

**[DISCUSSION DRAFT]**

FEBRUARY 1, 2005

109TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to allow taxpayers to expense the cost of retrofitting diesel engines used in construction in order to reduce air pollutants.

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IN THE HOUSE OF REPRESENTATIVES

Mr. BRADY of Texas introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Internal Revenue Code of 1986 to allow taxpayers to expense the cost of retrofitting diesel engines used in construction in order to reduce air pollutants.

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

3 **[SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “[TO BE PROVIDED]  
5 Act of 2005”.]



1 **SEC. 2. DEDUCTION FOR RETROFITTING DIESEL-POWERED**  
2 **CONSTRUCTION EQUIPMENT.**

3 (a) IN GENERAL.—Part VI of subchapter B of chap-  
4 ter 1 of the Internal Revenue Code of 1986 is amended  
5 by inserting after section 179B the following new section:

6 **“SEC. 179C. DEDUCTION FOR RETROFITTING DIESEL-POW-**  
7 **ERED CONSTRUCTION EQUIPMENT.**

8 “(a) ALLOWANCE OF DEDUCTION.—There shall be  
9 allowed as a deduction an amount equal to the cost of any  
10 qualified diesel-powered construction property. The deduc-  
11 tion under the preceding sentence with respect to any  
12 property shall be allowed for the taxable year in which  
13 such property is placed in service.

14 “(b) LIMITATION.—The cost which may be taken into  
15 account under subsection (a) with respect to any piece of  
16 construction equipment shall not exceed \$50,000.

17 “(c) QUALIFIED DIESEL-POWERED CONSTRUCTION  
18 PROPERTY DEFINED.—For purposes of this section, the  
19 term ‘qualified diesel-powered construction property’  
20 means a qualified retrofit part or component, or qualified  
21 diesel engine, which is acquired for use by the taxpayer  
22 and not for resale, the original use of which commences  
23 with the taxpayer, and which is described in either of the  
24 following paragraphs:

25 “(1) QUALIFIED RETROFIT PART OR COMPO-  
26 NENT.—Any property—



1           “(A) installed on a piece of diesel-powered  
2 construction equipment,

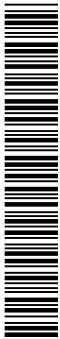
3           “(B) included on the Verified Technology  
4 List of the Voluntary Diesel Retrofit Program  
5 of the Environmental Protection Agency (or any  
6 other list which the Administrator of the Envi-  
7 ronmental Protection Agency identifies for pur-  
8 poses of this subparagraph as serving the same  
9 or similar purposes as such Verified Technology  
10 List), and

11           “(C) certified by the installer (or by the  
12 taxpayer, if self-installed) as having been in-  
13 stalled in conformance with the specifications  
14 included on such list for achieving a reduction  
15 of 20 percent or greater in 1 or more of the  
16 pollutants on such list.

17           “(2) QUALIFIED DIESEL ENGINE.—Any diesel  
18 engine—

19           “(A) installed as a replacement for an ex-  
20 isting engine on a piece of diesel-powered con-  
21 struction equipment and

22           “(B) certified by the installer (or by the  
23 taxpayer, if self-installed) as meeting the stand-  
24 ards of the Environmental Protection Agency



1 for nonroad diesel engines in effect on the date  
2 on which the engine is placed in service.

3 “(d) OTHER DEFINITIONS AND SPECIAL RULES.—

4 For purposes of this section—

5 “(1) DIESEL-POWERED CONSTRUCTION EQUIP-  
6 MENT.—The term ‘diesel-powered construction  
7 equipment’ means any equipment internally or exter-  
8 nally powered by diesel fuel (as defined in section  
9 4083(a)(3)) and used for preparation of sites, con-  
10 struction, addition, alteration, repair, or mainte-  
11 nance of buildings or engineering projects.

12 “(2) COST INCLUDES COST OF INSTALLA-  
13 TION.—The cost of any qualified diesel-powered con-  
14 struction property shall include the cost of the origi-  
15 nal installation of such property.

16 “(3) RECAPTURE.—The Secretary shall, by reg-  
17 ulations, provide for recapturing the benefit of any  
18 deduction allowable under subsection (a) with re-  
19 spect to any property which ceases to be property el-  
20 igible for such deduction.

21 “(4) PROPERTY USED OUTSIDE UNITED  
22 STATES, ETC., NOT QUALIFIED.—No deduction shall  
23 be allowed under subsection (a) with respect to any  
24 property referred to in section 50(b) or with respect



1 to the portion of the cost of any property taken into  
2 account under section 179.

3 “(5) BASIS REDUCTION.—

4 “(A) IN GENERAL.—For purposes of this  
5 title, the basis of any property shall be reduced  
6 by the portion of the cost of such property  
7 taken into account under subsection (a).

8 “(B) ORDINARY INCOME RECAPTURE.—  
9 For purposes of section 1245, the amount of  
10 the deduction allowable under subsection (a)  
11 with respect to any property which is of a char-  
12 acter subject to the allowance for depreciation  
13 shall be treated as a deduction allowed for de-  
14 preciation under section 167.”

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 263(a)(1) of such Code is amended  
17 by striking “or” at the end of subparagraph (H), by  
18 striking the period at the end of subparagraph (I)  
19 and inserting “, or”, and by inserting after subpara-  
20 graph (I) the following new subparagraph:

21 “(J) expenditures for which a deduction is  
22 allowed under section 179C.”

23 (2) Section 312(k)(3)(B) of such Code is  
24 amended by striking “or 179B” each place it ap-



1        appears in the heading and text and inserting “179B,  
2        or 179C”.

3            (3) Section 1016(a) of such Code is amended  
4        by striking “and” at the end of paragraph (30), by  
5        striking the period at the end of paragraph (31) and  
6        inserting “, and”, and by adding at the end the fol-  
7        lowing new paragraph:

8            “(32) to the extent provided in section  
9        179C(d).”.

10           (4) Section 1245(a) of such Code is amended  
11        by inserting “179C,” after “179B,” both places it  
12        appears in paragraphs (2)(C) and (3)(C).

13        (c) CLERICAL AMENDMENT.—The table of sections  
14        for part VI of subchapter B of chapter 1 of such Code  
15        is amended by inserting after section 179A the following  
16        new item:

      “Sec. 179C. Deduction for retrofitting diesel-powered construction equipment.”.

17        (d) EFFECTIVE DATE.—The amendments made by  
18        this section shall apply to property placed in service after  
19        the date of the enactment of this Act in taxable years end-  
20        ing after such date.

