

**DESCRIPTION OF H.R. 636,
THE “AMERICA’S SMALL BUSINESS TAX RELIEF ACT OF 2015”**

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
on February 4, 2015

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION



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INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup of H.R. 636, the “America’s Small Business Tax Relief Act of 2015,” on February 4, 2015. This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of the bill.

¹ This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 636, the “America’s Small Business Tax Relief Act of 2015”* (JCX-12-15), February 3, 2015. This document can also be found on the Joint Committee on Taxation website at www.jct.gov.

**A. Expensing Certain Depreciable Business Assets for Small Business
(sec. 179 of the Code)**

Present Law

A taxpayer may elect under section 179 to deduct (or “expense”) the cost of qualifying property, rather than to recover such costs through depreciation deductions, subject to limitation. For taxable years beginning in 2014, the maximum amount a taxpayer may expense is \$500,000 of the cost of qualifying property placed in service for the taxable year.² The \$500,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds \$2,000,000.³ The \$500,000 and \$2,000,000 amounts are not indexed for inflation. In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business.⁴ Qualifying property excludes investments in air conditioning and heating units.⁵ For taxable years beginning before 2015, qualifying property also includes off-the-shelf computer software and qualified real property (*i.e.*, qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property).⁶ Of the \$500,000 expense amount available under section 179, the maximum amount available with respect to qualified real property is \$250,000 for each taxable year.⁷

For taxable years beginning in 2015 and thereafter, a taxpayer may elect to deduct up to \$25,000 of the cost of qualifying property placed in service for the taxable year, subject to limitation. The \$25,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds \$200,000. The \$25,000 and \$200,000 amounts are not indexed for inflation. In general, qualifying property is defined as depreciable tangible personal property (not including off-the-shelf computer software, qualified real property, or air conditioning and heating units) that is purchased for use in the active conduct of a trade or business.

² For the years 2003 through 2006, the relevant dollar amount is \$100,000 (indexed for inflation); in 2007, the dollar limitation is \$125,000; for the 2008 and 2009 years, the relevant dollar amount is \$250,000; and for the years 2010 through 2013, the relevant dollar limitation is \$500,000. Sec. 179(b)(1).

³ For the years 2003 through 2006, the relevant dollar amount is \$400,000 (indexed for inflation); in 2007, the dollar limitation is \$500,000; for the 2008 and 2009 years, the relevant dollar amount is \$800,000; and for the years 2010 through 2013, the relevant dollar limitation is \$2,000,000. Sec. 179(b)(2).

⁴ Passenger automobiles subject to the section 280F limitation are eligible for section 179 expensing only to the extent of the dollar limitations in section 280F. For sport utility vehicles above the 6,000 pound weight rating, which are not subject to the limitation under section 280F, the maximum cost that may be expensed for any taxable year under section 179 is \$25,000. Sec. 179(b)(5).

⁵ Sec. 179(d)(1) flush language.

⁶ Sec. 179(d)(1)(A)(ii) and (f).

⁷ Sec. 179(f)(3).

The amount eligible to be expensed for a taxable year may not exceed the taxable income for such taxable year that is derived from the active conduct of a trade or business (determined without regard to this provision).⁸ Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to limitations). However, amounts attributable to qualified real property that are disallowed under the trade or business income limitation may only be carried over to taxable years in which the definition of eligible section 179 property includes qualified real property.⁹ Thus, if a taxpayer's section 179 deduction for 2013 with respect to qualified real property is limited by the taxpayer's active trade or business income, such disallowed amount may be carried over to 2014. Any such carryover amounts that are not used in 2014 are treated as property placed in service in 2014 for purposes of computing depreciation. That is, the unused carryover amount from 2013 is considered placed in service on the first day of the 2014 taxable year.¹⁰

No general business credit under section 38 is allowed with respect to any amount for which a deduction is allowed under section 179.¹¹ If a corporation makes an election under section 179 to deduct expenditures, the full amount of the deduction does not reduce earnings and profits. Rather, the expenditures that are deducted reduce corporate earnings and profits ratably over a five-year period.¹²

An expensing election is made under rules prescribed by the Secretary.¹³ In general, any election or specification made with respect to any property may not be revoked except with the consent of the Commissioner. However, an election or specification under section 179 may be revoked by the taxpayer without consent of the Commissioner for taxable years beginning after 2002 and before 2015.¹⁴

⁸ Sec. 179(b)(3).

⁹ Section 179(f)(4) details the special rules that apply to disallowed amounts with respect to qualified real property.

¹⁰ For example, assume that during 2013, a company's only asset purchases are section 179-eligible equipment costing \$100,000 and qualifying leasehold improvements costing \$200,000. Assume the company has no other asset purchases during 2013, and has a taxable income limitation of \$150,000. The maximum section 179 deduction the company can claim for 2013 is \$150,000, which is allocated pro rata between the properties, such that the carryover to 2014 is allocated \$100,000 to the qualified leasehold improvements and \$50,000 to the equipment.

Assume further that in 2014, the company had no asset purchases and had no taxable income. The \$100,000 carryover from 2013 attributable to qualified leasehold improvements is treated as placed in service as of the first day of the company's 2014 taxable year under section 179(f)(4)(C). The \$50,000 carryover allocated to equipment is carried over to 2014 under section 179(b)(3)(B).

¹¹ Sec. 179(d)(9).

¹² Sec. 312(k)(3)(B).

¹³ Sec. 179(c)(1).

¹⁴ Sec. 179(c)(2).

Description of Proposal

The proposal provides that the maximum amount a taxpayer may expense, for taxable years beginning after 2014, is \$500,000 of the cost of qualifying property placed in service for the taxable year. The \$500,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds \$2,000,000. The \$500,000 and \$2,000,000 amounts are indexed for inflation for taxable years beginning after 2015.

In addition, the proposal makes permanent the treatment of off-the-shelf computer software as qualifying property. The proposal also makes permanent the treatment of qualified real property as eligible section 179 property and removes the limitation related to the amount of section 179 property that may be attributable to qualified real property for taxable years beginning after 2014. Further, the proposal strikes the flush language in section 179(d)(1) that excludes air conditioning and heating units from the definition of qualifying property.

The proposal also makes permanent the permission granted to a taxpayer to revoke without the consent of the Commissioner any election, and any specification contained therein, made under section 179.

The proposal exempts any budgetary effects from the PAYGO scorecards under the Statutory Pay-As-You-Go Act of 2010.

Effective Date

The proposal applies to taxable years beginning after December 31, 2014.

B. Estimated Revenue Effects

Fiscal Years [Millions of Dollars]												
<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2015-20</u>	<u>2015-25</u>
-8,340	-14,400	-10,846	-8,661	-6,901	-5,537	-4,817	-4,090	-4,071	-4,648	-4,787	-54,684	-77,097

NOTE: Details do not add to totals due to rounding.