113TH CONGRESS
2D SESSION

S. 2237

To amend the Internal Revenue Code of 1986 to provide an elective safe harbor for the expensing by small businesses of the costs of acquiring or producing tangible property.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2014

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

A BILL

To amend the Internal Revenue Code of 1986 to provide an elective safe harbor for the expensing by small businesses of the costs of acquiring or producing tangible property.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Farm and Small Business Expensing Tax Relief Act’’.

SEC. 2. SAFE HARBOR FOR EXPENSING BY SMALL BUSINESSES OF ACQUISITION OR PRODUCTION COSTS OF TANGIBLE PROPERTY.

(a) IN GENERAL.—Section 263 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(j) ELECTION FOR SMALL BUSINESSES TO EXPENSE CERTAIN ACQUISITION AND PRODUCTION COSTS.—

"(1) IN GENERAL.—If the amount paid or incurred by an eligible taxpayer to acquire or produce any item of tangible property does not exceed $5,000 (or such higher amount as the Secretary may prescribe by regulations), then, notwithstanding subsection (a), the taxpayer may elect to treat such amount as an expense which is not chargeable to capital account nor treated as a material or supply. Any amount so treated shall be allowed as a deduction for the taxable year in which the property is acquired or produced.

"(2) ELIGIBLE TAXPAYER.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible taxpayer' means, with respect to any taxable year, a taxpayer—

"(i) who meets the gross receipts test of subparagraph (B) for the taxable year, and

"(ii) who, as of the beginning of the taxable year, has in effect written accounting procedures meeting such requirements as the Secretary may prescribe with respect to the expensing of amounts described in paragraph (1).

"(B) GROSS RECEIPTS TEST.—A taxpayer meets the gross receipts test of this subparagraph for any taxable year if the average annual gross receipts of such taxpayer for the 3-taxable-year period ending with the taxable year which precedes such taxable year does not exceed $10,000,000.

"(C) RULES RELATING TO GROSS RECEIPTS TEST.—For purposes of subparagraph (B)—

"(i) the rules of paragraphs (2) and (3) of section 448(c) shall apply, and

"(ii) in the case of a partnership, S corporation, trust, estate, or other passthru entity, the gross receipts test shall apply at the entity level.

"(3) ELECTION.—Any election under this subsection for any taxable year shall—

"(A) specify the items of tangible property to which the election applies, and

"(B) be made, in such manner as the Secretary may prescribe, on the taxpayer's return of the tax imposed by this chapter for the taxable year.

Any election made under this subsection, and any specification made in any such election, may not be revoked except with the consent of the Secretary.

"(4) COORDINATION WITH SECTION 179.—This subsection shall be applied before section 179.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the purposes of this subsection, including regulations providing for—

"(A) exceptions for property which is inventory or land or for which the taxpayer makes an election for optional treatment under section 162; and

"(B) the aggregation of all amounts paid or incurred with respect to any item of tangible property.

"(6) RULE OF CONSTRUCTION.—If, for any taxable year, a taxpayer is not an eligible taxpayer (or is an eligible taxpayer who does not elect to have this subsection apply), nothing in this subsection shall be construed as prohibiting the expensing of any amount paid or incurred during the taxable year to acquire or produce any item of tangible property if such expensing is permitted under any safe harbor or other provision of the regulations prescribed under this section.

"(7) CROSS REFERENCE.—For capitalization of certain expenses where a taxpayer produces property or acquires property for resale, see section 263A.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2013.

○