

116TH CONGRESS
2D SESSION

H. R. 6391

To amend the Internal Revenue Code of 1986 to allow for a 5-year carryback of operating losses of small businesses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 2020

Mr. SCHNEIDER 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 allow for a 5-year carryback of operating losses of small businesses, and for other purposes.

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. 5-YEAR CARRYBACK OF OPERATING LOSSES OF**
4 **SMALL BUSINESSES.**

5 (a) IN GENERAL.—Section 172(b)(1) of the Internal
6 Revenue Code of 1986 is amended by adding at the end
7 the following new subparagraph:

8 “(D) CARRYBACK FOR 2020 NET OPER-
9 ATING LOSSES OF SMALL BUSINESSES DUE TO
10 COVID-19.—

1 “(i) IN GENERAL.—If an eligible small
2 business elects the application of this sub-
3 paragraph with respect to an applicable
4 2020 net operating loss due to COVID-19,
5 subparagraph (A)(i) shall be applied by
6 substituting ‘shall be a net operating loss
7 carryback to each of the 5 taxable years
8 preceding the taxable year of such loss’ for
9 ‘shall not be a net operating loss carryback
10 to any taxable year preceding the taxable
11 year of such loss’.

12 “(ii) APPLICABLE 2020 NET OPER-
13 ATING LOSS.—For purposes of this sub-
14 paragraph, the term ‘applicable 2020 net
15 operating loss’ means—

16 “(I) the taxpayer’s net operating
17 loss for any taxable year ending in
18 2020, or

19 “(II) if the taxpayer elects to
20 have this subclause apply in lieu of
21 subclause (I), the taxpayer’s net oper-
22 ating loss for any taxable year begin-
23 ning in 2020.

24 “(iii) ELECTION.—Any election under
25 this subparagraph shall be made in such

1 manner as may be prescribed by the Sec-
2 retary, and shall be made by the due date
3 (including extension of time) for filing the
4 taxpayer's return for the taxable year of
5 the net operating loss. Any such election,
6 once made, shall be irrevocable. Any elec-
7 tion under this subparagraph may be made
8 only with respect to 1 taxable year.

9 “(iv) ELIGIBLE SMALL BUSINESS.—

10 For purposes of this subparagraph, the
11 term ‘eligible small business’ means a
12 small business with fewer than 250 em-
13 ployees that is a small business concern as
14 defined in section 3(a) of the Small Busi-
15 ness Act (15 U.S.C. 632(a)).”.

16 (b) ANTI-ABUSE RULES.—The Secretary of the
17 Treasury or the Secretary's designee shall prescribe such
18 rules as are necessary to prevent the abuse of the purposes
19 of the amendments made by this section, including anti-
20 stuffing rules, anti-churning rules (including rules relating
21 to sale-leasebacks), and rules similar to the rules under
22 section 1091 of the Internal Revenue Code of 1986 relat-
23 ing to losses from wash sales.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to net operating losses arising in
3 taxable years ending after December 31, 2019.

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