

110TH CONGRESS  
2D SESSION

# S. 2540

To amend the Internal Revenue Code to provide expensing for certain property placed in service during 2008 and 2009.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 22 (legislative day, JANUARY 3), 2008

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

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## A BILL

To amend the Internal Revenue Code to provide expensing for certain property placed in service during 2008 and 2009.

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. EXPENSING FOR CERTAIN PROPERTY PLACED**

4 **IN SERVICE DURING 2008 AND 2009.**

5 (a) IN GENERAL.—Section 168 of the Internal Rev-  
6 enue Code of 1986 is amended by adding at the end the  
7 following new subsection:

8 “(m) SPECIAL ALLOWANCE FOR CERTAIN QUALI-  
9 FIED PROPERTY PLACED IN SERVICE DURING 2008 AND  
10 2009.—

1           “(1) IN GENERAL.—In the case of any qualified  
2 property—

3           “(A) the depreciation deduction provided  
4 by section 167(a) for the taxable year in which  
5 such property is placed in service shall include  
6 an allowance equal to 100 percent of the ad-  
7 justed basis of the qualified property, and

8           “(B) the adjusted basis of the qualified  
9 property shall be reduced by the amount of  
10 such deduction before computing the amount  
11 otherwise allowable as a depreciation deduction  
12 under this chapter for such taxable year and  
13 any subsequent taxable year.

14           “(2) QUALIFIED PROPERTY.—For purposes of  
15 this subsection, the term ‘qualified property’ means  
16 property—

17           “(A) which is 3-year property, 5-year prop-  
18 erty, or 7-year property,

19           “(B) the original use of which commences  
20 with the taxpayer on or after the starting date,

21           “(C) which is—

22           “(i) acquired by the taxpayer on or  
23 after the starting date and before the end-  
24 ing date, but only if no written binding

1 contract for the acquisition was in effect  
2 before the starting date, or

3 “(ii) acquired by the taxpayer pursu-  
4 ant to a written binding contract which  
5 was entered into on or after the starting  
6 date and before the ending date, and

7 “(D) which is placed in service by the tax-  
8 payer before the ending date.

9 “(3) EXCEPTIONS.—

10 “(A) ALTERNATIVE DEPRECIATION PROP-  
11 ERTY.—This subsection shall not apply to any  
12 property to which the alternative depreciation  
13 system under subsection (g) applies, deter-  
14 mined—

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

18 “(ii) after application of section  
19 280F(b) (relating to listed property with  
20 limited business use).

21 “(B) ELECTION OUT.—If a taxpayer  
22 makes an election under this subparagraph with  
23 respect to any class of property for any taxable  
24 year, this subsection shall not apply to all prop-

1           erty in such class placed in service during such  
2           taxable year.

3           “(4) SPECIAL RULES.—

4                   “(A) SELF-CONSTRUCTED PROPERTY.—In  
5           the case of a taxpayer manufacturing, con-  
6           structing, or producing property for the tax-  
7           payer’s own use, the requirements of paragraph  
8           (2)(C) shall be treated as met if the taxpayer  
9           begins manufacturing, constructing, or pro-  
10          ducing the property after the starting date and  
11          before the ending date.

12                   “(B) SALE-LEASEBACKS.—For purposes of  
13          subparagraph (C) and paragraph (2)(B), if  
14          property is—

15                           “(i) originally placed in service on or  
16                           after the starting date by a person, and

17                           “(ii) sold and leased back by such per-  
18                           son within 3 months after the date such  
19                           property was originally placed in service,  
20          such property shall be treated as originally  
21          placed in service not earlier than the date on  
22          which such property is used under the leaseback  
23          referred to in subclause (II).

24                   “(C) SYNDICATION.—For purposes of  
25          paragraph (2)(B), if—

1           “(i) property is originally placed in  
2           service on or after the starting date by the  
3           lessor of such property,

4           “(ii) such property is sold by such les-  
5           sor or any subsequent purchaser within 3  
6           months after the date such property was  
7           originally placed in service (or, in the case  
8           of multiple units of property subject to the  
9           same lease, within 3 months after the date  
10          the final unit is placed in service, so long  
11          as the period between the time the first  
12          unit is placed in service and the time the  
13          last unit is placed in service does not ex-  
14          ceed 12 months), and

15          “(iii) the user of such property after  
16          the last sale during such 3-month period  
17          remains the same as when such property  
18          was originally placed in service,

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

22          “(D) LIMITATIONS RELATED TO USERS  
23          AND RELATED PARTIES.—This subsection shall  
24          not apply to any property if—

1           “(i) the user of such property (as of  
2           the date on which such property is origi-  
3           nally placed in service) or a person which  
4           is related (within the meaning of section  
5           267(b) or 707(b)) to such user or to the  
6           taxpayer had a written binding contract in  
7           effect for the acquisition of such property  
8           at any time before the starting date, or

9           “(ii) in the case of property manufac-  
10          tured, constructed, or produced for such  
11          user’s or person’s own use, the manufac-  
12          ture, construction, or production of such  
13          property began at any time before the  
14          starting date.

15           “(5) COORDINATION WITH SECTION 280F.—For  
16          purposes of section 280F—

17           “(A) AUTOMOBILES.—In the case of a pas-  
18          senger automobile (as defined in section  
19          280F(d)(5)) which is qualified property, the  
20          Secretary shall increase the limitation under  
21          section 280F(a)(1)(A)(i) by \$7,650.

22           “(B) LISTED PROPERTY.—The deduction  
23          allowable under paragraph (1) shall be taken  
24          into account in computing any recapture  
25          amount under section 280F(b)(2).

1           “(6) DEDUCTION ALLOWED IN COMPUTING  
2           MINIMUM TAX.—For purposes of determining alter-  
3           native minimum taxable income under section 55,  
4           the deduction under subsection (a) for qualified  
5           property shall be determined under this section with-  
6           out regard to any adjustment under section 56.

7           “(7) STARTING DATE; ENDING DATE.—For pur-  
8           poses of this paragraph—

9                   “(A) STARTING DATE.—The term ‘starting  
10                   date’ means January 1, 2008.

11                   “(B) ENDING DATE.—The term ‘ending  
12                   date’ means January 1, 2010.”.

13           (b) EFFECTIVE DATE.—The amendment made by  
14           this section shall apply to property placed in service after  
15           December 31, 2007.

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