113TH CONGRESS 2d Session | HOUSE OF REPRESENTATIVES | REPORT 113–509

BONUS DEPRECIATION MODIFIED AND MADE PERMANENT

JULY 3, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CAMP, from the Committee on Ways and Means, submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 4718]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4718) to amend the Internal Revenue Code of 1986 to modify and make permanent bonus depreciation, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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39–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. BONUS DEPRECIATION MODIFIED AND MADE PERMANENT.

(a) MADE PERMANENT; INCLUSION OF QUALIFIED RETAIL IMPROVEMENT PROPERTY.—Section 168(k)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

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

"(A) IN GENERAL.—The term 'qualified property' means property—

"(i)(I) to which this section applies which has a recovery period of 20 years or less,

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

"(III) which is water utility property,

"(IV) which is qualified leasehold improvement property, or

"(V) which is qualified retail improvement property, and

"(ii) the original use of which commences with the taxpayer.

"(B) EXCEPTION FOR ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified property' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(i) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(ii) after application of section 280F(b) (relating to listed property with limited business use).

"(C) SPECIAL RULES.—

"(i) SALE-LEASEBACKS.—For purposes of clause (ii) and subparagraph (A)(ii), if property is—

"(I) originally placed in service by a person, and

"(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(ii) SYNDICATION.—For purposes of subparagraph (A)(ii), if—

"(I) property is originally placed in service by the lessor of such property,

"(II) such property is sold by such lessor or any subsequent purchaser within 3 months after the date such property was originally placed in service (or, in the case of multiple units of property subject to the same lease, within 3 months after the date the final unit is placed in service, so long as the period between the time the first unit is placed in service and the time the last unit is placed in service does not exceed 12 months), and

"(III) the user of such property after the last sale during such 3-month period remains the same as when such property was originally placed in service,

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

"(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

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

"(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

"(iii) INFLATION ADJUSTMENT.— In the case of any taxable year beginning in a calendar year after 2014, the $8,000 amount in clause (i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the automobile price inflation adjustment determined under section 280F(d)(7)(B)(i) for the calendar year in which such taxable year begins by substituting '2013' for '1987' in subclause (II) thereof.

If any increase under the preceding sentence is not a multiple of $100, such increase shall be rounded to the nearest multiple of $100.

"(E) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, the deduction under section 167 for qualified property shall be determined without regard to any adjustment under section 56.".

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

"(4) ELECTION TO ACCELERATE AMT CREDITS IN LIEU OF BONUS DEPRECIATION.—

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

"(i) paragraphs (1)(A), (2)(D)(i), and (5)(A)(i) shall not apply for such taxable year,

"(ii) the applicable depreciation method used under this section with respect to any qualified property shall be the straight line method, and

"(iii) the limitation imposed by section 53(c) for such taxable year shall be increased by the bonus depreciation amount which is determined for such taxable year under subparagraph (B).

"(B) BONUS DEPRECIATION AMOUNT.—For purposes of this paragraph—

"(i) IN GENERAL.—The bonus depreciation amount for any taxable year is an amount equal to 20 percent of the excess (if any) of—

"(I) 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 paragraph (1) applied to all such property, 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 paragraph (1) 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 subsection (b)(2)(D), (b)(3)(D), or (g)(7) and without regard to subparagraph (A)(ii).

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

"(I) 50 percent of the minimum tax credit under section 53(b) for the first taxable year ending after December 31, 2013, or

"(II) the minimum tax credit under section 53(b) for such taxable year determined by taking into account only the adjusted net minimum tax for taxable years ending before January 1, 2014 (determined by treating credits as allowed on a first-in, first-out basis).

"(iii) AGGREGATION RULE.—All corporations which are treated as a single employer under section 52(a) shall be treated—

"(I) as 1 taxpayer for purposes of this paragraph, and

"(II) as having elected the application of this paragraph if any such corporation so elects.

"(C) CREDIT REFUNDABLE.—For purposes of section 6401(b), the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this paragraph shall be treated as allowed under subpart C of such part (and not any other subpart).

"(D) OTHER RULES.—

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

"(ii) PARTNERSHIPS WITH ELECTING PARTNERS.—In the case of a corporation which is a partner in a partnership and which makes an election under subparagraph (A) for the taxable year, for purposes of determining such corporation's distributive share of partnership items under section 702 for such taxable year—

"(I) paragraphs (1)(A), (2)(D)(i), and (5)(A)(i) shall not apply, and

"(II) the applicable depreciation method used under this section with respect to any qualified property shall be the straight line method.

"(iii) CERTAIN PARTNERSHIPS.—In the case of a partnership in which more than 50 percent of the capital and profits interests are owned (directly or indirectly) at all times during the taxable year by 1 corporation (or by corporations treated as 1 taxpayer under subparagraph (B)(iii)), each partner shall compute its bonus depreciation amount under clause (i) of subparagraph (B) by taking into account its distributive share of the amounts determined by the partnership under subclauses (I) and (II) of such clause for the taxable year of the partnership ending with or within the taxable year of the partner.".

(c) SPECIAL RULES FOR TREES AND VINES BEARING FRUITS AND NUTS.—Section 168(k) of such Code is amended—

(1) by striking paragraph (5), and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR TREES AND VINES BEARING FRUITS AND NUTS.—

"(A) IN GENERAL.—In the case of any tree or vine bearing fruits or nuts which is planted, or is grafted to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer's farming business (as defined in section 263A(e)(4))—

"(i) a depreciation deduction equal to 50 percent of the adjusted basis of such tree or vine shall be allowed under section 167(a) for the taxable year in which such tree or vine is so planted or grafted, and

"(ii) the adjusted basis of such tree or vine shall be reduced by the amount of such deduction.

"(B) ELECTION OUT.—If a taxpayer makes an election under this subparagraph for any taxable year, this paragraph shall not apply to any tree or vine planted or grafted during such taxable year. An election under this subparagraph may be revoked only with the consent of the Secretary.

"(C) ADDITIONAL DEPRECIATION MAY BE CLAIMED ONLY ONCE.—If this paragraph applies to any tree or vine, such tree or vine shall not be treated as qualified property in the taxable year in which placed in service.

"(D) COORDINATION WITH ELECTION TO ACCELERATE AMT CREDITS.—If a corporation makes an election under paragraph (4) for any taxable year, the amount under paragraph (4)(B)(i)(I) for such taxable year shall be increased by the amount determined under subparagraph (A)(i) for such taxable year.

"(E) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—Rules similar to the rules of paragraph (2)(E) shall apply for purposes of this paragraph.".

(d) CONFORMING AMENDMENTS.—

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

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

"(6) ELECTION OUT.—If a taxpayer makes an election under this paragraph with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service (or, in the case of paragraph (5), planted or grafted) during such taxable year. An election under this paragraph may be revoked only with the consent of the Secretary.".

(3) Section 168(l)(5) of such Code is amended by striking "section 168(k)(2)(G)" and inserting "section 168(k)(2)(E)".

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

"(7) COORDINATION WITH SECTION 168(k)(5).—This section shall not apply to any amount allowable as a deduction by reason of section 168(k)(5) (relating to special rules for trees and vines bearing fruits and nuts).".

(5) Section 460(c)(6)(B) of such Code is amended by striking "which—" and all that follows and inserting "which has a recovery period of 7 years or less.".

(6) Section 168(k) of such Code is amended by striking "ACQUIRED AFTER DECEMBER 31, 2007, AND BEFORE JANUARY 1, 2014" in the heading thereof.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to property placed in service after December 31, 2013.

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

(A) IN GENERAL.—The amendment made by subsection (b) (other than so much of such amendment as relates to section 168(k)(4)(D)(iii) of such Code, as added by such amendment) shall apply to taxable years ending after December 31, 2013.

(B) TRANSITIONAL RULE.—In the case of a taxable year beginning before January 1, 2014, and ending after December 31, 2013, the bonus depreciation amount determined under section 168(k)(4) of such Code for such year shall be the sum of—

(i) such amount determined without regard to the amendments made by this section and—

(I) by taking into account only property placed in service before January 1, 2014, and

(II) by multiplying the limitation under section 168(k)(4)(C)(ii) of such Code (determined without regard to the amendments made by this section) by a fraction the numerator of which is the number of days in the taxable year before January 1, 2014, and the denominator of which is the number of days in the taxable year, and

(ii) such amount determined after taking into account the amendments made by this section and—

(I) by taking into account only property placed in service after December 31, 2013, and

(II) by multiplying the limitation under section 168(k)(4)(B)(ii) of such Code (as amended by this section) by a fraction the numerator of which is the number of days in the taxable year after December 31, 2013, and the denominator of which is the number of days in the taxable year.

(3) SPECIAL RULES FOR CERTAIN TREES AND VINES.—The amendment made by subsection (c)(2) shall apply to trees and vines planted or grafted after December 31, 2013.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

H.R. 4718, reported by the Committee on Ways and Means, provides that businesses may claim an additional first-year depreciation deduction ("bonus depreciation") equal to 50 percent of the cost of qualified property placed in service after December 31, 2013. A similar, temporary provision expired for property placed in service before January 1, 2014. H.R. 4718 expands the scope of qualifying property eligible for bonus depreciation to include qualified retail improvement property, and permits a tree or vine bearing fruit or nuts to be eligible for bonus depreciation when planted or grafted, rather than when placed in service. H.R. 4718 adjusts for inflation the bonus depreciation deduction for passenger automobiles subject to section 280F.

Similar to a temporary provision that expired for taxable years beginning after December 31, 2013, H.R. 4718 permits taxpayers to claim a portion of unused alternative minimum tax ("AMT") credits in lieu of bonus depreciation. Compared with the expired provision, H.R. 4718 increases the maximum credit taxpayers may claim to the lesser of (1) 50 percent of the taxpayer's AMT credit in 2014, or (2) the taxpayer's AMT credits for taxable years ending before 2014 (with the oldest credits taken into account first).

B. BACKGROUND AND NEED FOR LEGISLATION

While the Committee continues actively to pursue comprehensive tax reform as a critical means of promoting economic growth and job creation, the Committee also believes that it is important to provide businesses permanent, immediate tax relief to encourage faster economic growth and job creation. By restoring and making permanent the 50-percent bonus depreciation deduction, H.R. 4718 would continue an important incentive for businesses and farms that have struggled through the economic challenges of the past six years to invest in critical business assets. Permanent 50-percent bonus depreciation would provide essential certainty for American businesses, allowing them to plan for future investments and lowering the cost of capital. By expanding bonus depreciation to retail improvement property, H.R. 4718 would encourage investment in retail businesses that have survived the sluggish economic recovery. H.R. 4718 would also ensure that businesses' ability to acquire critical business vehicles will keep pace with the cost of such investments in future years by indexing the bonus-depreciation limits for certain passenger automobiles. Finally, by increasing the ability of businesses to access trapped AMT credits, H.R. 4718 would provide vital cash for investments in business operations and growth, as well as much-needed job creation and increased wages.

C. Legislative History

Background

H.R. 4718 was introduced on May 22, 2014, and was referred to the Committee on Ways and Means.

Committee action

The Committee on Ways and Means marked up H.R. 4718, a bill to modify and make permanent bonus depreciation, on May 29, 2014, and ordered the bill, as amended, favorably reported (with a quorum being present).

Committee hearings

The need for permanent rules regarding bonus depreciation was discussed at no fewer than seven hearings during the 112th and 113th Congresses:

- Full Committee Hearing on How Business Tax Reform Can Encourage Job Creation (June 2, 2011);
- Full Committee Hearing on the Interaction of Tax and Financial Accounting on Tax Reform (February 8, 2012);
- Full Committee Hearing on the President's Fiscal Year 2013 Budget Proposal with U.S. Department of the Treasury Secretary Timothy F. Geithner (February 15, 2012);
- Select Revenue Measures Subcommittee Hearing on Certain Expiring Tax Provisions (April 26, 2012);
- Full Committee Hearing on Tax Reform and the U.S. Manufacturing Sector (July 19, 2012);
- Full Committee Hearing on Tax Reform and Residential Real Estate (April 25, 2013); and
- Full Committee Hearing on the Benefits of Permanent Tax Policy for America's Job Creators (April 8, 2014).

II. EXPLANATION OF THE BILL

A. Bonus Depreciation Modified and Made Permanent (sec. 168(k) of the Code)

PRESENT LAW

In general

An additional first-year depreciation deduction is allowed equal to 50 percent of the adjusted basis of qualified property acquired and placed in service after December 31, 2007 and before January 1, 2014 (January 1, 2015 for certain longer-lived and transportation property).[1]

The additional first-year depreciation deduction is allowed for both the regular tax and the alternative minimum tax ("AMT"),[2] but is not allowed in computing earnings and profits.[3] The basis of the property and the depreciation allowances in the year of purchase and later years are appropriately adjusted to reflect the additional first-year depreciation deduction.[4] The amount of the additional first-year depreciation deduction is not affected by a short taxable year.[5] The taxpayer may elect out of additional first-year depreciation for any class of property for any taxable year.[6]

The interaction of the additional first-year depreciation allowance with the otherwise applicable depreciation allowance may be illustrated as follows. Assume that in 2013, a taxpayer purchased new depreciable property and placed it in service.[7] The property's cost is $1,000, and it is five-year property subject to the 200 percent declining balance method and half-year convention. The amount of additional first-year depreciation allowed is $500. The remaining $500 of the cost of the property is depreciable under the rules applicable to five-year property. Thus $100 [8] also is allowed as a depreciation deduction in 2013. The total depreciation deduction with respect to the property for 2013 is $600. The remaining $400 adjusted basis of the property generally is recovered through otherwise applicable depreciation rules.

Property qualifying for the additional first-year depreciation deduction must meet all of the following requirements. First, the property must be (1) property to which the modified accelerated cost recovery system ("MACRS") applies with an applicable recovery period of 20 years or less; (2) water utility property (as defined in section 168(e)(5)); (3) computer software other than computer software covered by section 197; or (4) qualified leasehold improvement property (as defined in section 168(k)(3)).[9] Second, the original use [10] of the property must commence with the taxpayer after

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[1] Sec. 168(k). The additional first-year depreciation deduction is subject to the general rules regarding whether an item must be capitalized under section 263A. An additional first-year depreciation deduction is allowed equal to 100 percent of the adjusted basis of qualified original-use property if it meets the requirements for the additional first-year depreciation and the taxpayer acquired and placed the property in service after September 8, 2010 and before January 1, 2012 (January 1, 2013 for certain longer-lived and transportation property). Sec. 168(k)(5). See also Rev. Proc. 2011–26, 2011–16 I.R.B. 664, 2011.

[2] Sec. 168(k)(2)(G). See also Treas. Reg. sec. 1.168(k)–1(d).

[3] Treas. Reg. sec. 1.168(k)–1(f)(7).

[4] Sec. 168(k)(1)(B).

[5] *Ibid.*

[6] Sec. 168(k)(2)(D)(iii). For the definition of a class of property, see Treas. Reg. sec. 1.168(k)–1(e)(2).

[7] Assume that the cost of the property is not eligible for expensing under section 179.

[8] $100 results from the application of the half-year convention and the 200 percent declining balance method to the remaining $500.

[9] The additional first-year depreciation deduction is not available for any property that is required to be depreciated under the alternative depreciation system of MACRS. Sec. 168(k)(2)(D)(i). The additional first-year depreciation deduction also is not available for qualified New York Liberty Zone leasehold improvement property as defined in section 1400L(c)(2). Sec. 168(k)(2)(D)(ii).

[10] The term "original use" means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. If in the normal course of its business a taxpayer sells fractional interests in property to unrelated third parties, then the original use of such property begins with the first user of each fractional interest (i.e., each fractional owner is considered the original user of its proportionate share of the property). Treas. Reg. sec. 1.168(k)–1(b)(3).

December 31, 2007.[11] Third, the taxpayer must acquire the property within the applicable time period (as described below). Finally, the property must be placed in service before January 1, 2014. An extension of the placed-in-service date of one year (*i.e.,* before January 1, 2015) is provided for certain property with a recovery period of 10 years or longer and certain transportation property.[12]

To qualify, property must be acquired (1) after December 31, 2007, and before January 1, 2014, but only if no binding written contract for the acquisition is in effect before January 1, 2008, or (2) pursuant to a binding written contract which was entered into after December 31, 2007, and before January 1, 2014.[13] With respect to property that is manufactured, constructed, or produced by the taxpayer for use by the taxpayer, the taxpayer must begin the manufacture, construction, or production of the property after December 31, 2007, and before January 1, 2014.[14] Property that is manufactured, constructed, or produced for the taxpayer by another person under a contract that is entered into prior to the manufacture, construction, or production of the property is considered to be manufactured, constructed, or produced by the taxpayer.[15] For property eligible for the extended placed-in-service date, a special rule limits the amount of costs eligible for the additional first-year depreciation. With respect to such property, only the portion of the basis that is properly attributable to the costs incurred before January 1, 2014 ("progress expenditures") is eligible for the additional first-year depreciation deduction.[16]

Property does not qualify for the additional first-year depreciation deduction when the user of such property (or a related party) would not have been eligible for the additional first-year depreciation deduction if the user (or a related party) were treated as the owner.[17] For example, if a taxpayer sells to a related party property that was under construction prior to January 1, 2008, the property does not qualify for the additional first-year depreciation deduction. Similarly, if a taxpayer sells to a related party property that was subject to a binding written contract prior to January 1, 2008, the property does not qualify for the additional first-year de-

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[11] A special rule applies in the case of certain leased property. In the case of any property that is originally placed in service by a person and that is sold to the taxpayer and leased back to such person by the taxpayer within three months after the date that the property was placed in service, the property would be treated as originally placed in service by the taxpayer not earlier than the date that the property is used under the leaseback. If property is originally placed in service by a lessor, such property is sold within three months after the date that the property was placed in service, and the user of such property does not change, then the property is treated as originally placed in service by the taxpayer not earlier than the date of such sale. Sec. 168(k)(2)(E)(ii).

[12] Property qualifying for the extended placed-in-service date must have an estimated production period exceeding one year and a cost exceeding $1 million. Transportation property generally is defined as tangible personal property used in the trade or business of transporting persons or property. Certain aircraft which is not transportation property, other than for agricultural or firefighting uses, also qualifies for the extended placed-in-service-date, if at the time of the contract for purchase, the purchaser made a nonrefundable deposit of the lesser of 10 percent of the cost or $100,000, and which has an estimated production period exceeding four months and a cost exceeding $200,000.

[13] In the case of a binding written contract to acquire one or more components of a larger self-constructed asset, the larger self-constructed asset will not fail to qualify for the additional first-year depreciation merely because a binding written contract to acquire one or more components of such property was in effect prior to January 1, 2008. See Treas. Reg. sec. 1.168(k)–1(b)(4)(iii)(C). See also, Treas. Reg. sec. 1.168(k)–1(b)(4)(v), Examples 6 and 7.

[14] Sec. 168(k)(2)(E)(i).

[15] Treas. Reg. sec. 1.168(k)–1(b)(4)(iii).

[16] Sec. 168(k)(2)(B)(ii). For purposes of determining the amount of eligible progress expenditures, rules similar to section 46(d)(3) as in effect prior to the Tax Reform Act of 1986 apply.

[17] Sec. 168(k)(2)(E)(iv).

preciation deduction. As a further example, if a taxpayer (the lessee) sells property in a sale-leaseback arrangement, and the property otherwise would not have qualified for the additional first-year depreciation deduction if it were owned by the taxpayer-lessee, then the lessor is not entitled to the additional first-year depreciation deduction.

The limitation under section 280F on the amount of depreciation deductions allowed with respect to certain passenger automobiles is increased in the first year by $8,000 for automobiles that qualify (and for which the taxpayer does not elect out of the additional first-year deduction).[18] The $8,000 amount is not indexed for inflation.

Special rule for long-term contracts

In general, in the case of a long-term contract, the taxable income from the contract is determined under the percentage-of-completion method.[19] Solely for purposes of determining the percentage of completion under section 460(b)(1)(A), the cost of qualified property with a MACRS recovery period of seven years or less is taken into account as a cost allocated to the contract as if bonus depreciation had not been enacted for property placed in service (1) after December 31, 2009 and before January 1, 2011 (January 1, 2012 in the case of certain longer-lived and transportation property) or (2) after December 31, 2012 and before January 1, 2014 (January 1, 2015 in the case of certain longer-lived and transportation property).[20] Bonus depreciation generally is taken into account in determining taxable income under the percentage-of-completion method for property placed in service after December 31, 2010 and before January 1, 2013.

Election to accelerate AMT credits in lieu of bonus depreciation

A corporation otherwise eligible for additional first-year depreciation may elect to claim additional AMT credits in lieu of claiming additional depreciation with respect to "eligible qualified property."[21] In the case of a corporation making this election, the straight line method is used for the regular tax and the AMT with respect to eligible qualified property.[22]

Generally, an election under this provision for a taxable year applies to subsequent taxable years. However, each time the provision has been extended, a corporation which has previously made an election has been allowed to elect not to claim additional minimum tax credits, or, if no election had previously been made, to make an election to claim additional credits with respect to property subject to the extension.[23]

A corporation making an election increases the tax liability limitation under section 53(c) on the use of minimum tax credits by the bonus depreciation amount.[24] The aggregate increase in credits al-

[18] Sec. 168(k)(2)(F).
[19] See sec. 460.
[20] Sec. 460(c)(6).
[21] Sec. 168(k)(4). Eligible qualified property means qualified property eligible for bonus depreciation with minor effective date differences having little (if any) remaining significance.
[22] Sec. 168(k)(4)(A).
[23] Secs. 168(k)(4)(H), (I), and (J).
[24] Sec. 168(k)(4)(B)(ii).

lowable by reason of the increased limitation is treated as refundable.[25]

The bonus depreciation amount generally is equal to 20 percent of bonus depreciation[26] for eligible qualified property that could be claimed as a deduction absent an election under this provision. As originally enacted, the bonus depreciation amount for all taxable years was limited to the lesser of (1) $30 million, or (2) six percent of the minimum tax credits allocable to the adjusted net minimum tax imposed for taxable years beginning before January 1, 2006.[27] However, extensions of this provision have provided that this limitation applies separately to property subject to each extension.

All corporations treated as a single employer under section 52(a) are treated as one taxpayer for purposes of the limitation, as well as for electing the application of this provision.[28]

In the case of a corporation making an election which is a partner in a partnership, for purposes of determining the electing partner's distributive share of partnership items, bonus depreciation does not apply to any eligible qualified property and the straight line method is used with respect to that property.[29]

Qualified retail improvement property

Qualified retail improvement property placed in service after December 31, 2008, and before January 1, 2014 is depreciated over 15 years using the straight line method and a half-year convention.[30] Qualified retail improvement property placed in service on or after January 1, 2014 generally is depreciated using the straight line method over a 39-year recovery period, beginning in the month the addition or improvement was placed in service.[31] Qualified retail improvement property is defined as any improvement to an interior portion of a building that is nonresidential real property if such portion is open to the general public[32] and is used in the retail trade or business of selling tangible personal property to the general public, and such improvement is placed in service more than three years after the date the building was first placed in service.[33] Qualified retail improvement property does not include any improvement for which the expenditure is attributable to the enlargement of the building, any elevator or escalator, any structural component benefitting a common area, or the internal structural framework of the building.[34] In the case of an improvement made by the owner of such improvement, the improvement is a qualified retail improvement only so long as the improvement is held by such owner.[35] Additionally, qualified retail improvement property

[25] Sec. 168(k)(4)(F).

[26] For this purpose, bonus depreciation is the difference between (i) the aggregate amount of depreciation determined if section 168(k)(1) applied to all eligible qualified property placed in service during the taxable year and (ii) the amount of depreciation that would be so determined if section 168(k)(1) did not so apply.µ This determination is made using the most accelerated depreciation method and the shortest life otherwise allowable for each property.µ Sec. 168(k)(4)(C).

[27] Sec. 168(k)(4)(C)(iii).

[28] Sec. 168(k)(4)(C)(iv).

[29] Sec. 168(k)(4)(G)(ii).

[30] Secs. 168(e)(3)(E)(ix) and (e)(8).

[31] See secs. 168(b)(3), (c), and (d)(2).

[32] Improvements to portions of a building not open to the general public (e.g., stock room in back of retail space) do not qualify under the provision.

[33] Sec. 168(e)(8)(A).

[34] Sec. 168(e)(8)(C).

[35] Sec. 168(e)(8)(B).

is not eligible for bonus depreciation, unless it also meets the definition of qualified leasehold improvement property.[36]

Preproductive period costs of orchards, groves, and vineyards

An orchard, vineyard or grove generally produces annual crops of fruits (*e.g.,* apples, avocadoes, or grapes) or nuts (*e.g.,* pecans, pistachios, or walnuts). During the development period of the trees or vines, a farmer generally incurs costs to cultivate, spray, fertilize and irrigate the tree or vine to its crop-producing stage (*i.e.,* preproductive period costs).[37] Preproductive period costs may be deducted or capitalized, depending on the preproductive period of the tree or vine,[38] as well as whether the farmer elects to have section 263A not apply.[39] After the trees or vines start producing fruit or nuts, a farmer may depreciate the capitalized costs of the trees or vines (*i.e.,* the acquisition costs of the seeds, seedlings, or plants and their original planting which were capitalized when incurred, as well as the preproductive period costs if section 263A applied).[40] A ten-year recovery period is assigned to any tree or vine bearing fruits or nuts.[41]

REASONS FOR CHANGE

Bonus depreciation

The Committee believes that modifying and making the additional first-year depreciation deduction permanent provides businesses with the certainty needed to increase purchases of equipment and other assets, and promote capital investment, modernization, and growth.

Retailers frequently remodel or renovate the interiors of their stores. The Committee believes that retailers should not be treated differently based on whether the building in which they operate is owned or leased. As many retailers own the building in which they operate their business, the Committee believes that expanding the definition of qualified property to specifically include qualified retail improvement property provides clarity and relief to many retailers.

In addition, in order to counteract the negative impact of inflation on the $8,000 increase amount in the section 280F limitation on the first year depreciation deduction allowed with respect to certain passenger automobiles for which bonus depreciation is claimed, the Committee believes it is appropriate to index such amount for automobile price inflation.

[36] See sec. 168(e)(8)(D) and Rev. Proc. 2011–26.

[37] See section 263A(e)(3), which defines the “preproductive period” of a plant which will have more than one crop or yield as the period before the first marketable crop or yield from such plant.

[38] See section 263A(d)(1)(A)(ii). Section 263A generally requires certain direct and indirect costs allocable to real or tangible personal property produced by the taxpayer to be included in either inventory or capitalized into the basis of such property, as applicable.

[39] See section 263A(d)(3).

[40] In the case of any tree or vine bearing fruits or nuts, the placed in service date does not occur until the tree or vine first reaches an income-producing stage. Treas. Reg. sec. 1.46–3(d)(2). See also, Rev. Rul. 80–25, 1980–1 C.B. 65, 1980; and Rev. Rul. 69–249, 1969–1 C.B. 31, 1969.

[41] Sec. 168(e)(3)(D)(ii).

Expansion of election to accelerate AMT credits in lieu of bonus depreciation

The Committee believes that expanding the election to accelerate AMT credits in lieu of bonus depreciation enables corporations that would otherwise derive no benefit from bonus depreciation to better access capital in order to expand and invest in new facilities and equipment.

Special rules for trees and vines bearing fruits and nuts

The Committee believes that allowing growers of trees or vines that bear fruit or nuts to elect to claim bonus depreciation in the year of planting or grafting, rather than having to wait until the year in which the tree or vine produces a commercially viable or harvestable crop of fruits or nuts, encourages farmers to invest in their long-term crop businesses.

EXPLANATION OF PROVISION

Bonus depreciation

The provision makes permanent the 50-percent additional first-year depreciation deduction for qualified property.[42]

The provision expands the definition of qualified property to include qualified retail improvement property.

The $8,000 increase amount in the limitation on the depreciation deductions allowed with respect to certain passenger automobiles is indexed for automobile price inflation. The increase does not apply to a taxpayer who elects to accelerate AMT credits for a taxable year.

The provision also makes permanent the special rule for the allocation of bonus depreciation to a long-term contract, which provides that solely for purposes of determining the percentage of completion under section 460(b)(1)(A), the cost of qualified property with a MACRS recovery period of seven years or less is taken into account as a cost allocated to the contract as if bonus depreciation had not been enacted.

Expansion of election to accelerate AMT credits in lieu of bonus depreciation

The provision makes permanent and modifies the election to increase the AMT credit limitation in lieu of bonus depreciation. Under the provision, the bonus depreciation amount for a taxable year (as defined under present law with respect to all qualified property) is limited to the lesser of (1) 50 percent of the minimum tax credit for the first taxable year ending after December 31, 2013 (determined before the application of any tax liability limitation), or (2) the minimum tax credit for the taxable year allocable to the adjusted net minimum tax imposed for taxable years ending before January 1, 2014 (determined before the application of any tax liability limitation and determined on a first-in, first-out basis).

The provision also provides that in the case of a partnership having a single corporate partner owning (directly or indirectly) more

[42] Due to the passage of time since the provision's original enactment, the provision eliminates the various acquisition date requirements as no longer relevant. The provision also repeals as deadwood the provision relating to property acquired during certain pre-2012 periods (or certain pre-2013 periods for certain longer-lived and transportation property).

than 50-percent capital and profits interests in the partnership, each partner takes into account its distributive share of partnership depreciation in determining its bonus depreciation amount.

Special rules for trees and vines bearing fruits and nuts

In addition, the provision allows a taxpayer to claim bonus depreciation on trees or vines bearing fruits or nuts, in the taxable year in which the tree or vine is planted, or grafted to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer's farming business (notwithstanding that the tree or vine has not yet been placed in service in that year). The adjusted basis of the tree or vine is reduced by the amount of the deduction under this provision. Further, any amount deducted under this provision is not subject to capitalization under section 263A. A taxpayer may elect to have this provision not apply to trees or vines planted or grafted in that taxable year. If a taxpayer does not elect out of this provision, the tree or vine will not be eligible for bonus depreciation in the subsequent taxable year in which it is placed in service.

EFFECTIVE DATE

The provision relating to additional first-year depreciation is effective for property placed in service after December 31, 2013.

The provision relating to the election to accelerate AMT credits in lieu of claiming bonus depreciation generally applies to taxable years ending after December 31, 2013.[43] For a taxable year beginning before January 1, 2014, and ending after December 31, 2013, a transitional rule applies for purposes of determining the amount eligible for the election to claim additional AMT credits. The transitional rule applies the present-law limitations to property placed in service in 2013 and the revised limitations to property placed in service in 2014.

The provision relating to trees and vines is effective for property planted or grafted after December 31, 2013.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 4718, a bill to modify and make permanent bonus depreciation, on May 29, 2014.

The bill, H.R. 4718, was ordered favorably reported as amended by a roll call vote of 23 yeas to 11 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Camp	✔			Mr. Levin		✔	
Mr. Johnson	✔			Mr. Rangel			
Mr. Brady	✔			Mr. McDermott		✔	
Mr. Ryan	✔			Mr. Lewis			
Mr. Nunes	✔			Mr. Neal			
Mr. Tiberi	✔			Mr. Becerra		✔	
Mr. Reichert	✔			Mr. Doggett		✔	

[43] The partnership rule added by the provision applies to property placed in service after December 31, 2013.

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Boustany	✔			Mr. Thompson		✔	
Mr. Roskam	✔			Mr. Larson		✔	
Mr. Gerlach	✔			Mr. Blumenauer		✔	
Mr. Price	✔			Mr. Kind		✔	
Mr. Buchanan	✔			Mr. Pascrell			
Mr. Smith	✔			Mr. Crowley			
Mr. Schock	✔			Ms. Schwartz		✔	
Ms. Jenkins	✔			Mr. Davis		✔	
Mr. Paulsen	✔			Ms. Sánchez		✔	
Mr. Marchant	✔						
Ms. Black	✔						
Mr. Reed	✔						
Mr. Young	✔						
Mr. Kelly	✔						
Mr. Griffin	✔						
Mr. Renacci	✔						

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 4718, as reported.

FISCAL YEARS

[Millions of Dollars]

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014–19	2014–24
Bonus depreciation including special rules for trees and vines bearing fruits and nuts	−8,738	−79,252	−42,071	−35,002	−26,371	−17,359	−12,028	−10,061	−10,019	−10,701	−11,309	−208,792	−262,911
Expansion of election to accelerate AMT credits in lieu of bonus depreciation	−2,456	−4,101	−4,486	−4,829	−5,198	−2,893	−551	3	3	3	4	−23,964	−24,502

NOTE: Details do not add to totals due to rounding.

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that the revenue-reducing tax provisions involve increased tax expenditures. (See amounts in table in Part IV.A., above.)

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. Congress,
Congressional Budget Office,
Washington, DC, June 5, 2014.

Hon. Dave Camp,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4718, a bill to amend the Internal Revenue Code of 1986 to modify and make permanent bonus depreciation.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Logan Timmerhoff.

Sincerely,

Douglas W. Elmendorf.

Enclosure.

H.R. 4718—A bill to amend the Internal Revenue Code of 1986 to modify and make permanent bonus depreciation

H.R. 4718 would amend the Internal Revenue Code to permanently provide an additional first-year depreciation deduction of 50 percent of the adjusted basis of qualified property, effective January 1, 2014. Under current law that additional deduction expired after December 31, 2013. H.R. 4718 would also expand the definition of qualified property to include certain retail improvement property and certain trees and vines bearing nuts or fruits. It would also expand and make permanent recently expired provisions that allowed corporations to claim additional credits against the alternative minimum tax instead of claiming the additional first-year depreciation deduction.

The staff of the Joint Committee on Taxation (JCT) estimates that enacting H.R. 4718 would reduce revenues, thus increasing federal budget deficits, by about $287 billion over the 2014–2024 period.

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending and revenues. Enacting H.R. 4718 would result in revenue losses in each year beginning in 2014. The estimated increases in the deficit are shown in the following table.

JCT has determined that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Logan Timmerhoff. The estimate was approved by David Weiner, Assistant Director for Tax Analysis.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 4718, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON WAYS AND MEANS ON MAY 29, 2014

	By fiscal year, in millions of dollars—												
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014–2019	2014–2024
	NET INCREASE IN THE DEFICIT												
Statutory Pay-As-You-Go Effects	11,194	83,353	46,557	39,831	31,569	20,252	12,579	10,058	10,016	10,698	11,305	232,756	287,413

Source: Staff of the Joint Committee on Taxation.
Note: Components may not sum to totals because of rounding.

D. Macroeconomic Impact Analysis

In compliance with clause 3(h)(2) of rule XIII of the Rules of the House of Representatives, the staff of the Joint Committee on Taxation provides the following analysis of H.R. 4718, as ordered reported by the Committee on Ways and Means on May 29, 2014.

Overview

The following discussion analyzes the macroeconomic effects of this bill relative to the 2014 economic and receipts baseline published by the Congressional Budget Office ("CBO") in February, 2014.[44] We analyzed the bill using the Joint Committee staff macroeconomic equilibrium growth model ("MEG"), and an overlapping generations model ("OLG").[45] The proposal increases the expected after-tax return on investment in targeted depreciable property by allowing firms to deduct a larger share of their capital expenditures in the year of their purchase, relative to present law. This increase in after-tax returns on investment in business equipment and certain other depreciable property is expected to provide an incentive for an increase in savings and investment, resulting in an increase in business capital stock and the overall size of the economy, as measured by gross domestic product ("GDP"). Estimates of the extent of these effects depend on various modeling assumptions described below.

Discussion of proposal and modeling approach

The following analysis was performed using the Joint Committee on Taxation staff's MEG model and an OLG model. Both models start with the standard, neoclassical assumption that the amount of output is determined by the availability of labor and capital, and that in the long run aggregate demand equals aggregate supply. Individuals are assumed to make decisions based on observed characteristics of the economy, including wages, prices, interest rates, tax rates, and government spending levels. Of particular relevance to this bill, firms' investment decisions are based on the expected after-tax rate of return from the investment.

The bill would permanently extend a provision that allows businesses to deduct 50 percent of their investment in equipment (and a small, targeted subset of real property) in the year in which the equipment or property is placed in service, and depreciate the balance over the longer periods of time that apply to the full amount under present law. The effect of this incentive on the after-tax return on capital is modeled within both the MEG and OLG models by comparing the net present value of tax depreciation under the bill with that under present law. This change is calculated using the Joint Committee on Taxation staff's depreciation model, which models deduction patterns for each category of depreciable capital specified under the present law Modified Accelerated Cost Recovery System ("MACRS"), and can be configured to model any change in that pattern under proposed legislation. The effect of the bill on

[44] Congressional Budget Office, *The Budget and Economic Outlook: 2014–2024*, February 4, 2014.

[45] 1ADescriptions of these models may be found in Joint Committee on Taxation, *Summary of Economic Models and Estimating Practices of the Staff of the Joint Committee on Taxation* (JCX–46–11), September 19, 2011. The OLG model is leased from Tax Policy Advisors, LLC. Key behavioral parameters are provided in an appendix to the current document.

business tax revenues is simulated in both models by reducing average tax rates on businesses.

In the MEG model, monetary policy conducted by the Federal Reserve Board is explicitly modeled, with lagged price adjustments allowing for the economy to be temporarily out of equilibrium in response to fiscal and monetary policy changes. The MEG model is used to examine the importance of different assumptions about Federal Reserve policy. Under the "Aggressive Fed" policy, it is assumed that the Federal Reserve Board works to counteract any demand incentives resulting from fiscal policy. Because for this proposal the policy results in an incentive for people to increase their rate of savings, thus reducing their rate of consumption, the aggressive Fed simulation reduces interest rates to counter negative aggregate demand effects. It is not clear how effective such a policy would be in the context of an economy with interest rates already hovering near zero. The "Neutral Fed" simulations assume that the Federal Reserve Board targets a fixed monetary growth rate, and does not try to counteract fiscal policy.

The MEG model is also used to present results using differing assumptions about the responsiveness of savings and investment to changes in the after-tax rate of return to capital. The "default savings elasticity" simulations use savings responsiveness parameters that are consistent with the median range of measured response levels from empirical studies. The "high savings elasticity" simulations increase savings responsiveness by about 15 percent.

Individuals in the MEG model do not anticipate future changes in the economy or government finances; thus, this type of model is often referred to as a "myopic" behavior model. This feature of the MEG model allows the simulation of tax and government expenditure policy that may result in an unsustainable growth path. Specifically, policies that result in the Federal debt increasing, or decreasing at a faster rate than the growth of GDP, can be modeled.

In the OLG model, individuals are assumed to make consumption and labor supply decisions to maximize their lifetime wellbeing given the resources they can foresee will be available to them. They are assumed to have complete information, or "perfect foresight," about economic conditions, such as wages, prices, interest rates, tax rates, and government spending, over their lifetimes. Economic decisions are modeled separately for each of 55 adult-age cohorts. Firms' investment decisions respond to the effects of tax policy on the expected future value of the firm. Changes in marginal tax rates on firm profits, and changes in the value of deductions for investment affect this future valuation.

One important difference between the MEG and OLG models is their treatment of Federal fiscal policy. In the MEG model, it is possible to simulate structural Federal budget deficits as forecast in the CBO baseline, and to allow for increases or decreases in the deficit in simulating proposals. In contrast, the OLG model cannot simulate either the present law fiscal baseline or policy proposals that incorporate unsustainable Federal budget deficits or surpluses. Thus, in the OLG model there is no equilibrium solution when Federal budget conditions appear unsustainable in the long run. It is necessary to create counterfactual stable ratios of debt to GDP within both the baseline and policy simulations of the OLG model.

The bill is projected to increase deficits by decreasing business tax payments. Fiscal balance is achieved in the OLG simulations by reducing transfer payments enough to maintain a stable debt to GDP path. We present two variations of this assumption. In the "concurrent fiscal balance" simulation, transfer payments are modified each year. In the "delayed fiscal balance" simulation, the tax changes are debt-financed within the 10–year budget window, after which transfer payments are decreased to restore a stable debt to GDP path.

Macroeconomic analysis

The ability to expense, rather than depreciate investment expenses reduces the cost to firms of making these investments, thus reducing their after-tax cost of capital and providing an incentive for increased investment.[46] Some research on the effects of expensing on business investment has confirmed that investment increases when more generous expensing policy is in effect.[47] Other research has raised questions about the efficacy of expensing as opposed to investment tax credits in encouraging investment in light of the fact that investment tax credits produce a more favorable picture in firm financial statements. However, such studies still find an overall positive effect of increased expensing on investment.[48]

The Joint Committee on Taxation staff estimates that approximately 40 percent of investments made under present law could potentially be eligible for the 50–percent expensing treatment provided for in this bill. However, not all businesses making eligible investments will be able to take full advantage of this benefit.[49] Thus, the bill is expected to provide a modest incentive for an increase in investment, which is expected to result in a small increase in GDP.

Following is a series of tables that show the effects of this proposal on real (inflation adjusted) gross domestic product, receipts, capital stock, employment, and consumption. Results from each policy simulation for each variable are presented as percentage changes from the levels forecasted under the present-law baseline for the variables in each of Tables 1 through 8 below.

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[46] Economic theory of the effects of "cost of capital" on investment was first formalized by Dale Jorgenson in 1963 "Capital Theory and Investment Behavior," *American Economic Review*, 54, pp. 247–59. Jorgenson, along with Robert Hall added effects of taxation, particularly depreciation policy to this framework in "Tax Policy and Investment Behavior," *American Economic Review*, 57(3), pp 391–414 in 1967. Many macroeconomic simulation models, including the Joint Committee on Taxation staff Macroeconomic Equilibrium Growth model, use this framework to model investment decisions.

[47] See, for example, Bond, Stephen, and Jing Xin, "Corporate Taxation and Capital Accumulation," *Oxford University Centre for Business Taxation Working Paper*, Said Business School, Oxford, UK, 2010.

[48] See, for example, Edgerton, Jesse, "Investment, Accounting, and the Salience of the Corporate Income Tax," *Finance and Discussion Series*, Division of Research and Statistics and Monetary Affairs, Federal Reserve Board, Washington, D.C., March 21, 2011.

[49] For taxpayers carrying forward a loss or claiming a loss in the current year, the present value of bonus depreciation associated with equipment placed in service in the current year is diminished. Similarly, the value of claiming the alternative minimum tax credit provided by the bill as an alternative to bonus depreciation will depend on the taxpayer's particular situation.

1. Effects on real gross domestic product and receipts

TABLE 1.—PERCENT CHANGE IN REAL GDP RELATIVE TO PRESENT LAW

		Fiscal Years 2015–2019	Fiscal Years 2020–2024	Fiscal Years 2015–2024
MEG:				
Default Savings Elasticity	Aggressive Fed	0.1%	0.2%	0.2%
	Neutral Fed	0.1%	0.2%	0.2%
High Savings Elasticity	Aggressive Fed	0.1%	0.3%	0.2%
	Neutral Fed	0.1%	0.2%	0.2%
OLG:				
Concurrent fiscal balance		0.1%	0.3%	0.2%
Delayed fiscal balance		0.1%	0.3%	0.2%

TABLE 2.—PERCENT CHANGE IN RECEIPTS DUE TO CHANGES IN GDP

		Fiscal Years 2015–2019	Fiscal Years 2020–2024	Fiscal Years 2015–2024
MEG:				
Default Savings Elasticity	Aggressive Fed	−0.1%	0.1%	(1)
	Neutral Fed	−0.1%	0.1%	(1)
High Savings Elasticity	Aggressive Fed	−0.1%	0.1%	(1)
	Neutral Fed	−0.1%	0.1%	(2)
OLG:				
Concurrent fiscal balance		(1)	(1)	(1)
Delayed fiscal balance		(1)	(1)	(1)

(1) Indicates an increase of less than 0.05 percent.
(2) Indicates a decrease of less than 0.05 percent.

Table 1 shows the predicted effects of this policy on real gross domestic product, relative to what is projected under present law. Table 2 shows the predicted effects of these output changes on receipts. Relative to present law, real GDP is predicted to increase in the first half of the budget period, by about 0.1 percent, and to increase GDP by 0.2 to 0.3 percent during the second five years of the budget period, overall increasing GDP on average by about 0.2 percent over the ten-year budget period. Among the MEG simulations, the higher predicted increase in the second-five-years is generated by the simulation that combines a higher responsiveness of savings to the after-tax rate of return with an aggressive Fed response. The higher savings responsiveness, while it leads to a bigger investment response, necessarily also leads to a decrease in the rate of consumption, which can reduce aggregate demand in the economy if there are unemployed resources. The aggressive Fed response assumes that the Fed would act to counter that reduction in demand.

The OLG simulations also predict an increase in GDP of 0.3 percent for the second half of the budget period. In the OLG simulations, the reduction in transfer payments that provides the fiscal balance for the revenue loss generated by this proposal provides some additional incentive for individuals to increase savings and investment.

The simulations show that the projected increase in GDP also results in a small projected increase in Federal revenues of up to 0.1 percent of present law receipts in the second half of the budget period, but overall of less than 0.05 percent over the budget period. The change in receipts due to the economic growth projected under the bill is projected to be smaller than the change in GDP, even negative over the ten-year budget period under one simulation assumption. This receipts pattern is driven by the interaction of the specific tax change under the bill with the type of economic activity generated by the bill. That is, by increasing the deductibility of (mostly) equipment expenditures, the bill provides an incentive for more investment in equipment. This is expected to lead to an increase in productive capital stock that will, over time, generate additional growth capacity in the economy. Additional income generated by these responses can be expected to build slowly. At the same time, the increase in deductible purchases may result in a net reduction in the tax base. This effect is apparent in the MEG simulations, which project a reduction in receipts due to the induced investment in the first half of the budget period.

In the following sections on capital stock, employment, and consumption effects, the influence of these proposals on each of these components of growth and the economy can be seen in more detail.

2. Effects on the capital stock

Tables 3 and 4, respectively, show the projected effects of the bill on business and housing capital stock. As discussed above, by increasing the after-tax rate of return for qualified capital—primarily equipment—the bill provides an incentive for increased investment in that capital. As shown in Table 3, this is projected to result in an increase in business capital stock relative to present law of up to 1.4 percent during the 2020–2024 period, and up to 1.0 percent on average over the ten-year budget period. In the MEG simulations, the size of the projected increase depends on how sensitive the savings response is to the incentive, and on whether the Fed acts to offset reduced consumption that results from the savings response.

Structures are not eligible for the 50-percent expensing provided in the bill. Therefore, the bill provides an incentive for some substitution away from investment in housing toward investment in business capital. Table 4 shows that the bill is projected to result in a 0.1 percent decrease in owner-occupied and rental housing units, referred to as "housing stock."

TABLE 3.—PERCENT CHANGE IN REAL BUSINESS CAPITAL RELATIVE TO PRESENT LAW

		Fiscal Years 2015–2019	Fiscal Years 2020–2024	Fiscal Years 2015–2024
MEG:				
Default Savings Elasticity	Aggressive Fed	0.4%	0.8%	0.6%
	Neutral Fed	0.4%	0.8%	0.6%
High Savings Elasticity	Aggressive Fed	0.5%	1.0%	0.8%
	Neutral Fed	0.4%	0.9%	0.7%
OLG:				
Concurrent fiscal balance		0.5%	1.4%	1.0%
Delayed fiscal balance		0.5%	1.4%	0.9%

TABLE 4.—PERCENT CHANGE IN REAL RESIDENTIAL CAPITAL RELATIVE TO PRESENT LAW

		Fiscal Years 2015–2019	Fiscal Years 2020–2024	Fiscal Years 2015–2024
MEG:				
Default Savings Elasticity	Aggressive Fed	−0.1%	−0.1%	−0.1%
	Neutral Fed	−0.1%	−0.1%	−0.1%
High Savings Elasticity	Aggressive Fed	−0.1%	−0.1%	−0.1%
	Neutral Fed	−0.1%	−0.1%	−0.1%

TABLE 4.—PERCENT CHANGE IN REAL RESIDENTIAL CAPITAL RELATIVE TO PRESENT LAW—Continued

		Fiscal Years 2015–2019	Fiscal Years 2020–2024	Fiscal Years 2015–2024
OLG:				
Concurrent fiscal balance		−0.1%	−0.1%	−0.1%
Delayed fiscal balance		−0.1%	−0.1%	−0.1%

3. Effects on private sector employment

The increase in business capital generated by the bill can be expected, over time, to generate an increase in demand for labor by increasing productivity and wage rates. Because the projected changes in capital stock are relatively modest, these induced effects on labor force participation and employment are also projected to be modest—less than 0.05 percent, as illustrated in Table 6.

TABLE 6.—PERCENT CHANGE IN LABOR FORCE PARTICIPATION RELATIVE TO PRESENT LAW

		Fiscal Years 2015–2019	Fiscal Years 2020–2024	Fiscal Years 2015–2024
MEG:				
Default Savings Elasticity	Aggressive Fed	(1)	(1)	(1)
	Neutral Fed	(1)	(1)	(1)
High Savings Elasticity	Aggressive Fed	(1)	(1)	(1)
	Neutral Fed	(1)	(1)	(1)
OLG:				
Concurrent fiscal balance		(1)	(1)	(1)
Delayed fiscal balance		(1)	(1)	(1)

(1) Indicates an increase of less than 0.05 percent

TABLE 7.—PERCENT CHANGE IN PRIVATE SECTOR EMPLOYMENT RELATIVE TO PRESENT LAW

		Fiscal Years 2015–2019	Fiscal Years 2020–2024	Fiscal Years 2015–2024
MEG:				
Default Savings Elasticity	Aggressive Fed	(1)	(1)	(1)
	Neutral Fed	(1)	(1)	(1)
High Savings Elasticity	Aggressive Fed	(1)	(1)	(1)
	Neutral Fed	(2)	(2)	(2)
OLG:				
Concurrent fiscal balance		(1)	(1)	(1)
Delayed fiscal balance		(1)	(1)	(1)

(1) Indicates an increase of less than 0.05 percent
(2) Indicates a decrease of less than 0.05 percent

Table 7 shows changes in employment predicted to result from the proposal. While the willingness of people to work at a given combination of wage rates and taxes on wages is an important component of total employment, changes in employment are also influenced by the amount of business demand for labor. In the OLG model, which does not model less than full employment of resources, labor supply and employment effects are equivalent. In the MEG model, which allows for less than full employment, they can be different. Thus, in the MEG simulation that combines a higher savings/lower consumption rate with a neutral Fed that does not act to counteract the reduced consumption effect, employment is projected to decline by a small amount relative to present law.

4. Effects on consumption

Table 8 shows how the proposal affects consumption relative to present law. In addition to the interaction between consumption demand and short-term economic growth, consumption is often of interest as an indicator of individuals' well-being. Generally, increased growth facilitates more consumption. Because this bill is projected to increase growth by providing an incentive for people to increase savings and investment, which will lead to an increase in the business capital stock, the effect of the bill on consumption is expected to change over time. For a given level of income, an increase in the savings rate is equivalent to a decrease in the rate of consumption. In the first half of the budget period, the negative effect of the increase in savings on consumption is projected to outweigh the positive effect from income generated by investment, leading to a modest decline in consumption. As additions to the business capital stock accumulate over time, the accompanying increase in income is projected to lead to a net increase in consumption, by about 0.1 percent relative to present law on average over the second half of the budget period. This effect occurs more quickly in the MEG model simulations than in the OLG simulations, as evidenced by a projected positive effect on average over the whole budget period in most of the MEG simulations, in contrast with a small net negative effect on average over the ten years in the OLG simulations.

TABLE 8.—PERCENT CHANGE IN CONSUMPTION RELATIVE TO PRESENT LAW

		Fiscal Years 2015–2019	Fiscal Years 2020–2024	Fiscal Years 2015–2024
MEG:				
Default Savings Elasticity	Aggressive Fed	(2)	0.1%	0.1%
	Neutral Fed	(2)	0.1%	0.1%
High Savings Elasticity.				
	Aggressive Fed	(2)	0.1%	0.1%
	Neutral Fed	−0.1%	0.1%	(1)
OLG:				
Concurrent fiscal balance		−0.1%	0.1%	(2)
Delayed fiscal balance		−0.1%	0.1%	(2)

(1) Indicates an increase of less than 0.05 percent
(2) Indicates a decrease of less than 0.05 percent

Conclusion

The 50-percent expensing of certain investment expenditures provided for in this bill increases the after-tax rate of return for investment in qualified expenditures, providing an incentive for increased investment in qualified capital. It also provides an incentive for some substitution away from housing investment toward qualified investment—mostly business equipment. Thus, the bill is expected to result in a small increase in business capital stock, and in GDP, relative to present law.

Appendix—key parameter assumptions

The amount of taxpayer response to changes in tax policy is governed by how sensitive their work, consumption, and savings decisions are to changes in the after-tax rate of return to additional work or investment and to changes in their disposable income. Tables A–1 and A–2 below show the parameters used to model the degree of responsiveness for the MEG and OLG models respectively.

Table A.1.—PARAMETER ASSUMPTIONS IN THE MEG MODEL

Labor supply elasticities in disaggregated labor supply	Income	Substitution	Low Elasticity Substitution
Low income primary	−0.1	0.2	0.15
Other primary	−0.1	0.1	0.1
Low income secondary	−0.3	0.8	0.4
Other secondary	−0.2	0.6	0.3
Wage-weighted population average with average baseline rates	−0.1	0.2	0.1
Savings/consumption parameters underlying lifecycle consumption function			
Rate of time preference	0.015	....	....
Intertemporal elasticity of substitution-default	0.35	....	....
Derived long-run savings elasticity to the after-tax rate of return on capital—default	0.25	....	....
Intertemporal elasticity of substitution-high	0.45	....	....
Derived long-run savings elasticity to the after-tax rate of return on capital—high	0.29	....	....

TABLE A.2.—PARAMETER ASSUMPTIONS IN THE OLG MODEL

Description	Value
Time preference	0.015
Intertemporal elasticity of substitution	0.4
Intratemporal elasticity of substitution between consumption and leisure	0.6
Leisure share of time endowment	0.4
Population growth rate	0.01
Technological growth rate	0.016
Capital share non-housing	0.25
Capital share housing	0.975
Adjustment cost (quadratic function)	5

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's review of the provisions of H.R. 4718 that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. Applicability of House Rule XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the bill, and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

E. Tax Complexity Analysis

The following statement is made pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives. Section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (the "IRS Reform Act") requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses. For each such provision identified by the staff of the Joint Committee on Taxation a summary description of the provision is provided along with an estimate of the number and type of affected taxpayers, and a discussion regarding the relevant complexity and administrative issues.

Following the analysis of the staff of the Joint Committee on Taxation are the comments of the IRS and Treasury regarding each of the provisions included in the complexity analysis.

1. BONUS DEPRECIATION MODIFIED AND MADE PERMANENT

Summary description of the provisions

Bonus depreciation

The bill makes permanent the 50–percent additional first-year depreciation deduction for qualified property.

The bill expands the definition of qualified property to include qualified retail improvement property.

The $8,000 increase amount in the limitation on the depreciation deductions allowed with respect to certain passenger automobiles is indexed for automobile price inflation. The increase does not apply to a taxpayer who elects to accelerate AMT credits for a taxable year.

The bill also makes permanent the special rule for the allocation of bonus depreciation to a long-term contract, which provides that solely for purposes of determining the percentage of completion under section 460(b)(1)(A), the cost of qualified property with a MACRS recovery period of seven years or less is taken into account as a cost allocated to the contract as if bonus depreciation had not been enacted.

Expansion of election to accelerate AMT credits in lieu of bonus depreciation

The bill makes permanent and modifies the election to increase the AMT credit limitation in lieu of bonus depreciation. Under the bill, the bonus depreciation amount for a taxable year (as defined under present law with respect to all qualified property) is limited to the lesser of (1) 50 percent of the minimum tax credit for the first taxable year ending after December 31, 2013 (determined before the application of any tax liability limitation), or (2) the minimum tax credit for the taxable year allocable to the adjusted net minimum tax imposed for taxable years ending before January 1, 2014 (determined before the application of any tax liability limitation and determined on a first-in, first-out basis).

The bill also provides that in the case of a partnership having a single corporate partner owning (directly or indirectly) more than 50–percent capital and profits interests in the partnership, each partner takes into account its distributive share of partnership depreciation in determining its bonus depreciation amount.

Special rules for trees and vines bearing fruits and nuts

In addition, the bill allows a taxpayer to claim bonus depreciation on trees or vines bearing fruits or nuts, in the taxable year in which the tree or vine is planted, or grafted to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer's farming business (notwithstanding that the tree or vine has not yet been placed in service in that year). The adjusted basis of the tree or vine is reduced by the amount of the deduction under this provision. Further, any amount deducted under this provision is not subject to capitalization under section 263A. A taxpayer may elect to have this provision not apply to trees or vines planted or grafted in that taxable year. If a taxpayer does not elect out of this provision, the tree or vine will not be eligible for bonus depreciation in the subsequent taxable year in which it is placed in service.

Number of affected taxpayers

It is estimated that the provision will affect over ten percent of small business tax returns.

Discussion

While taxpayers placing in service qualified property will still be required to complete and file Form 4562, Depreciation and Amortization (Including Information on Listed Property), significantly less detail is required to be included on such form. Accordingly, the compliance burden of many taxpayers will be reduced.

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

June 4, 2014

Mr. Thomas A. Barthold
Chief of Staff
Joint Committee on Taxation
Washington, D.C. 20515

Dear Mr. Barthold:

I am responding to your letter dated May 29, 2014, in which you requested a complexity analysis related to H.R. 4718, a bill to modify and make permanent bonus depreciation.

Enclosed are the combined comments of the Internal Revenue Service and the Treasury Department for inclusion in the complexity analysis in the House Committee on Ways and Means report on H.R. 4718, a bill to modify and make permanent bonus depreciation. Our analysis covers one provision that you preliminarily identified in your letter: bonus depreciation modified and made permanent. Please note that for purposes of this complexity analysis, IRS staff assumed timely enactment of this legislation. If legislation is not enacted before the end of the year, there would be complexity for IRS and for taxpayers that is not addressed in this response.

Our comments are based on the description of the provision provided in your letter. This analysis does not include administrative cost estimates for the changes that would be required. Due to the short turnaround time, our comments are provisional and subject to change upon a more complete and in-depth analysis of the provisions.

Sincerely,

John A. Koskinen

Enclosure

COMPLEXITY ANALYSIS OF THE COMMITTEE REPORT ON EXPIRING PROVISIONS IMPROVEMENT REFORM AND EFFICIENCY (EXPIRE) ACT OF 2014

1. Bonus Depreciation Modified and Made Permanent

Summary description of the provisions

Bonus depreciation

The bill makes permanent the 50-percent additional first-year depreciation deduction for qualified property.

The bill expands the definition of qualified property to include qualified retail improvement property.

The $8,000 increase amount in the limitation on the depreciation deductions allowed with respect to certain passenger automobiles is indexed for automobile price inflation. The increase does not apply to a taxpayer who elects to accelerate AMT credits for a taxable year.

The bill also makes permanent the special rule for the allocation of bonus depreciation to a long-term contract, which provides that solely for purposes of determining the percentage of completion under section 460(b)(1)(A), the cost of qualified property with a MACRS recovery period of 7 years or less is taken into account as a cost allocated to the contract as if bonus depreciation had not been enacted.

IRS/Treasury Comments:

- The proposal making permanent the 50-percent additional first-year depreciation deduction for qualified property; expanding the definition of qualified property to include qualified retail improvement property; the inflation indexing of the $8,000 increase amount in the limitation on the depreciation deductions with respect to certain passenger automobiles price and the proposal to make permanent the special rule for the allocation of bonus depreciation to a long-term contract would have no significant impact on Form 4562 or any other tax forms.
- The Instructions for Form 4562, Publication 946, and other instructions and publications would be revised to reflect the extension and indexing for inflation the increased first-year depreciation limitation amount for passenger automobiles. This would require an annual calculation and publication by the IRS of the increased limitation amount.
- No internal training would be required by this provision.
- Internal communications would be shared with all employees.
- No programming changes would be required by this provision.

- Eliminating statutory language that reflects the bonus depreciation provision's current temporary status would yield some compliance simplification. The bill would eliminate the need to distinguish certain aircraft and property with longer production periods, and would make unnecessary current rules concerning self-constructed property and activities of related parties.
- The proposed statutory changes should not require any significant additional taxpayer recordkeeping relative to current law, and should not lead to additional disputes between taxpayers and the IRS.

Expansion of election to accelerate alternative minimum tax ("AMT") credits in lieu of bonus depreciation

The bill makes permanent and modifies the election to increase the AMT credit limitation in lieu of bonus depreciation. Under the bill, the bonus depreciation amount for a taxable year (as defined under present law with respect to all qualified property) is limited to the lesser of (1) 50 percent of the minimum tax credit for the first taxable year ending after December 31,2013 (determined before the application of any tax liability limitation), or (2) the minimum tax credit for the taxable year allocable to the adjusted net minimum tax imposed for taxable years ending before January 1, 2014 (determined before the application of any tax liability limitation and determined on a first-in, first-out basis).

The bill also provides that in the case of a partnership having a single corporate partner owning (directly or indirectly) more than 50-percent capital and profits interests in the partnership, each partner takes into account its distributive share of partnership depreciation in determining its bonus depreciation amount.

IRS/Treasury Comments:

- The proposal to make permanent and modify the election to increase the AMT credit limitation in lieu of bonus depreciation would have no significant impact on Form 4562 or any other tax forms.
- The Instructions for Form 4562, Publication 946, and other instructions and publications would be revised to reflect the extension.
- No internal training would be required by this provision.
- Internal communications would be shared with all employees.
- No programming changes would be required by this provision.
- Removing statutory language that reflects the current temporary status of the election to accelerate AMT credits, and introducing new simplified language that makes the election permanent, could yield some compliance simplification for taxpayers. This language includes outdated descriptions regarding the acceleration of research credits and the allocation of the bonus depreciation amount to these credits. The bill

would also eliminate "deadwood" statutory language regarding the treatment of former rounds of "extension property."

- The proposed statutory changes should not require any additional taxpayer recordkeeping relative to current law, and should not lead to additional disputes between taxpayers and the IRS.

Special rules for trees and vines bearing fruits and nuts

In addition, the bill allows a taxpayer to claim bonus depreciation on trees or vines bearing fruits or nuts, in the taxable year in which the tree or vine is planted, or grafted to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer's farming business (notwithstanding that the tree or vine has not yet been placed in service in that year). The adjusted basis of the tree or vine is reduced by the amount of the deduction under this provision. Further, any amount deducted under this provision is not subject to capitalization under section 263A. A taxpayer may elect to have this provision not apply to trees or vines planted or grafted in that taxable year. If a taxpayer does not elect out of this provision, the tree or vine will not be eligible for bonus depreciation in the subsequent taxable year in which it is placed in service.

IRS/Treasury Comments:

- The proposal to allow a taxpayer to claim bonus depreciation on trees or vines bearing fruits or nuts, in the taxable year in which the tree or vine is planted, or grafted to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer's farming business would have no significant impact on Form 4562 or any other tax forms.
- The Instructions for Form 4562, Publication 946, and other instructions and publications would be revised to reflect the extension.
- No internal training would be required by this provision.
- Internal communications would be shared with all employees.
- No programming changes would be required by this provision.
- This proposal would introduce an unfamiliar concept into depreciation law and practice; namely, it would permit a depreciation deduction for an item of property to be taken in a taxable year prior to the taxable year in which the property is placed in service. The provision would also change established capitalization requirements by exempting this particular bonus depreciation deduction from the uniform capitalization requirements that might otherwise apply. While these changes in tax accounting rules are not overly complicated, they nevertheless could result in additional, unanticipated enforcement disputes.
- The proposed statutory changes would require some changes in accounting procedures by affected taxpayers.

F. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. Duplication of Federal Programs

In compliance with Sec. 3(j)(2) of H. Res. 5 (113th Congress), the Committee states that no provision of the bill establishes or reauthorizes a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169). The Committee also states that the Government Accountability Office has included bonus depreciation in a report to Congress pursuant to section 21 of Public Law 111–139.

H. Disclosure of Directed Rule Makings

In compliance with Sec. 3(k) of H. Res. 5 (113th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no more than one directed rule making within the meaning of such section; whether or not the bill requires a directed rule making is ambiguous because the bill directs the Secretary to increase the applicable depreciation limitation for passenger vehicles under section 280F by $8,000 for purposes of calculating allowable bonus depreciation but without reference to a specific rule making.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

* * * * * * *

Subtitle A—Income Taxes

* * * * * * *

CHAPTER 1—NORMAL TAXES AND SURTAXES

* * * * * * *

Subchapter B—Computation of Taxable Income

* * * * * * *

PART VI—ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS

* * * * * * *

SEC. 168. ACCELERATED COST RECOVERY SYSTEM.

(a) * * *

* * * * * * *

(e) CLASSIFICATION OF PROPERTY.—For purposes of this section—

(1) * * *

* * * * * * *

(8) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—

(A) * * *

* * * * * * *

⟦(D) EXCLUSION FROM BONUS DEPRECIATION.—Property described in this paragraph shall not be considered qualified property for purposes of subsection (k).⟧

* * * * * * *

(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ⟦ACQUIRED AFTER DECEMBER 31, 2007, AND BEFORE JANUARY 1, 2014⟧.—

(1) * * *

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

⟦(A) IN GENERAL.—The term “qualified property” means property—

⟦(i)(I) to which this section applies which has a recovery period of 20 years or less,

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

⟦(III) which is water utility property, or

⟦(IV) which is qualified leasehold improvement property,

⟦(ii) the original use of which commences with the taxpayer after December 31, 2007,

⟦(iii) which is—

⟦(I) acquired by the taxpayer after December 31, 2007, and before January 1, 2014, but only if no written binding contract for the acquisition was in effect before January 1, 2008, or

⟦(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after December 31, 2007, and before January 1, 2014, and

⟦(iv) which is placed in service by the taxpayer before January 1, 2014, or, in the case of property described in subparagraph (B) or (C), before January 1, 2015.

⟦(B) CERTAIN PROPERTY HAVING LONGER PRODUCTION PERIODS TREATED AS QUALIFIED PROPERTY.—

⟦(i) IN GENERAL.—The term “qualified property” includes any property if such property—

⟦(I) meets the requirements of clauses (i), (ii), (iii), and (iv) of subparagraph (A),

⟦(II) has a recovery period of at least 10 years or is transportation property,

⟦(III) is subject to section 263A, and

⟦(IV) meets the requirements of clause (iii) of section 263A(f)(1)(B) (determined as if such clauses also apply to property which has a long useful life (within the meaning of section 263A(f))).

⟦(ii) ONLY PRE-JANUARY 1, 2014, BASIS ELIGIBLE FOR ADDITIONAL ALLOWANCE.—In the case of property which is qualified property solely by reason of clause (i), paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before January 1, 2014.

⟦(iii) TRANSPORTATION PROPERTY.—For purposes of this subparagraph, the term "transportation property" means tangible personal property used in the trade or business of transporting persons or property.

⟦(iv) APPLICATION OF SUBPARAGRAPH.—This subparagraph shall not apply to any property which is described in subparagraph (C).

⟦(C) CERTAIN AIRCRAFT.—The term "qualified property" includes property—

⟦(i) which meets the requirements of clauses (ii), (iii), and (iv) of subparagraph (A),

⟦(ii) which is an aircraft which is not a transportation property (as defined in subparagraph (B)(iii)) other than for agricultural or firefighting purposes,

⟦(iii) which is purchased and on which such purchaser, at the time of the contract for purchase, has made a nonrefundable deposit of the lesser of—

⟦(I) 10 percent of the cost, or

⟦(II) $100,000, and

⟦(iv) which has—

⟦(I) an estimated production period exceeding 4 months, and

⟦(II) a cost exceeding $200,000.

⟦(D) EXCEPTIONS.—

⟦(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term "qualified property" shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

⟦(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

⟦(II) after application of section 280F(b) (relating to listed property with limited business use).

⟦(ii) QUALIFIED NEW YORK LIBERTY ZONE LEASEHOLD IMPROVEMENT PROPERTY.—The term "qualified property" shall not include any qualified New York Liberty Zone leasehold improvement property (as defined in section 1400L(c)(2)).

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

⟦(E) SPECIAL RULES.—

⟦(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after December 31, 2007, and before January 1, 2014.

⟦(ii) SALE-LEASEBACKS.—For purposes of clause (iii) and subparagraph (A)(ii), if property is—

⟦(I) originally placed in service after December 31, 2007, by a person, and

⟦(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

⟦(iii) SYNDICATION.—For purposes of subparagraph (A)(ii), if—

⟦(I) property is originally placed in service after December 31, 2007, by the lessor of such property,

⟦(II) such property is sold by such lessor or any subsequent purchaser within 3 months after the date such property was originally placed in service (or, in the case of multiple units of property subject to the same lease, within 3 months after the date the final unit is placed in service, so long as the period between the time the first unit is placed in service and the time the last unit is placed in service does not exceed 12 months), and

⟦(III) the user of such property after the last sale during such 3-month period remains the same as when such property was originally placed in service,

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

⟦(iv) LIMITATIONS RELATED TO USERS AND RELATED PARTIES.—The term "qualified property" shall not include any property if—

⟦(I) the user of such property (as of the date on which such property is originally placed in service) or a person which is related (within the meaning of section 267(b) or 707(b)) to such user or to the taxpayer had a written binding contract in effect for the acquisition of such property at any time on or before December 31, 2007, or

⟦(II) in the case of property manufactured, constructed, or produced for such user's or person's own use, the manufacture, construction, or production of such property began at any time on or before December 31, 2007.

⟦(F) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

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

⟦(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

⟦(G) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, the deduction under subsection (a) for qualified property shall be determined under this section without regard to any adjustment under section 56.⟧

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

(A) IN GENERAL.—The term "qualified property" means property—

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

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

(III) which is water utility property,

(IV) which is qualified leasehold improvement property, or

(V) which is qualified retail improvement property, and

(ii) the original use of which commences with the taxpayer.

(B) EXCEPTION FOR ALTERNATIVE DEPRECIATION PROPERTY.—The term "qualified property" shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

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

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

(C) SPECIAL RULES.—

(i) SALE-LEASEBACKS.—For purposes of clause (ii) and subparagraph (A)(ii), if property is—

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

(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

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

(I) property is originally placed in service by the lessor of such property,

(II) such property is sold by such lessor or any subsequent purchaser within 3 months after the date such property was originally placed in service (or, in the case of multiple units of property subject to the same lease, within 3 months after the date the final unit is placed in service, so long as the period between the time the first unit is placed in service and the time the last unit is placed in service does not exceed 12 months), and

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

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

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

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

(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

(iii) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2014, the $8,000 amount in clause (i) shall be increased by an amount equal to—

(I) such dollar amount, multiplied by

(II) the automobile price inflation adjustment determined under section 280F(d)(7)(B)(i) for the calendar year in which such taxable year begins by substituting "2013" for "1987" in subclause (II) thereof.

If any increase under the preceding sentence is not a multiple of $100, such increase shall be rounded to the nearest multiple of $100.

(E) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, the deduction under section 167 for qualified property shall be determined without regard to any adjustment under section 56.

* * * * * * *

[(4) ELECTION TO ACCELERATE THE AMT AND RESEARCH CREDITS IN LIEU OF BONUS DEPRECIATION.—

[(A) IN GENERAL.—If a corporation elects to have this paragraph apply for the first taxable year of the taxpayer ending after March 31, 2008, in the case of such taxable year and each subsequent taxable year—

[(i) paragraph (1) shall not apply to any eligible qualified property placed in service by the taxpayer,

[(ii) the applicable depreciation method used under this section with respect to such property shall be the straight line method, and

⟦(iii) each of the limitations described in subparagraph (B) for any such taxable year shall be increased by the bonus depreciation amount which is—

⟦(I) determined for such taxable year under subparagraph (C), and

⟦(II) allocated to such limitation under subparagraph (E).

⟦(B) LIMITATIONS TO BE INCREASED.—The limitations described in this subparagraph are—

⟦(i) the limitation imposed by section 38(c), and

⟦(ii) the limitation imposed by section 53(c).

⟦(C) BONUS DEPRECIATION AMOUNT.—For purposes of this paragraph—

⟦(i) IN GENERAL.—The bonus depreciation amount for any taxable year is an amount equal to 20 percent of the excess (if any) of—

⟦(I) the aggregate amount of depreciation which would be allowed under this section for eligible qualified property placed in service by the taxpayer during such taxable year if paragraph (1) applied to all such property, over

⟦(II) the aggregate amount of depreciation which would be allowed under this section for eligible qualified property placed in service by the taxpayer during such taxable year if paragraph (1) 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 subsection (b)(2)(C), (b)(3)(D), or (g)(7) and without regard to subparagraph (A)(ii).

⟦(ii) MAXIMUM AMOUNT.—The bonus depreciation amount for any taxable year shall not exceed the maximum increase amount under clause (iii), reduced (but not below zero) by the sum of the bonus depreciation amounts for all preceding taxable years.

⟦(iii) MAXIMUM INCREASE AMOUNT.—For purposes of clause (ii), the term "maximum increase amount" means, with respect to any corporation, the lesser of—

⟦(I) $30,000,000, or

⟦(II) 6 percent of the sum of the business credit increase amount, and the AMT credit increase amount, determined with respect to such corporation under subparagraph (E).

⟦(iv) AGGREGATION RULE.—All corporations which are treated as a single employer under section 52(a) shall be treated—

⟦(I) as 1 taxpayer for purposes of this paragraph, and

⟦(II) as having elected the application of this paragraph if any such corporation so elects.

⟦(D) ELIGIBLE QUALIFIED PROPERTY.—For purposes of this paragraph, the term "eligible qualified property" means qualified property under paragraph (2), except that in applying paragraph (2) for purposes of this paragraph—

⟦(i) "March 31, 2008" shall be substituted for "December 31, 2007" each place it appears in subparagraph (A) and clauses (i) and (ii) of subparagraph (E) thereof,

⟦(ii) "April 1, 2008" shall be substituted for "January 1, 2008" in subparagraph (A)(iii)(I) thereof, and

⟦(iii) only adjusted basis attributable to manufacture, construction, or production—

⟦(I) after March 31, 2008, and before January 1, 2010, and

⟦(II) after December 31, 2010, and before January 1, 2014, shall be taken into account under subparagraph (B)(ii) thereof.

⟦(E) ALLOCATION OF BONUS DEPRECIATION AMOUNTS.—

⟦(i) IN GENERAL.—Subject to clauses (ii) and (iii), the taxpayer shall, at such time and in such manner as the Secretary may prescribe, specify the portion (if any) of the bonus depreciation amount for the taxable year which is to be allocated to each of the limitations described in subparagraph (B) for such taxable year.

⟦(ii) LIMITATION ON ALLOCATIONS.—The portion of the bonus depreciation amount which may be allocated under clause (i) to the limitations described in subparagraph (B) for any taxable year shall not exceed—

⟦(I) in the case of the limitation described in subparagraph (B)(i), the excess of the business credit increase amount over the bonus depreciation amount allocated to such limitation for all preceding taxable years, and

⟦(II) in the case of the limitation described in subparagraph (B)(ii), the excess of the AMT credit increase amount over the bonus depreciation amount allocated to such limitation for all preceding taxable years.

⟦(iii) BUSINESS CREDIT INCREASE AMOUNT.—For purposes of this paragraph, the term "business credit increase amount" means the amount equal to the portion of the credit allowable under section 38 (determined without regard to subsection (c) thereof) for the first taxable year ending after March 31, 2008, which is allocable to business credit carryforwards to such taxable year which are—

⟦(I) from taxable years beginning before January 1, 2006, and

⟦(II) properly allocable (determined under the rules of section 38(d)) to the research credit determined under section 41(a).

⟦(iv) AMT CREDIT INCREASE AMOUNT.—For purposes of this paragraph, the term "AMT credit increase amount" means the amount equal to the portion of the minimum tax credit under section 53(b) for the first taxable year ending after March 31, 2008, determined by taking into account only the adjusted minimum tax for taxable years beginning before January 1, 2006.

For purposes of the preceding sentence, credits shall be treated as allowed on a first-in, first- out basis.

⟦(F) CREDIT REFUNDABLE.—For purposes of section 6401(b), the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this paragraph shall be treated as allowed under subpart C of such part (and not any other subpart).

⟦(G) OTHER RULES.—

⟦(i) ELECTION.—Any election under this paragraph (including any allocation under subparagraph (E)) may be revoked only with the consent of the Secretary.

⟦(ii) PARTNERSHIPS WITH ELECTING PARTNERS.—In the case of a corporation making an election under subparagraph (A) and which is a partner in a partnership, for purposes of determining such corporation's distributive share of partnership items under section 702—

⟦(I) paragraph (1) shall not apply to any eligible qualified property, and

⟦(II) the applicable depreciation method used under this section with respect to such property shall be the straight line method.

⟦(iii) SPECIAL RULE FOR PASSENGER AIRCRAFT.—In the case of any passenger aircraft, the written binding contract limitation under paragraph (2)(A)(iii)(I) shall not apply for purposes of subparagraphs (C)(i)(I) and (D).

⟦(H) SPECIAL RULES FOR EXTENSION PROPERTY.—

⟦(i) TAXPAYERS PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who made the election under subparagraph (A) for its first taxable year ending after March 31, 2008—

⟦(I) the taxpayer may elect not to have this paragraph apply to extension property, but

⟦(II) if the taxpayer does not make the election under subclause (I), in applying this paragraph to the taxpayer a separate bonus depreciation amount, maximum amount, and maximum increase amount shall be computed and applied to eligible qualified property which is extension property and to eligible qualified property which is not extension property.

⟦(ii) TAXPAYERS NOT PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who did not make the election under subparagraph (A) for its first taxable year ending after March 31, 2008—

⟦(I) the taxpayer may elect to have this paragraph apply to its first taxable year ending after December 31, 2008, and each subsequent taxable year, and

⟦(II) if the taxpayer makes the election under subclause (I), this paragraph shall only apply to eligible qualified property which is extension property.

⟦(iii) EXTENSION PROPERTY.—For purposes of this subparagraph, the term "extension property" means property which is eligible qualified property solely by reason of the extension of the application of the special allowance under paragraph (1) pursuant to the amendments made by section 1201(a) of the American Recovery and Reinvestment Tax Act of 2009 (and the application of such extension to this paragraph pursuant to the amendment made by section 1201(b)(1) of such Act).

⟦(I) SPECIAL RULES FOR ROUND 2 EXTENSION PROPERTY.—

⟦(i) IN GENERAL.—In the case of round 2 extension property, this paragraph shall be applied without regard to—

⟦(I) the limitation described in subparagraph (B)(i) thereof, and

⟦(II) the business credit increase amount under subparagraph (E)(iii) thereof.

⟦(ii) TAXPAYERS PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who made the election under subparagraph (A) for its first taxable year ending after March 31, 2008, or a taxpayer who made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008—

⟦(I) the taxpayer may elect not to have this paragraph apply to round 2 extension property, but

⟦(II) if the taxpayer does not make the election under subclause (I), in applying this paragraph to the taxpayer the bonus depreciation amount, maximum amount, and maximum increase amount shall be computed and applied to eligible qualified property which is round 2 extension property.

The amounts described in subclause (II) shall be computed separately from any amounts computed with respect to eligible qualified property which is not round 2 extension property.

⟦(iii) TAXPAYERS NOT PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who neither made the election under subparagraph (A) for its first taxable year ending after March 31, 2008, nor made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008—

⟦(I) the taxpayer may elect to have this paragraph apply to its first taxable year ending after December 31, 2010, and each subsequent taxable year, and

⟦(II) if the taxpayer makes the election under subclause (I), this paragraph shall only apply to eligible qualified property which is round 2 extension property.

⟦(iv) ROUND 2 EXTENSION PROPERTY.—For purposes of this subparagraph, the term "round 2 extension property" means property which is eligible qualified property solely by reason of the extension of the application of the special allowance under paragraph (1) pursuant to the amendments made by section 401(a) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (and the application of such extension to this paragraph pursuant to the amendment made by section 401(c)(1) of such Act).

⟦(J) SPECIAL RULES FOR ROUND 3 EXTENSION PROPERTY.—

⟦(i) IN GENERAL.—In the case of round 3 extension property, this paragraph shall be applied without regard to—

⟦(I) the limitation described in subparagraph (B)(i) thereof, and

⟦(II) the business credit increase amount under subparagraph (E)(iii) thereof.

⟦(ii) TAXPAYERS PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who made the election under subparagraph (A) for its first taxable year ending after March 31, 2008, a taxpayer who made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008, or a taxpayer who made the election under subparagraph (I)(iii) for its first taxable year ending after December 31, 2010—

⟦(I) the taxpayer may elect not to have this paragraph apply to round 3 extension property, but

⟦(II) if the taxpayer does not make the election under subclause (I), in applying this paragraph to the taxpayer the bonus depreciation amount, maximum amount, and maximum increase amount shall be computed and applied to eligible qualified property which is round 3 extension property.

The amounts described in subclause (II) shall be computed separately from any amounts computed with respect to eligible qualified property which is not round 3 extension property.

⟦(iii) TAXPAYERS NOT PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who neither made the election under subparagraph (A) for its first taxable year ending after March 31, 2008, nor made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008, nor made the election under subparagraph (I)(iii) for any taxable year ending after December 31, 2010—

⟦(I) the taxpayer may elect to have this paragraph apply to its first taxable year ending after December 31, 2012, and each subsequent taxable year, and

⟦(II) if the taxpayer makes the election under subclause (I), this paragraph shall only apply to eligible qualified property which is round 3 extension property.

⟦(iv) ROUND 3 EXTENSION PROPERTY.—For purposes of this subparagraph, the term "round 3 extension property" means property which is eligible qualified property solely by reason of the extension of the application of the special allowance under paragraph (1) pursuant to the amendments made by section 331(a) of the American Taxpayer Relief Act of 2012 (and the application of such extension to this paragraph pursuant to the amendment made by section 331(c)(1) of such Act).

[(5) SPECIAL RULE FOR PROPERTY ACQUIRED DURING CERTAIN PRE-2012 PERIODS.—In the case of qualified property acquired by the taxpayer (under rules similar to the rules of clauses (ii) and (iii) of paragraph (2)(A)) after September 8, 2010, and before January 1, 2012, and which is placed in service by the taxpayer before January 1, 2012 (January 1, 2013, in the case of property described in subparagraph (2)(B) or (2)(C)), paragraph (1)(A) shall be applied by substituting "100 percent" for "50 percent".]

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

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

(i) paragraphs (1)(A), (2)(D)(i), and (5)(A)(i) shall not apply for such taxable year,

(ii) the applicable depreciation method used under this section with respect to any qualified property shall be the straight line method, and

(iii) the limitation imposed by section 53(c) for such taxable year shall be increased by the bonus depreciation amount which is determined for such taxable year under subparagraph (B).

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

(i) IN GENERAL.—The bonus depreciation amount for any taxable year is an amount equal to 20 percent of the excess (if any) of—

(I) 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 paragraph (1) applied to all such property, 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 paragraph (1) 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 subsection (b)(2)(D), (b)(3)(D), or (g)(7) and without regard to subparagraph (A)(ii).

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

(I) 50 percent of the minimum tax credit under section 53(b) for the first taxable year ending after December 31, 2013, or

(II) the minimum tax credit under section 53(b) for such taxable year determined by taking into account only the adjusted net minimum tax for tax-

able years ending before January 1, 2014 (determined by treating credits as allowed on a first-in, first-out basis).

(iii) AGGREGATION RULE.—All corporations which are treated as a single employer under section 52(a) shall be treated—

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

(II) as having elected the application of this paragraph if any such corporation so elects.

(C) CREDIT REFUNDABLE.—For purposes of section 6401(b), the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this paragraph shall be treated as allowed under subpart C of such part (and not any other subpart).

(D) OTHER RULES.—

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

(ii) PARTNERSHIPS WITH ELECTING PARTNERS.—In the case of a corporation which is a partner in a partnership and which makes an election under subparagraph (A) for the taxable year, for purposes of determining such corporation's distributive share of partnership items under section 702 for such taxable year—

(I) paragraphs (1)(A), (2)(D)(i), and (5)(A)(i) shall not apply, and

(II) the applicable depreciation method used under this section with respect to any qualified property shall be the straight line method.

(iii) CERTAIN PARTNERSHIPS.—In the case of a partnership in which more than 50 percent of the capital and profits interests are owned (directly or indirectly) at all times during the taxable year by 1 corporation (or by corporations treated as 1 taxpayer under subparagraph (B)(iii)), each partner shall compute its bonus depreciation amount under clause (i) of subparagraph (B) by taking into account its distributive share of the amounts determined by the partnership under subclauses (I) and (II) of such clause for the taxable year of the partnership ending with or within the taxable year of the partner.

(5) SPECIAL RULES FOR TREES AND VINES BEARING FRUITS AND NUTS.—

(A) IN GENERAL.—In the case of any tree or vine bearing fruits or nuts which is planted, or is grafted to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer's farming business (as defined in section 263A(e)(4))—

(i) a depreciation deduction equal to 50 percent of the adjusted basis of such tree or vine shall be allowed under section 167(a) for the taxable year in which such tree or vine is so planted or grafted, and

(ii) the adjusted basis of such tree or vine shall be reduced by the amount of such deduction.

(B) ELECTION OUT.—If a taxpayer makes an election under this subparagraph for any taxable year, this paragraph shall not apply to any tree or vine planted or grafted during such taxable year. An election under this subparagraph may be revoked only with the consent of the Secretary.

(C) ADDITIONAL DEPRECIATION MAY BE CLAIMED ONLY ONCE.—If this paragraph applies to any tree or vine, such tree or vine shall not be treated as qualified property in the taxable year in which placed in service.

(D) COORDINATION WITH ELECTION TO ACCELERATE AMT CREDITS.—If a corporation makes an election under paragraph (4) for any taxable year, the amount under paragraph (4)(B)(i)(I) for such taxable year shall be increased by the amount determined under subparagraph (A)(i) for such taxable year.

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

(6) ELECTION OUT.—If a taxpayer makes an election under this paragraph with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service (or, in the case of paragraph (5), planted or grafted) during such taxable year. An election under this paragraph may be revoked only with the consent of the Secretary.

(l) SPECIAL ALLOWANCE FOR SECOND GENERATION BIOFUEL PLANT PROPERTY.—

(1) * * *

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(5) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of [section 168(k)(2)(G)] *section 168(k)(2)(E)* shall apply.

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PART IX—ITEMS NOT DEDUCTIBLE

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SEC. 263A. CAPITALIZATION AND INCLUSION IN INVENTORY COSTS OF CERTAIN EXPENSES.

(a) * * *

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(c) GENERAL EXCEPTIONS.—

(1) * * *

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(7) COORDINATION WITH SECTION 168(k)(5).— This section shall not apply to any amount allowable as a deduction by reason of section 168(k)(5) (relating to special rules for trees and vines bearing fruits and nuts).

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Subchapter E—Accounting Periods and Methods of Accounting

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PART II—METHODS OF ACCOUNTING

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Subpart B—Taxable Year for Which Items of Gross Income Included

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SEC. 460. SPECIAL RULES FOR LONG-TERM CONTRACTS.

(a) * * *

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(c) ALLOCATION OF COSTS TO CONTRACT.—

(1) * * *

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(6) SPECIAL RULE FOR ALLOCATION OF BONUS DEPRECIATION WITH RESPECT TO CERTAIN PROPERTY.—

(A) * * *

(B) QUALIFIED PROPERTY.—For purposes of this paragraph, the term "qualified property" means property described in section 168(k)(2) ⟦which—⟧ *which has a recovery period of 7 years or less.*

⟦(i) has a recovery period of 7 years or less, and

⟦(ii) is placed in service after December 31, 2009, and before January 1, 2011 (January 1, 2012, in the case of property described in section 168(k)(2)(B)), or after December 31, 2012, and before January 1, 2014 (January 1, 2015, in the case of property described in section 168(k)(2)(B)).⟧

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VII. DISSENTING VIEWS

The six bills approved by the Republicans at the markup would add $304 billion to the deficit. Combined with the $310 billion that the six bills approved by Republicans on the Committee in April added to the deficit, Republicans have added $614 billion to the deficit in two short months—and there does not appear to be an end in sight. Even though some of these bills were introduced individually with some bipartisan support, the opposition to these bills was based on the position that these tax provisions should not be made permanent by adding to the deficit without any revenue offset. This bill alone would add $287 billion to the deficit.

To put the combined cost ($614 billion) into context, it is 25 percent more than the entire projected federal deficit this year and $86 billion more than total non-defense domestic discretionary spending (*e.g.*, medical research, education, veterans' pensions and health care, transportation, etc.) will be in 2014. It is almost seven times what we spend annually on education, job training, and social services. It is ten times more than we spend on veterans. And, it is eleven times more than we spend on medical research and public health.

More specifically, we opposed H.R. 4718 because it would make permanent a provision that was designed to be temporary. As stated by the Congressional Research Service (CRS) in *Bonus Depreciation: Economic and Budgetary Issues* (March 24, 2014), bonus depreciation "was enacted for a specific, short-term purpose: to provide an economic stimulus during the recession." CRS explained: "A temporary investment subsidy was expected to be more effective than a permanent one for short-term stimulus, encouraging firms to invest while the benefit was in place. *Its temporary nature is critical to its effectiveness*." (Emphasis added.)

The last decade highlights the temporary nature of this policy. It was put in place during the recession at the early part of the last decade before being allowed to expire in 2005 as the economy improved. In 2008, as a new, deeper recession took hold, the policy was put in place again.

We found it hypocritical that the Republicans would make permanent a provision that was repealed in Chairman Camp's Tax Reform Act of 2014 discussion draft (the "Republican tax reform plan"). CRS also stated that "moving to permanent bonus depreciation is inconsistent with tax reform proposals made by . . . Chairman Camp's proposal." Indeed, in the Ways and Means Committee Majority Tax Staff summary of the Republican tax reform plan, the summary of the accelerated cost recovery reform system states: "The provision also would repeal the following special depreciation provisions: *bonus depreciation* . . ." (Emphasis added.)

We also found it hypocritical that, four months ago, Republicans let emergency unemployment insurance expire for more than 1.3

million Americans by arguing that an adequate offset had yet to be proposed. In early April, the Senate came to a bipartisan agreement on an offset after months of painstaking negotiations. Yet, House Republicans still refuse to act. We also found it irrational that Republicans would make permanent a temporary, stimulus provision for businesses and let emergency unemployment insurance for individuals (another temporary, stimulus provision) expire.

Finally, we also opposed the manner in which Republicans were proceeding—selecting 10 to make permanent without any offset from the approximately 60 tax provisions that expired last year. This approach was both fiscally irresponsible and fundamentally hypocritical.

The consideration of this bill should have been part of the consideration of all the expired tax provisions commonly referred to as "tax extenders." The Republicans did not take up other tax extenders that also are important to Democratic Committee Members. Left to an uncertain fate are provisions like the Work Opportunity Tax Credit, the New Markets Tax Credit, and the renewable energy tax credits, as well as the long-term status of the Earned Income Tax Credit, the Child Tax Credit, and the American Opportunity Tax Credit.

Sincerely,

SANDER M. LEVIN,
Ranking Member.

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