

108TH CONGRESS  
2D SESSION

# H. R. 4128

To amend the Internal Revenue Code of 1986 to permanently extend the 50-percent bonus depreciation added by the Jobs and Growth Tax Relief Reconciliation Act of 2003, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2004

Mr. WELLER (for himself, Mr. NEAL of Massachusetts, Mr. UPTON, Mr. TLAHRT, and Mr. ENGLISH) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to permanently extend the 50-percent bonus depreciation added by the Jobs and Growth Tax Relief Reconciliation Act of 2003, and for other purposes.

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

3 **SECTION 1. PERMANENT EXTENSION OF 50-PERCENT**  
4 **BONUS DEPRECIATION.**

5 (a) IN GENERAL.—Subparagraph (B) of section  
6 168(k)(4) of the Internal Revenue Code of 1986 (relating  
7 to special allowance for certain property acquired after  
8 September 10, 2001, and before January 1, 2005), as

1 amended by section 201 of the Jobs and Growth Tax Re-  
2 lief Reconciliation Act of 2003, is amended to read as fol-  
3 lows:

4           “(B) 50-PERCENT BONUS DEPRECIATION  
5           PROPERTY.—For purposes of this subsection,  
6           the term ‘50-percent bonus depreciation prop-  
7           erty’ means property described in paragraph  
8           (2)(A)(i)—

9                   “(i) the original use of which com-  
10                   mences with the taxpayer after May 5,  
11                   2003, and

12                   “(ii) which is acquired by the taxpayer  
13                   after May 5, 2003, but only if no written  
14                   binding contract for the acquisition was in  
15                   effect before May 6, 2003.”.

16           (b) REPEAL OF TERMINATION DATES FOR 30-PER-  
17           CENT BONUS DEPRECIATION PROPERTY.—Subparagraph  
18           (A) of section 168(k)(2) of such Code, as so amended, is  
19           amended by adding “and” at the end of clause (ii) and  
20           by striking clauses (iii) and (iv) and inserting the following  
21           new clause:

22                   “(iii) which is—

23                   “(I) acquired by the taxpayer  
24                   after September 10, 2001, but only if  
25                   no written binding contract for the ac-

1                   quisition was in effect before Sep-  
2                   tember 11, 2001, or

3                   “**(II)** acquired by the taxpayer  
4                   pursuant to a written binding contract  
5                   which was entered into after Sep-  
6                   tember 10, 2001.”.

7           (c) **TECHNICAL AMENDMENTS.**—

8                   (1) Paragraph (2) of section 168(k) of such  
9                   Code is amended by striking subparagraph (B) and  
10                  by redesignating the succeeding subparagraphs ac-  
11                  cordingly.

12                  (2) Clause (i) of section 168(k)(2)(C), as reded-  
13                  ignated by paragraph (1), is amended by striking  
14                  “and before January 1, 2005”.

15                  (3) The subsection heading for section 168(k) is  
16                  amended by striking “, AND BEFORE JANUARY 1,  
17                  2005”.

18 **SEC. 2. LONG-TERM CONTRACT ACCOUNTING.**

19           (a) **IN GENERAL.**—Section 168(k)(2) of the Internal  
20 Revenue Code of 1986 is amended by adding after sub-  
21 paragraph (E), as redesignated by section 1, the following  
22 new subparagraph:

23                   “(F) **LONG-TERM CONTRACT ACCOUNT-**  
24                   **ING.**—The percentage of completion method

1           under section 460 shall be applied as if this  
2           subsection had not been enacted.”

3 **SEC. 3. ELECTION TO INCREASE MINIMUM TAX CREDIT**  
4                   **LIMITATION IN LIEU OF BONUS DEPRECIATION.**  
5                   **TION.**

6           (a) IN GENERAL.—Section 53 of the Internal Rev-  
7           enue Code of 1986 (relating to credit for prior year min-  
8           imum tax liability) is amended by adding at the end of  
9           the following new subsection:

10           “(e) ADDITIONAL CREDIT IN LIEU OF BONUS DE-  
11           PRECIATION.—

12                   “(1) IN GENERAL.—In the case of a corpora-  
13                   tion making an election under this subsection for a  
14                   taxable year, the limitation under subsection (c)  
15                   shall be increased by an amount equal to the bonus  
16                   depreciation amount.

17                   “(2) BONUS DEPRECIATION AMOUNT.—For  
18                   purposes of paragraph (1), the bonus depreciation  
19                   amount for any taxable year is an amount equal to  
20                   the product of—

21                           “(A) 35 percent, and

22                           “(B) the excess (if any) of—

23                                   “(i) the aggregate amount of depre-  
24                                   ciation which would be determined under  
25                                   section 168 for property placed in service

1           during such taxable year if no election  
2           under this subsection were made, over

3                   “(ii) the aggregate allowance for de-  
4                   preciation allowable with respect to such  
5                   property placed in service for such taxable  
6                   year.

7           “(3) ELECTION.—Section 168(k) (other than  
8           paragraph (2)(E) thereof) shall not apply to any  
9           property placed in service during a taxable year by  
10          a corporation making an election under this sub-  
11          section for such taxable year. An election under this  
12          subsection may only be revoked with the consent of  
13          the Secretary.

14          “(4) CREDIT REFUNDABLE.—The aggregate in-  
15          crease in the credit allowed by this section for any  
16          taxable year by reason of this subsection shall for  
17          purposes of this title (other than subsection (b)(2)  
18          of this section) be treated as a credit allowed to the  
19          taxpayer under subpart C.”.

20          (b) CONFORMING AMENDMENTS.—Subsection (k) of  
21          section 168 is amended by adding at the end the following  
22          new paragraph:

1           “(5) CROSS REFERENCE.—

**“For an election to claim certain minimum tax  
credits in lieu of the allowance determined under  
this subsection, see section 53(e).”.**

2 **SEC. 4. EFFECTIVE DATE.**

3           The amendments made by this Act shall apply to tax-

4 able years ending after May 5, 2003.

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