

HR 2116 IH

110th CONGRESS

1st Session

**H. R. 2116**

To amend the Internal Revenue Code of 1986 to provide incentives to encourage investment in the expansion of freight rail infrastructure capacity and to enhance modal tax equity.

**IN THE HOUSE OF REPRESENTATIVES**

**May 2, 2007**

Mr. MEEK of Florida (for himself and Mr. CANTOR) introduced the following bill; which was referred to the Committee on Ways and Means

**A BILL**

To amend the Internal Revenue Code of 1986 to provide incentives to encourage investment in the expansion of freight rail infrastructure capacity and to enhance modal tax equity.

*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 'Freight Rail Infrastructure Capacity Expansion Act of 2007'.

**SEC. 2. CREDIT FOR FREIGHT RAIL INFRASTRUCTURE CAPACITY EXPANSION PROPERTY.**

(a) In General- Subpart D of part IV of subchapter A of chapter 1 of subtitle A of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

## **SEC. 450. FREIGHT RAIL CAPACITY EXPANSION CREDIT.**

(a) General Rule- For purposes of section 38, the freight rail capacity expansion credit determined under this section for the taxable year is an amount equal to 25 percent of the cost of the following property placed in service during the taxable year:

(1) New qualified freight rail infrastructure property.

(2) Qualified locomotive property.

(b) New Qualified Freight Rail Infrastructure Property- For purposes of this section--

(1) IN GENERAL- The term 'new qualified freight rail infrastructure property' means qualified freight rail infrastructure property--

(A) the construction, erection, or eligible bridge or tunnel replacement or expansion (pursuant to paragraph (2)) which is completed by the taxpayer after the date of enactment of this section, or

(B) which is acquired by the taxpayer after such date, but only if the original use of such property commences with the taxpayer.

(2) EXCEPTION FOR PROPERTY REPLACING PROPERTY AT EXISTING LOCATION- The term 'new qualified freight rail infrastructure property' does not include property which is replacing existing qualified freight rail infrastructure property if the replacement property is located at the site of the existing property. The preceding sentence shall not apply to the replacement or expansion of a bridge or tunnel to allow for additional clearance, track, or other capacity enhancement where such clearance, track, or other capacity enhancement did not previously exist.

(3) QUALIFIED FREIGHT RAIL INFRASTRUCTURE PROPERTY-

` (A) IN GENERAL- The term `qualified freight rail infrastructure property' means property used in the movement of freight by rail--

` (i) the cost of which is chargeable to capital account (determined without regard to section 179F), and

` (ii) which constitutes--

` (I) railroad grading or tunnel bore (as defined in section 168(e)(4)),

` (II) tunnels or subways,

` (III) track, including ties, rails, ballast, or other track material,

` (IV) bridges, trestles, culverts, or other elevated or submerged structures,

` (V) terminals, yards, roadway buildings, fuel stations, or railroad wharves or docks, including fixtures attached thereto, and equipment used exclusively therein,

` (VI) railroad signal, communication, or other operating systems, including components of such systems that must be installed on locomotives or other rolling stock, or

` (VII) intermodal transfer or transload facilities or terminals, including fixtures attached thereto, and equipment used exclusively therein.

` (B) EXCLUSIONS- The term `qualified freight rail infrastructure property' shall not include--

` (i) land,

` (ii) rolling stock, including locomotives, or

` (iii) property used predominantly outside the United States, except that this subparagraph shall not apply to any property described in section 168(g)(4).

` (c) Qualified Locomotive Property-

` (1) IN GENERAL- For purposes of this section, the term ` qualified locomotive property' means a locomotive which--

` (A) is acquired by the taxpayer after the date of enactment of this section, but only if the original use of such property commences with the taxpayer,

` (B) is owned by, or leased to, a taxpayer which meets the capacity expansion requirement of paragraph (2) for the taxable year in which the locomotive is placed in service, and

` (C) meets the Environmental Protection Agency's emission standards for locomotives and locomotive engines as in effect on December 31, 2006.

` (2) CAPACITY EXPANSION REQUIREMENT- A taxpayer meets the requirements of this paragraph with respect to any locomotive only if, on the last day of the taxable year in which such locomotive is placed in service, the total horsepower of all locomotives owned by, or leased to, the taxpayer exceeds the total horsepower of all locomotives owned by, or leased to, the taxpayer on the last day of the preceding taxable year. A determination under this paragraph shall be made pursuant to such reports as the Secretary, in consultation with the Surface Transportation Board, may prescribe.

` (3) SPECIAL RULE FOR THE LEASING OF LOCOMOTIVES- In the case of the leasing of locomotives, total horsepower under paragraph (2) shall be determined with respect to all locomotives owned by, or leased to, the lessee.

` (d) Other Definitions and Special Rules-

` (1) DEFINITIONS- For purposes of this section--

` (A) RAILROAD SIGNAL, COMMUNICATION, OR OTHER OPERATING SYSTEM- The term ` railroad signal, communication,

or other operating system' means an appliance, method, device, or system (including hardware and software) which is used to operate a railroad or to improve safety or capacity of railroad operations, including a signal, an interlocker, an automatic train stop, or a train control or cab-signal device.

` (B) INTERMODAL TRANSFER OR TRANSLOAD FACILITY OR TERMINAL- The term `intermodal transfer or transload facility or terminal' means a facility or terminal primarily utilized in the transfer of freight between rail and any other mode of transportation.

` (2) COORDINATION WITH OTHER CREDITS- The cost of any property taken into account in determining the credit under this section may not be taken into account in determining a credit under any other provision of this title.

` (3) BASIS ADJUSTMENT- If a credit is determined under this section with respect to the cost of any qualified freight rail infrastructure property or qualified locomotive property, the basis of such property shall be reduced by the amount of the credit so determined.

` (4) SALE-LEASEBACKS- If qualified freight rail infrastructure property or qualified locomotive property is--

` (A) originally placed in service by a person after the date of enactment of this section, and

` (B) sold and leased back by such person within 3 months after the property is originally placed in service (or, in the case of multiple units of property subject to the same lease, within 3 months after the date the final unit is placed in service, so long as the period between the time the first unit is placed in service and the time the last unit is placed in service does not exceed 12 months),

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the lease referred to in subparagraph (B).

` (5) RECAPTURE- The benefit of any credit allowable under subsection (a) shall, under regulations prescribed by the Secretary, be recaptured

with respect to any qualified locomotive property that is sold or otherwise disposed of by the taxpayer during the 5-year period beginning on the date on which such property is originally placed in service. The preceding sentence shall not apply to locomotive property that is sold by and subsequently leased back to the taxpayer.

` (e) Termination- This section shall not apply to any property placed in service after December 31, 2012.'

(b) Credit Allowed as Business Credit- Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking ` plus' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ` , plus', and by adding at the end the following new paragraph:

` (32) the freight rail capacity expansion credit determined under section 45O.'

(c) Coordination With Section 55- Section 38(c)(4)(B) of the Internal Revenue Code of 1986 is amended by striking ` and' at the end of clause (i), by striking the period at the end of clause (ii)(II) and inserting ` , and', and by adding at the end the following new clause:

` (iii) for taxable years beginning after the date of the enactment of this clause, the credit determined under section 45O.'

(d) Clerical Amendment- The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 45N the following new item:

` Sec. 45O. Freight rail capacity expansion credit.'

### **SEC. 3. EXPENSING OF FREIGHT RAIL INFRASTRUCTURE PROPERTY.**

(a) In General- Part VI of subchapter B of chapter 1 of subtitle A of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179E the following new section:

### **` SEC. 179F. ELECTION TO EXPENSE QUALIFIED FREIGHT RAIL**

## INFRASTRUCTURE PROPERTY.

### ` (a) Allowance of Deduction-

` (1) IN GENERAL- A taxpayer may elect to treat any amount paid or incurred for the acquisition, construction, or erection of qualified freight rail infrastructure property (as defined in section 45O(b)(3)) as an amount not chargeable to capital account. Any amount so treated shall be allowed as a deduction for the taxable year in which such property was placed in service.

` (2) COORDINATION WITH CREDIT- The amount to which the election under paragraph (1) applies with respect to any property shall be reduced by an amount equal to the amount of any reduction in the basis of the property under section 45O(d)(3).

` (b) Election- An election under subsection (a) shall be made, with respect to each class of property for each taxable year, at such time and in such manner as the Secretary may prescribe by regulation. If a taxpayer makes such an election with respect to any class of property for any taxable year, the election shall apply to all qualified freight rail infrastructure property in such class placed in service during such taxable year. An election under this section shall not affect the character of any property for the purposes of section 45O.

` (c) Deduction Allowed in Computing Minimum Tax- For purposes of determining alternative minimum taxable income under section 55, the deduction under subsection (a) for qualified freight rail infrastructure property shall be determined under this section without regard to any adjustment under section 56.

` (d) Termination- This section shall not apply to any property placed in service after December 31, 2012.'

(b) Deduction for Capital Expenditures- Section 263(a)(1) of the Internal Revenue Code of 1986 (relating to capital expenditures) is amended by striking `or' at the end of subparagraph (K), by striking the period at the end of paragraph (L) and inserting ` , or', and by adding at the end the following new subparagraph:

` (M) expenditures for which a deduction is allowed under section 179F.'

(c) Technical and Clerical Amendments-

(1) Section 312(k)(3)(B) of the Internal Revenue Code of 1986 is amended by striking `or 179E' each place it appears in the text or heading thereof and inserting `179E, or 179F'.

(2) Paragraphs (2)(C) and (3)(C) of section 1245(a) of such Code are each amended by inserting `179F,' after `179E,'.

(3) The table of sections for part VI of subchapter B of chapter 1 of subtitle A of such Code is amended by inserting after the item relating to section 179E the following new item:

` Sec. 179F. Election to expense qualified freight rail infrastructure property.'.

**SEC. 4. EFFECTIVE DATE.**

The amendments made by sections 2 and 3 shall apply to property placed in service after December 31, 2007.

*END*