

109TH CONGRESS
2D SESSION

S. 3974

To permit a special amortization deduction for intangible assets acquired from eligible small businesses to take account of the actual economic useful life of such assets and to encourage growth in industries for which intangible assets are an important source of revenue.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2006

Mr. BUNNING (for himself and Mr. CONRAD) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To permit a special amortization deduction for intangible assets acquired from eligible small businesses to take account of the actual economic useful life of such assets and to encourage growth in industries for which intangible assets are an important source of revenue.

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

1 **SECTION 1. SPECIAL AMORTIZATION DEDUCTION FOR CER-**
 2 **TAIN INTANGIBLE PROPERTY ACQUIRED**
 3 **FROM ELIGIBLE SMALL BUSINESSES AFTER**
 4 **DECEMBER 31, 2005.**

5 (a) IN GENERAL.—Section 197 of the Internal Rev-
 6 enue Code of 1986 (relating to amortization of goodwill
 7 and certain other intangibles) is amended by redesignating
 8 subsection (g) as subsection (h) and inserting after sub-
 9 section (f) the following new subsection:

10 “(g) SPECIAL DEDUCTION FOR CERTAIN PROPERTY
 11 ACQUIRED FROM ELIGIBLE SMALL BUSINESSES AFTER
 12 DECEMBER 31, 2005.—

13 “(1) SPECIAL DEDUCTION.—In the case of any
 14 amortizable section 197 intangible—

15 “(A) the amortization deduction provided
 16 by subsection (a) for the taxable year in which
 17 such property is acquired shall include an allow-
 18 ance equal to 100 percent of the adjusted basis
 19 of the taxpayer’s qualified section 197 intan-
 20 gible property, and

21 “(B) the adjusted basis of the qualified
 22 section 197 intangible property shall be reduced
 23 by the amount of such deduction before com-
 24 puting the amount otherwise allowable as an
 25 amortization deduction under subsection (a) for

1 such taxable year and any subsequent taxable
2 year.

3 “(2) QUALIFIED SECTION 197 INTANGIBLE
4 PROPERTY.—For purposes of this subsection, the
5 term ‘qualified section 197 intangible property’
6 means any amortizable section 197 intangible which
7 is acquired in a transaction (or series of trans-
8 actions) involving the acquisition of assets consti-
9 tuting a trade or business or substantial portion
10 thereof from an eligible small business (as defined in
11 section 474(c)) after December 31, 2005.

12 “(3) LIMITATIONS.—

13 “(A) MAXIMUM DOLLAR AMOUNT.—The
14 aggregate amount of adjusted basis of qualified
15 section 197 intangible property which a tax-
16 payer may take into account under this sub-
17 section for any taxable year shall not exceed
18 \$5,000,000 (\$2,500,000 in the case of a sepa-
19 rate return of a married individual (as defined
20 in section 7703)).

21 “(B) ALLOCATION OF DOLLAR AMOUNT.—

22 “(i) CONTROLLED GROUP.—For pur-
23 poses of applying the dollar limitation
24 under subparagraph (A)—

1 “(I) all component members of a
 2 controlled group shall be treated as
 3 one taxpayer, and

4 “(II) the Secretary shall, under
 5 regulations prescribed by him, appor-
 6 tion such dollar limitation among the
 7 component members of such con-
 8 trolled group.

9 For purposes of the preceding sentence,
 10 the term ‘controlled group’ has the mean-
 11 ing assigned to it by section 1563(a), ex-
 12 cept that the phrase ‘more than 50 per-
 13 cent’ shall be substituted for the phrase ‘at
 14 least 80 percent’ each place it appears in
 15 section 1563(a)(1).

16 “(ii) PARTNERSHIPS AND S CORPORA-
 17 TIONS.—In the case of a partnership, the
 18 dollar limitation contained in subparagraph
 19 (A) shall apply with respect to the partner-
 20 ship and with respect to each partner. A
 21 similar rule shall apply in the case of an
 22 S corporation and its shareholders.

23 “(C) SUBSECTION NOT TO APPLY TO
 24 TRUSTS.—This subsection shall not apply to
 25 trusts.

1 “(D) ESTATES.—The benefit of the special
2 deduction provided by this subsection shall be
3 allowed to estates in the same manner as in the
4 case of an individual. The allowable deduction
5 shall be apportioned between the income bene-
6 ficiary and the fiduciary under regulations pre-
7 scribed by the Secretary. Any amount so appor-
8 tioned to a beneficiary shall be taken into ac-
9 count for purposes of determining the amount
10 allowable as a deduction under this subsection
11 to such beneficiary.”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to taxable years beginning after
14 December 31, 2005.

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