the
23 straight line method.

24 “(iii) CERTAIN PARTNERSHIPS.—In
25 the case of a partnership in which more

1 than 50 percent of the capital and profits
 2 interests are owned (directly or indirectly)
 3 at all times during the taxable year by 1
 4 corporation (or by corporations treated as
 5 1 taxpayer under subparagraph (B)(iii)),
 6 each partner shall compute its bonus de-
 7 preciation amount under clause (i) of sub-
 8 paragraph (B) by taking into account its
 9 distributive share of the amounts deter-
 10 mined by the partnership under subclauses
 11 (I) and (II) of such clause for the taxable
 12 year of the partnership ending with or
 13 within the taxable year of the partner.”.

14 (c) SPECIAL RULES FOR CERTAIN PLANTS BEARING
 15 FRUITS AND NUTS.—Section 168(k) of such Code is
 16 amended—

17 (1) by striking paragraph (5), and

18 (2) by inserting after paragraph (4) the fol-
 19 lowing new paragraph:

20 “(5) SPECIAL RULES FOR CERTAIN PLANTS
 21 BEARING FRUITS AND NUTS.—

22 “(A) IN GENERAL.—In the case of any
 23 specified plant which is planted, or is grafted to
 24 a plant that has already been planted, by the
 25 taxpayer in the ordinary course of the tax-

1 payer's farming business (as defined in section
2 263A(e)(4)) during a taxable year for which the
3 taxpayer has elected the application of this
4 paragraph—

5 “(i) a depreciation deduction equal to
6 50 percent of the adjusted basis of such
7 specified plant shall be allowed under sec-
8 tion 167(a) for the taxable year in which
9 such specified plant is so planted or graft-
10 ed, and

11 “(ii) the adjusted basis of such speci-
12 fied plant shall be reduced by the amount
13 of such deduction.

14 “(B) SPECIFIED PLANT.—For purposes of
15 this paragraph, the term ‘specified plant’
16 means—

17 “(i) any tree or vine which bears
18 fruits or nuts, and

19 “(ii) any other plant which will have
20 more than one yield of fruits or nuts and
21 which generally has a period of more than
22 2 years from the time of planting or graft-
23 ing to the time at which such plant begins
24 bearing fruits or nuts.

1 Such term shall not include any property which
 2 is planted or grafted outside of the United
 3 States.

4 “(C) ELECTION REVOCABLE ONLY WITH
 5 CONSENT.—An election under this paragraph
 6 may be revoked only with the consent of the
 7 Secretary.

8 “(D) ADDITIONAL DEPRECIATION MAY BE
 9 CLAIMED ONLY ONCE.—If this paragraph ap-
 10 plies to any specified plant, such specified plant
 11 shall not be treated as qualified property in the
 12 taxable year in which placed in service.

13 “(E) DEDUCTION ALLOWED IN COMPUTING
 14 MINIMUM TAX.—Rules similar to the rules of
 15 paragraph (2)(E) shall apply for purposes of
 16 this paragraph.”.

17 (d) CONFORMING AMENDMENTS.—

18 (1) Section 168(e)(6) of such Code is amend-
 19 ed—

20 (A) by redesignating subparagraphs (A)
 21 and (B) as subparagraphs (D) and (E), respec-
 22 tively,

23 (B) by striking all that precedes subpara-
 24 graph (D) (as so redesignated) and inserting
 25 the following:

1 “(6) QUALIFIED LEASEHOLD IMPROVEMENT
2 PROPERTY.—For purposes of this subsection—

3 “(A) IN GENERAL.—The term ‘qualified
4 leasehold improvement property’ means any im-
5 provement to an interior portion of a building
6 which is nonresidential real property if—

7 “(i) such improvement is made under
8 or pursuant to a lease (as defined in sub-
9 section (h)(7))—

10 “(I) by the lessee (or any subles-
11 see) of such portion, or

12 “(II) by the lessor of such por-
13 tion,

14 “(ii) such portion is to be occupied ex-
15 clusively by the lessee (or any sublessee) of
16 such portion, and

17 “(iii) such improvement is placed in
18 service more than 3 years after the date
19 the building was first placed in service.

20 “(B) CERTAIN IMPROVEMENTS NOT IN-
21 CLUDED.—Such term shall not include any im-
22 provement for which the expenditure is attrib-
23 utable to—

24 “(i) the enlargement of the building,

25 “(ii) any elevator or escalator,

1 “(iii) any structural component bene-
 2 fitting a common area, or

3 “(iv) the internal structural frame-
 4 work of the building.

5 “(C) DEFINITIONS AND SPECIAL RULES.—

6 For purposes of this paragraph—

7 “(i) COMMITMENT TO LEASE TREAT-
 8 ED AS LEASE.—A commitment to enter
 9 into a lease shall be treated as a lease, and
 10 the parties to such commitment shall be
 11 treated as lessor and lessee, respectively.

12 “(ii) RELATED PERSONS.—A lease be-
 13 tween related persons shall not be consid-
 14 ered a lease. For purposes of the preceding
 15 sentence, the term ‘related persons’
 16 means—

17 “(I) members of an affiliated
 18 group (as defined in section 1504),
 19 and

20 “(II) persons having a relation-
 21 ship described in subsection (b) of
 22 section 267; except that, for purposes
 23 of this clause, the phrase ‘80 percent
 24 or more’ shall be substituted for the
 25 phrase ‘more than 50 percent’ each

1 place it appears in such subsection.”,
2 and

3 (C) by striking “subparagraph (A)” in
4 subparagraph (E) (as so redesignated) and in-
5 serting “subparagraph (D)”.

6 (2) Section 168(e)(7)(B) of such Code is
7 amended by striking “qualified leasehold improve-
8 ment property” and inserting “qualified improve-
9 ment property”.

10 (3) Section 168(e)(8) of such Code is amended
11 by striking subparagraph (D).

12 (4) Section 168(k) of such Code is amended by
13 adding at the end the following new paragraph:

14 “(6) ELECTION OUT.—If a taxpayer makes an
15 election under this paragraph with respect to any
16 class of property for any taxable year, paragraphs
17 (1) and (2)(D) shall not apply to any qualified prop-
18 erty in such class placed in service during such tax-
19 able year. An election under this paragraph may be
20 revoked only with the consent of the Secretary.”.

21 (5) Section 168(l)(3) of such Code is amend-
22 ed—

23 (A) by striking “section 168(k)” in sub-
24 paragraph (A) and inserting “subsection (k)”,
25 and

1 (B) by striking “section 168(k)(2)(D)(i)”
2 in subparagraph (B) and inserting “subsection
3 (k)(2)(B)”.

4 (6) Section 168(l)(4) of such Code is amended
5 by striking “subparagraph (E) of section 168(k)(2)”
6 and all that follows and inserting “subsection
7 (k)(2)(C) shall apply.”.

8 (7) Section 168(l)(5) of such Code is amended
9 by striking “section 168(k)(2)(G)” and inserting
10 “subsection (k)(2)(E)”.

11 (8) Section 263A(c) of such Code is amended
12 by adding at the end the following new paragraph:

13 “(7) COORDINATION WITH SECTION
14 168(k)(5).—This section shall not apply to any
15 amount allowed as a deduction by reason of section
16 168(k)(5) (relating to special rules for certain plants
17 bearing fruits and nuts).”.

18 (9) Section 460(c)(6)(B) of such Code is
19 amended by striking “which—” and all that follows
20 and inserting “which has a recovery period of 7
21 years or less.”.

22 (10) Section 168(k) of such Code is amended
23 by striking “ACQUIRED AFTER DECEMBER 31,
24 2007, AND BEFORE JANUARY 1, 2014” in the head-
25 ing thereof.

1 (e) EFFECTIVE DATES.—

2 (1) IN GENERAL.—Except as otherwise pro-
3 vided in this subsection, the amendments made by
4 this subsection shall apply to property placed in
5 service after December 31, 2014, in taxable years
6 ending after such date.

7 (2) EXPANSION OF ELECTION TO ACCELERATE
8 AMT CREDITS IN LIEU OF BONUS DEPRECIATION.—

9 (A) IN GENERAL.—The amendment made
10 by subsection (b) shall apply to taxable years
11 ending after December 31, 2014.

12 (B) TRANSITIONAL RULE.—In the case of
13 any taxable year beginning before January 1,
14 2015, and ending after December 31, 2014, the
15 limitation under section 168(k)(4)(B)(ii) of the
16 Internal Revenue Code of 1986 (as amended by
17 this section) shall be the sum of—

18 (i) the product of—

19 (I) the maximum increase
20 amount (within the meaning of sec-
21 tion 168(k)(4)(C)(iii) of such Code, as
22 in effect before the amendments made
23 by this section), multiplied by

24 (II) a fraction the numerator of
25 which is the number of days in the

1 taxable year before January 1, 2015,
 2 and the denominator of which is the
 3 number of days in the taxable year,
 4 plus

5 (ii) the product of—

6 (I) such limitation (determined
 7 without regard to this subparagraph),
 8 multiplied by

9 (II) a fraction the numerator of
 10 which is the number of days in the
 11 taxable year after December 31, 2014,
 12 and the denominator of which is the
 13 number of days in the taxable year.

14 (3) SPECIAL RULES FOR CERTAIN PLANTS
 15 BEARING FRUITS AND NUTS.—The amendments
 16 made by subsection (c) (other than paragraph (1)
 17 thereof) shall apply to specified plants (as defined in
 18 section 168(k)(5)(B) of the Internal Revenue Code
 19 of 1986, as amended by this section) planted or
 20 grafted after December 31, 2014.

21 **SEC. 2. BUDGETARY EFFECTS.**

22 The budgetary effects of this Act shall not be entered
 23 on either PAYGO scorecard maintained pursuant to sec-
 24 tion 4(d) of the Statutory Pay-As-You-Go Act of 2010.

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