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# AMERICAN JOBS CREATION ACT OF 2004

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## CONFERENCE REPORT

TO ACCOMPANY

H.R. 4520



OCTOBER 7, 2004.—Ordered to be printed

## **TITLE II—BUSINESS TAX INCENTIVES**

### **Subtitle A—Small Business Expensing**

#### **SEC. 201. 2-YEAR EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESS.**

*Subsections (b), (c), and (d) of section 179 are each amended by striking “2006” each place it appears and inserting “2008”.*

### **Subtitle B—Depreciation**

#### **SEC. 211. RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN LEASEHOLD IMPROVEMENTS AND RESTAURANT PROPERTY.**

*(a) 15-YEAR RECOVERY PERIOD.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting a comma, and by adding at the end the following new clauses:*

*“(iv) any qualified leasehold improvement property placed in service before January 1, 2006, and*

*“(v) any qualified restaurant property placed in service before January 1, 2006.”.*

*(b) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—Subsection (e) of section 168 is amended by adding at the end the following new paragraph:*

*“(6) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—The term ‘qualified leasehold improvement property’ has the meaning given such term in section 168(k)(3) except that the following special rules shall apply:*

*“(A) IMPROVEMENTS MADE BY LESSOR.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.*

*“(B) EXCEPTION FOR CHANGES IN FORM OF BUSINESS.—Property shall not cease to be qualified leasehold improvement property under subparagraph (A) by reason of—*

*“(i) death,*

*“(ii) a transaction to which section 381(a) applies,*

*“(iii) a mere change in the form of conducting the trade or business so long as the property is retained in such trade or business as qualified leasehold improvement property and the taxpayer retains a substantial interest in such trade or business,*

*“(iv) the acquisition of such property in an exchange described in section 1031, 1033, or 1038 to the extent that the basis of such property includes an amount representing the adjusted basis of other property owned by the taxpayer or a related person, or*

*“(v) the acquisition of such property by the taxpayer in a transaction described in section 332, 351, 361, 721, or 731 (or the acquisition of such property by the taxpayer from the transferee or acquiring corpora-*

tion in a transaction described in such section), to the extent that the basis of the property in the hands of the taxpayer is determined by reference to its basis in the hands of the transferor or distributor.”.

(c) **QUALIFIED RESTAURANT PROPERTY.**—Subsection (e) of section 168 (as amended by subsection (b)) is further amended by adding at the end the following new paragraph:

“(7) **QUALIFIED RESTAURANT PROPERTY.**—The term ‘qualified restaurant property’ means any section 1250 property which is an improvement to a building if—

“(A) such improvement is placed in service more than 3 years after the date such building was first placed in service, and

“(B) more than 50 percent of the building’s square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.”.

(d) **REQUIREMENT TO USE STRAIGHT LINE METHOD.**—

(1) Paragraph (3) of section 168(b) is amended by adding at the end the following new subparagraphs:

“(G) Qualified leasehold improvement property described in subsection (e)(6).

“(H) Qualified restaurant property described in subsection (e)(7).”.

(2) Subparagraph (A) of section 168(b)(2) is amended by inserting before the comma “not referred to in paragraph (3)”.

(e) **ALTERNATIVE SYSTEM.**—The table contained in section 168(g)(3)(B) is amended by adding at the end the following new items:

|                |      |
|----------------|------|
| “(E)(iv) ..... | 39   |
| “(E)(v) .....  | 39”. |

(f) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

## **Subtitle C—Community Revitalization**

### **SEC. 221. MODIFICATION OF TARGETED AREAS AND LOW-INCOME COMMUNITIES FOR NEW MARKETS TAX CREDIT.**

(a) **TARGETED AREAS.**—Paragraph (2) of section 45D(e) (relating to targeted areas) is amended to read as follows:

“(2) **TARGETED POPULATIONS.**—The Secretary shall prescribe regulations under which 1 or more targeted populations (within the meaning of section 103(20) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702(20))) may be treated as low-income communities. Such regulations shall include procedures for determining which entities are qualified active low-income community businesses with respect to such populations.”.

(b) **TRACTS WITH LOW POPULATION.**—Subsection (e) of section 45D (defining low-income community) is amended by adding at the end the following:

“(4) **TRACTS WITH LOW POPULATION.**—A population census tract with a population of less than 2,000 shall be treated as