

110TH CONGRESS
2D SESSION

S. 3316

To amend the Internal Revenue Code of 1986 to encourage the use of corrosion prevention and mitigation measures in the construction and maintenance of business property.

IN THE SENATE OF THE UNITED STATES

JULY 23, 2008

Mr. BROWN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to encourage the use of corrosion prevention and mitigation measures in the construction and maintenance of business 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 “Corrosion Prevention
5 Act of 2008”.

1 **SEC. 2. CREDIT FOR CORROSION PREVENTION AND MITI-**
 2 **GATION MEASURES.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
 4 chapter A of chapter 1 of the Internal Revenue Code of
 5 1986 (relating to business-related credits) is amended by
 6 adding at the end the following new section:

7 **“SEC. 45Q. CORROSION PREVENTION AND MITIGATION**
 8 **MEASURES.**

9 “(a) IN GENERAL.—For purposes of section 38, the
 10 corrosion prevention and mitigation credit determined
 11 under this section for the taxable year is an amount equal
 12 to 50 percent of the excess of—

13 “(1) qualified corrosion prevention and mitiga-
 14 tion expenditures with respect to qualified property,
 15 over

16 “(2) the amount such expenditures would have
 17 been, taking into account—

18 “(A) amounts paid or incurred to satisfy
 19 Federal, State, or local requirements, and

20 “(B) amounts paid for corrosion preven-
 21 tion practices, as certified by a person certified
 22 pursuant to subsection (b)(2).

23 “(b) QUALIFIED CORROSION PREVENTION AND MITI-
 24 GATION EXPENDITURES.—For purposes of this section—

25 “(1) IN GENERAL.—The term ‘qualified corro-
 26 sion prevention and mitigation expenditures’ means

1 amounts paid or incurred by the taxpayer during the
2 taxable year for engineering design, materials, and
3 application and installation of corrosion prevention
4 and mitigation technology.

5 “(2) CERTIFICATION MAY BE REQUIRED.—The
6 Secretary shall require by regulation that no amount
7 be taken into account under paragraph (1) for any
8 design, material, application, or installation unless
9 such design, material, application, or installation
10 meets such certification requirements as the Sec-
11 retary may provide. Such requirements shall provide
12 for accreditation of certifying persons by an inde-
13 pendent entity with expertise in corrosion prevention
14 and mitigation technology.

15 “(3) CORROSION PREVENTION AND MITIGATION
16 TECHNOLOGY.—Corrosion prevention and mitigation
17 technology includes a system comprised of at least
18 one of the following: a corrosion-protective coating
19 or paint; chemical treatment; corrosion-resistant
20 metals; and cathodic protection. The Secretary from
21 time to time by regulations or other guidance may
22 modify the list contained in the preceding sentence
23 to reflect changes in corrosion prevention and miti-
24 gation technology.

1 “(4) QUALIFIED PROPERTY.—The term ‘quali-
2 fied property’ means property which is—

3 “(A) comprised primarily of a metal sus-
4 ceptible to corrosion,

5 “(B) of a character subject to the allow-
6 ance for depreciation,

7 “(C) originally placed in service or owned
8 by the taxpayer, and

9 “(D) located in the United States.

10 “(c) RECAPTURE OF CREDIT.—

11 “(1) IN GENERAL.—If, as of the close of any
12 taxable year, there is a recapture event with respect
13 to any qualified property for which a credit was al-
14 lowed under subsection (a), the tax of the taxpayer
15 under this chapter for such taxable year shall be in-
16 creased by an amount equal to the product of—

17 “(A) the applicable recapture percentage,

18 and

19 “(B) the aggregate decrease in the credits
20 allowed under section 38 for all prior taxable
21 years which would have resulted if the qualified
22 corrosion prevention and mitigation expendi-
23 tures of the taxpayer with respect to such prop-
24 erty had been zero.

25 “(2) APPLICABLE RECAPTURE PERCENTAGE.—

1 “(A) IN GENERAL.—For purposes of this
 2 subsection, the applicable recapture percentage
 3 shall be determined from the following table:

“If the property ceases to be qualified property within:	The recapture percentage is:
(i) One full year after such property is placed in service	100
(ii) One full year after the close of the period described in clause (i)	80
(iii) One full year after the close of the period described in clause (ii)	60
(iv) One full year after the close of the period described in clause (iii)	40
(v) One full year after the close of the period described in clause (iv)	20.

4 “(B) RECAPTURE EVENT DEFINED.—For
 5 purposes of this subsection, the term ‘recapture
 6 event’ means—

7 “(i) CESSATION OF USE.—The ces-
 8 sation of use of the qualified property.

9 “(ii) CHANGE IN OWNERSHIP.—

10 “(I) IN GENERAL.—Except as
 11 provided in subclause (II), the disposi-
 12 tion of a taxpayer’s interest in the
 13 qualified property with respect to
 14 which the credit described in sub-
 15 section (a) was allowable.

16 “(II) AGREEMENT TO ASSUME
 17 RECAPTURE LIABILITY.—Subclause
 18 (I) shall not apply if the person ac-
 19 quiring the qualified property agrees
 20 in writing to assume the recapture li-

1 ability of the person disposing of the
2 qualified property. In the event of
3 such an assumption, the person ac-
4 quiring the qualified property shall be
5 treated as the taxpayer for purposes
6 of assessing any recapture liability
7 (computed as if there had been no
8 change in ownership).

9 “(III) SPECIAL RULE FOR TAX
10 EXEMPT ENTITIES.—Subclause (II)
11 shall not apply to any tax exempt en-
12 tity (as defined in section 168(h)(2)).

13 “(iii) SPECIAL RULES.—

14 “(I) TAX BENEFIT RULE.—The
15 tax for the taxable year shall be in-
16 creased under paragraph (1) only with
17 respect to credits allowed by reason of
18 this section which were used to reduce
19 tax liability. In the case of credits not
20 so used to reduce tax liability, the
21 carryforwards and carrybacks under
22 section 39 shall be appropriately ad-
23 justed.

24 “(II) NO CREDITS AGAINST
25 TAX.—Any increase in tax under this

1 subsection shall not be treated as a
2 tax imposed by this chapter for pur-
3 poses of determining the amount of
4 any credit under this chapter or for
5 purposes of section 55.

6 “(III) NO RECAPTURE BY REA-
7 SON OF CASUALTY LOSS.—The in-
8 crease in tax under this subsection
9 shall not apply to a cessation of oper-
10 ation of the property as qualified
11 property by reason of a casualty loss
12 to the extent such loss is restored by
13 reconstruction or replacement within a
14 reasonable period established by the
15 Secretary.

16 “(d) DENIAL OF DOUBLE BENEFIT.—For purposes
17 of this subtitle—

18 “(1) BASIS ADJUSTMENTS.—

19 “(A) IN GENERAL.—If a credit is deter-
20 mined under this section for any expenditure
21 with respect to any property, the increase in the
22 basis of such property which would (but for this
23 subsection) result from such expenditure shall
24 be reduced by the amount of the credit so al-
25 lowed.

1 “(B) CERTAIN DISPOSITIONS.—If, during
2 any taxable year, there is a recapture amount
3 determined with respect to any property the
4 basis of which was reduced under subparagraph
5 (A), the basis of such property (immediately be-
6 fore the event resulting in such recapture) shall
7 be increased by an amount equal to such recap-
8 ture amount. For purposes of the preceding
9 sentence, the term ‘recapture amount’ means
10 any increase in tax (or adjustment in
11 carrybacks or carryovers) determined under
12 subsection (c).

13 “(2) OTHER DEDUCTIONS AND CREDITS.—No
14 deduction or credit shall be allowed under this chap-
15 ter for any expense taken into account under this
16 section.

17 “(e) REGULATIONS.—The Secretary shall prescribe
18 such regulations as may be appropriate to carry out this
19 section.

20 “(f) TERMINATION.—This section shall not apply to
21 any taxable year beginning after December 31, 2017.”.

22 (b) CREDIT MADE PART OF GENERAL BUSINESS
23 CREDIT.—Subsection (b) of section 38 of the Internal
24 Revenue Code of 1986 (relating to current year business
25 credit) is amended—

1 (1) by striking “plus” at the end of paragraph
2 (31),

3 (2) by striking the period at the end of para-
4 graph (32) and inserting “, plus”, and

5 (3) by adding at the end the following new
6 paragraph:

7 “(33) the corrosion prevention and mitigation
8 credit determined under section 45Q(a).”.

9 (c) CLERICAL AMENDMENT.—The table of sections
10 for subpart D of part IV of subchapter A of chapter 1
11 of the Internal Revenue Code of 1986 is amended by in-
12 serting after the item relating to section 45P the following
13 new item:

 “Sec. 45Q. Corrosion prevention and mitigation measures.”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2008.

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