



**Legislative Bulletin.....June 12, 2014**

**Contents:**

**H.R. 4453 – Permanent S Corporation Built-in Gains Recognition Period Act of 2014**

**H.R. 4457 – America’s Small Business Tax Relief Act of 2014**

---

---

**H.R. 4453 – Permanent S Corporation Built-in Gains Recognition Period Act of 2014 (Reichert, R-WA)**

**Order of Business:** The bill is scheduled to be considered on June 12, 2014, subject to a rule.

**Summary:** [H.R. 4453](#) (1) makes permanent the reduced five-year recognition period for built-in gains of S corporations that converted from C corporations and (2) makes permanent for S corporations the same basis adjustment rules governing charitable contributions of property that currently apply to partnerships. Making this provision permanent will allow more businesses to convert to S corporations and avoid double taxation. In addition, allowing businesses to have more access to their built-in gains under the reduced five-year recognition period will allow them to access internal capital and invest their gains in ways that create new jobs. Without access to internal capital they may be required to retain unneeded assets and seek costlier sources of financing.

**Additional Information:** A reduced recognition period has been available to taxpayers on a temporary basis since 2009, with a temporary five-year recognition period expiring most recently at the end of 2013. Current law provides that an S corporation that converted from a C corporation is taxed at the highest corporate tax rate on built-in gains on property it held while operating as a C corporation. Under the law currently in effect for 2014, the recognition period is ten years from the date of conversion. This bill permanently reduces that period to five years. In addition, under a temporary provision available to taxpayers between 2006 and 2013, S corporations making charitable donations of property were treated consistently with partnerships that made similar donations, providing parallel treatment between S corporations and partnerships in this area. According to the [IRS](#), “S corporations are corporations that elect to pass corporate income, losses, deductions, and credits through to their shareholders for federal tax purposes. Shareholders of S corporations report the flow-through of income and losses on their personal tax returns and are assessed tax at their individual income tax rates. This allows S corporations to avoid double taxation on the corporate income. S corporations are responsible for tax on certain built-in gains and passive income at the entity level.” C corporations are taxed

separately from their owners at the entity level, i.e., the income is not “pass through” income. C corporations are typically larger in size and have more shareholders than S corporations.

**Committee Action:** This bill contains provisions from H.R. 4453 and H.R. 4454, both of which [passed](#) out of the Committee on Ways on Means on April 29, 2014. H.R. 4453 passed out of Committee by a [vote](#) of 21-13. H.R. 4454 passed out of Committee by a [vote](#) of 21-14.

**Administration Position:** According to a [Statement of Administration Policy](#) issued by the Executive Office of the President, “If the President were presented with H.R. 4453, his senior advisors would recommend that he veto the bill.”

**Outside Group Support:** [National Taxpayers Union](#)

The following groups signed a coalition letter in support of H.R. 4453:

- Aeronautical Repair Station Association
- Air Conditioning Contractors of America
- Agricultural Retailers Association
- American Council of Engineering Companies
- American Institute of Architects
- American Rental Association
- American Supply Association
- American Trucking Associations
- Associated Builders and Contractors, Inc.
- Associated Equipment Distributors
- Associated General Contractors of America
- Auto Care Association
- Financial Executives International
- Food Marketing Institute
- Heating, Air-conditioning and Refrigeration Distributors International
- Independent Community Bankers of America
- Independent Electrical Contractors
- Metals Service Center Institute
- National Association of Wholesaler-Distributors
- National Beer Wholesalers Association
- National Electrical Contractors Association
- National Federation of Independent Business
- National Funeral Directors Association
- National Grocers Association
- National Lumber and Building Material Dealers Association
- National Roofing Contractors Association
- National Small Business Association
- S Corporation Association
- Small Business Council of America
- Small Business Legislative Council
- Subchapter S Bank Association
- The Association For Manufacturing Technology
- Truck Renting and Leasing Association

- United States Business and Industry Council
- Wine & Spirits Wholesalers of America

**Cost to Taxpayers:** There is no Joint Committee on Taxation (JCT) cost estimate for the current version of the bill that contains provisions from H.R. 4453 and H.R. 4454. The Joint Committee on Taxation conducted an estimate of both bills separately. JCT conducts its estimates according to current-law baseline which assumes that the reduced five-year period of recognition will remain permanently expired. For H.R. 4453, JCT [estimated](#) that enacting the provision would result in \$1.5 billion in lost revenue. For H.R. 4454, JCT [estimated](#) that enacting the provision would result in \$700 million in lost revenue.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** No.

**Constitutional Authority:** According to the sponsor of H.R. 4453, “Congress has the power to enact this legislation pursuant to the following: Pursuant to Clause 1 of Section 8 of Article I of the United States Constitution and Amendment XVI of the United States Constitution.” Congressman Reichert’s statement in the Congressional Record can be found [here](#).

**RSC Staff Contact:** Scott Herndon, [Scott.Herndon@mail.house.gov](mailto:Scott.Herndon@mail.house.gov), (202) 226-2076.

***NOTE:** RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

---

## **H.R. 4457 – America’s Small Business Tax Relief Act of 2014 (Tiberi, R-OH)**

**Order of Business:** The bill is scheduled to be considered on June 12, 2014, subject to a rule.

**Summary:** [H.R. 4457](#) makes permanent and indexes for inflation the higher, \$500,000 level of Section 179 enhanced small business expensing that expired at the end of 2013.

**Additional Information:** Section 179 of the tax code allows taxpayers to immediately deduct certain expenses such as investments in equipment, property, and computer software, instead of deducting them over the longer recovery period. Making this provision permanent will be especially helpful to cyclical businesses, such as farms, by allowing them to invest in property and equipment when there is high cash flow. It would provide small businesses with the certainty to make investments to build their businesses and create jobs. A temporary, increased expensing provision under Section 179 has been available to taxpayers in various amounts since 2003, with the expensing limitation set at \$500,000 (with a phase-out threshold at \$2 million) from 2010 through 2013. Since those increased expensing parameters expired at the end of 2013, the current threshold for 2014 allows small businesses to immediately expense only

\$25,000 (with a phase-out threshold at \$200,000). The bill would permanently set that level at \$500,000 (with a phase-out threshold at \$2 million), indexed for inflation.

**Committee Action:** H.R. 4457 passed out of the House Committee on Ways and Means on April 29, 2014, by a [vote](#) of 21-14.

**Outside Groups in Support:**

[National Taxpayers Union](#)

National Association of Manufacturers

The following groups signed a multi-industry [letter](#):

- Academy of General Dentistry
- Advanced Medical Technology Association's Emerging Growth Company Council
- Aeronautical Repair Station Association
- Agricultural Retailers Association
- Air Conditioning Contractors of America
- American Apparel & Footwear Association
- American Association of Small Property Owners
- American Composites Manufacturers Association
- American Council of Engineering Companies
- American Dental Association
- American Farm Bureau Federation
- American Foundry Society
- American Loggers Council
- American Moving & Storage Association
- American Rental Association
- American Road & Transportation Builders Association
- American Society of Travel Agents
- American Sugarbeet Growers Association
- American Supply Association
- American Truck Dealers
- Americans for Tax Reform
- AMT – The Association For Manufacturing Technology
- Arizona Small Business Association
- Associated Builders and Contractors
- Associated Builders and Contractors - Greater Tennessee Chapter
- Associated Builders and Contractors Florida East Coast Chapter
- Associated Builders and Contractors, Rocky Mountain Chapter
- Associated Equipment Distributors
- Associated General Contractors
- Associated Oregon Loggers, Inc.
- Association of Equipment Manufacturers
- Association of Pool & Spa Professionals
- Association of the Wall and Ceiling Industry
- Auto Care Association
- Aviation Suppliers Association
- California Farm Bureau Federation
- Carolinas Food Industry Council
- CCIM Institute
- Chamber of Commerce Southern New Jersey

- Clean Water Construction Coalition
- Colorado Wyoming Petroleum Marketers Association
- Construction Industry Round Table
- Cotton Warehouse Association of America
- Delaware Retail Council
- Delaware State Chamber of Commerce
- Foodservice Equipment Distributors Association
- Great Lakes Timber Professionals Association
- Hearth, Patio & Barbecue Association
- Heating, Air-Conditioning and Refrigeration Distributors International (HARDI)
- Independent Electrical Contractors
- Indiana Chamber of Commerce
- Indiana Manufacturers Association
- Industrial Supply Association
- Inland Pacific Chapter Associated Builders & Contractors
- Institute of Real Estate Management
- International Association of Plastics Distribution (IAPD)
- International Cemetery, Cremation and Funeral Association
- International Council of Shopping Centers
- International Dairy Foods Association
- International Franchise Association
- International Warehouse Logistics Association
- Irrigation Association
- ISSA—The Worldwide Cleaning Industry Association
- Louisiana Logging Council
- Metals Service Center Institute
- Michigan Association of Timbermen
- Michigan Grocers Association
- Missouri Forest Products Association
- Modification and Replacement Parts Association
- Montana Equipment Dealers Association
- Montana Restaurant Association
- Montana Retail Association
- Montana Tire Dealers Association
- National Apartment Association
- National Association of Chemical Distributors
- National Association of Convenience Stores
- National Association of Electrical Distributors
- National Association of Home Builders
- National Association of REALTORS®
- National Association of Shell Marketers
- National Association of Wheat Growers
- National Association of Wholesaler-Distributors
- National Automobile Dealers Association
- National Beer Wholesalers Association (NBWA)
- National Cattlemen’s Beef Association
- National Confectioners Association
- National Corn Growers Association
- National Cotton Council
- National Council of Chain Restaurants
- National Electrical Manufacturers Representatives Association

- National Fastener Distributors Association
- National Federation of Independent Business
- National Funeral Directors Association
- National Golf Course Owners Association
- National Grocers Association
- National Lumber and Building Material Dealers Association
- National Marine Distributors Association
- National Multifamily Housing Council
- National Pork Producers Council
- National Potato Council
- National Propane Gas Association
- National Restaurant Association
- National Retail Federation
- National Roofing Contractors Association
- National Small Business Association
- National Sorghum Producers
- National Stone, Sand and Gravel Association
- National Utility Contractors Association (NUCA)
- NATSO, Representing America's Truckstops and Travel Plazas
- New Jersey Business & Industry Association
- Non-Ferrous Founders' Society
- North Carolina Retail Merchants Association
- North Country Chamber of Commerce
- North-American Association of Uniform Manufacturers & Distributors
- Northern Arizona Loggers Association
- NPES The Association for Suppliers of Printing, Publishing and Converting Technologies
- NTEA – The Association for the Work Truck Industry
- Ohio Grocers Association
- Outdoor Power Equipment and Engine Service Association
- Pacific-West Fastener Association
- Pennsylvania Chamber of Business and Industry
- Petroleum Marketers & Convenience Stores of Iowa
- Petroleum Marketers and Convenience Store Association of Kansas
- Petroleum Marketers Association of America
- Plumbing-Heating-Cooling Contractors—National Association
- Printing Industries of America
- Professional Logging Contractors of Maine
- Propane Gas Association
- S Corporation Association
- SC Timber Producers Association
- Selected Independent Funeral Homes
- Small Business & Entrepreneurship Council
- Small Business Legislative Counsel
- Society of American Florists
- South Carolina Retail Association
- SouthWestern Association
- Specialty Equipment Market Association
- SPI: The Plastics Industry Trade Association
- Tennessee Hospitality & Tourism Association
- Textile Care Allied Trades Association
- The Outdoor Power Equipment and Engine Service Association (OPEESA)

- Tire Industry Association
- Truck Renting and Leasing Association
- U.S. Chamber of Commerce
- United Egg Producers
- United Producers, Inc.
- USA Rice Federation
- Utility & Transportation Contractors Association of New Jersey
- Western Growers Association
- Western United Dairymen
- Wichita Independent Business Association
- Wisconsin Grocers Association
- Wisconsin Manufacturers & Commerce
- Wisconsin Restaurant Association
- Woodworking Machinery Industry Association

**Administration Position:** According to the [Statement of Administration Policy](#) issued by the Executive Office of the President, “If the President were presented with H.R. 4457, his senior advisors would recommend that he veto the bill.”

**Cost to Taxpayers:** The Joint Committee on Taxation (JCT) conducts its estimates according to current-law baseline which assumes that this provision would be allowed to remain expired. According to this methodology, JCT [estimates](#) that enacting this provision would reduce revenues by \$73.1 billion.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** No.

**Constitutional Authority:** According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8.” Congressman Paulsen’s statement in the Congressional Record can be viewed [here](#).

**RSC Staff Contact:** Scott Herndon, [Scott.Herndon@mail.house.gov](mailto:Scott.Herndon@mail.house.gov), (202) 226-2076.

***NOTE:*** *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

---

###