

110TH CONGRESS
2D SESSION

H. R. 5906

To amend the Internal Revenue Code of 1986 to allow the expensing of certain real property.

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2008

Mr. FOSSELLA (for himself, Mr. BOREN, and Mr. HERGER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow the expensing of certain real property.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Capitol
5 Expansion and Improvement Act of 2008”.

6 **SEC. 2. EXPENSING FOR CERTAIN REAL PROPERTY.**

7 (a) IN GENERAL.—Part VI of subchapter B of chap-
8 ter 1 is amended by inserting after section 179E the fol-
9 lowing new section:

1 **“SEC. 179F. ELECTION TO EXPENSE CERTAIN REAL PROP-**
2 **ERTY.**

3 “(a) TREATMENT AS EXPENSES.—In the case of a
4 taxpayer described in subsection (e), the taxpayer may
5 elect to treat the cost of any qualified real property as
6 an expense which is not chargeable to capital account. Any
7 cost so treated shall be allowed as a deduction for the tax-
8 able year in which the qualified real property is placed
9 in service.

10 “(b) LIMITATION.—

11 “(1) IN GENERAL.—The aggregate cost which
12 may be taken into account under subsection (a) for
13 any taxable year shall not exceed \$125,000.

14 “(2) INFLATION ADJUSTMENT.—

15 “(A) IN GENERAL.—In the case of any
16 taxable year beginning in a calendar year after
17 2009, the \$125,000 amount in paragraph (1)
18 shall be increased by an amount equal to—

19 “(i) such dollar amount, multiplied by

20 “(ii) the cost-of-living adjustment de-
21 termined under section 1(f)(3) for the cal-
22 endar year in which the taxable year be-
23 gins, by substituting ‘calendar year 2008’
24 for ‘calendar year 1992’ in subparagraph
25 (B) thereof.

1 “(B) ROUNDING.—If any amount as ad-
2 justed under subparagraph (A) is not a multiple
3 of \$1,000, such amount shall be rounded to the
4 nearest multiple of \$1,000.

5 “(c) ELECTION.—

6 “(1) IN GENERAL.—An election under this sec-
7 tion for any taxable year shall be made on the tax-
8 payer’s return of the tax imposed by this chapter for
9 the taxable year. Such election shall specify the
10 qualified real property to which the election applies
11 and shall be made in such manner as the Secretary
12 may by regulations prescribe.

13 “(2) ELECTION IRREVOCABLE.—Any election
14 made under this section may not be revoked except
15 with the consent of the Secretary.

16 “(d) QUALIFIED REAL PROPERTY.—For purposes of
17 this section, the term ‘qualified real property’ means sec-
18 tion 1250 property (as defined by section 1250(c)) located
19 in the United States—

20 “(1) the original use of which commences with
21 the taxpayer, and

22 “(2) which is placed in service by the taxpayer
23 after the date of the enactment of this section.

24 “(e) TAXPAYER DESCRIBED.—

1 “(1) IN GENERAL.—A taxpayer is described in
2 this subsection if, for the immediately prior taxable
3 year, the taxpayer (or any predecessor) met the
4 \$5,000,000 gross receipts test of paragraph (2).

5 “(2) \$5,000,000 GROSS RECEIPTS TEST.—For
6 purposes of paragraph (1)—

7 “(A) IN GENERAL.—A taxpayer meets the
8 \$5,000,000 gross receipts test of this paragraph
9 for a taxable year if the average annual gross
10 receipts of the taxpayer for the 3-taxable-year
11 period ending with such taxable year does not
12 exceed \$5,000,000.

13 “(B) AGGREGATION RULES.—All persons
14 treated as a single employer under subsection
15 (a) or (b) of section 52 or subsection (m) or (o)
16 of section 414 shall be treated as one person for
17 purposes of subparagraph (A).

18 “(C) NOT IN EXISTENCE FOR ENTIRE 3-
19 YEAR PERIOD.—If the taxpayer was not in ex-
20 istence for the entire 3-year period referred to
21 in subparagraph (A), such paragraph shall be
22 applied on the basis of the period during which
23 the taxpayer (or trade or business) was in exist-
24 ence.

1 “(D) SPECIAL RULES.—For purposes of
2 subparagraph (A), the rules of paragraph (3) of
3 section 448(c) shall apply.

4 “(f) REPORTING.—No deduction shall be allowed
5 under subsection (a) to any taxpayer for any taxable year
6 unless the taxpayer files with the Secretary a report con-
7 taining such information as the Secretary shall require.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 263(a)(1) is amended by striking
10 “or” at the end of subparagraph (K), by striking the
11 period at the end of subparagraph (L) and inserting
12 “, or”, and by inserting after subparagraph (L) the
13 following new subparagraph:

14 “(M) expenditures for which a deduction is
15 allowed under section 179F.”.

16 (2) Section 312(k)(3)(B) is amended by strik-
17 ing “or 179E” each place it appears in the heading
18 and text thereof and inserting “179E, or 179F”.

19 (3) The table of sections for part VI of sub-
20 chapter B of chapter 1 is amended by inserting after
21 the item relating to section 179E the following new
22 item:

“Sec. 179F. Election to expense certain real property.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to costs paid or incurred after the
3 date of the enactment of this Act.

○