

116TH CONGRESS
2D SESSION

H. R. 6579

To amend the Internal Revenue Code of 1986 to allow certain taxpayers a 2-year carryback of net operating losses and to restore and make permanent the limitation on excess business losses of non-corporate taxpayers.

IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 2020

Mr. DOGGETT (for himself, Mr. RASKIN, Ms. DELAURO, Mr. COHEN, Mr. BEYER, Mr. BLUMENAUER, Mr. KHANNA, Mr. POCAN, Ms. SCHAKOWSKY, Mr. WELCH, Ms. WILD, Mr. DEFazio, Ms. JAYAPAL, and Ms. OMAR) 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 certain taxpayers a 2-year carryback of net operating losses and to restore and make permanent the limitation on excess business losses of non-corporate taxpayers.

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

1 **SECTION 1. LIMITATION ON EXCESS BUSINESS LOSSES OF**
 2 **NON-CORPORATE TAXPAYERS RESTORED**
 3 **AND MADE PERMANENT.**

4 (a) IN GENERAL.—Section 461(l)(1) of the Internal
 5 Revenue Code of 1986 is amended to read as follows:

6 “(1) LIMITATION.—In the case of taxable year
 7 of a taxpayer other than a corporation beginning
 8 after December 31, 2017—

9 “(A) subsection (j) (relating to limitation
 10 on excess farm losses of certain taxpayers) shall
 11 not apply, and

12 “(B) any excess business loss of the tax-
 13 payer for the taxable year shall not be al-
 14 lowed.”.

15 (b) EFFECTIVE DATE.—The amendment made by
 16 this section shall take effect as if included in section
 17 2304(a) of the Coronavirus Aid, Relief, and Economic Se-
 18 curity Act.

19 **SEC. 2. CERTAIN TAXPAYERS ALLOWED 2-YEAR**
 20 **CARRYBACK OF NET OPERATING LOSSES**
 21 **ARISING IN 2020.**

22 (a) TWO-YEAR CARRYBACK OF LOSSES ARISING IN
 23 2020.—

24 (1) IN GENERAL.—Section 172(b)(1)(D)(i) of
 25 the Internal Revenue Code of 1986 is amended—

1 (A) by striking “beginning after December
2 31, 2017” and inserting “beginning after De-
3 cember 31, 2019”, and

4 (B) by striking “5 taxable years” in sub-
5 clause (I) and inserting “2 taxable years”.

6 (2) CONFORMING AMENDMENTS.—

7 (A) The heading for section 172(b)(1)(D)
8 of such Code is amended by striking “2018,
9 2019, AND”.

10 (B) Section 172(b)(1)(D) of such Code is
11 amended by striking clause (iii) and by redesign-
12 ating clauses (iv) and (v) as clauses (iii) and
13 (iv), respectively.

14 (C) Section 172(b)(1)(D)(iv) of such Code,
15 as so redesignated, is amended—

16 (i) by striking subclause (II), and

17 (ii) by striking “SPECIAL RULES” and
18 all that follows through “If the 5-year
19 carryback period” and inserting the fol-
20 lowing: “SPECIAL RULE FOR ELECTION
21 UNDER PARAGRAPH (3) TO EXCLUDE SEC-
22 TION 965 YEARS.—If the 2-year carryback
23 period”.

24 (b) CARRYBACK ONLY ALLOWED FOR SMALL BUSI-
25 NESSES.—

1 (1) IN GENERAL.—Section 172(b)(1)(D)(i) of
 2 such Code is amended by striking “net operating
 3 loss arising” and inserting “net operating loss of an
 4 eligible small business arising”.

5 (2) ELIGIBLE SMALL BUSINESS.—Section
 6 172(b)(1)(D) of such Code, as amended by the pre-
 7 ceding provisions of this Act, is amended by adding
 8 at the end the following new clause:

9 “(v) ELIGIBLE SMALL BUSINESS.—
 10 For purposes of clause (i), the term ‘eligi-
 11 ble small business’ means a corporation or
 12 partnership which meets the gross receipts
 13 test of section 448(c) (applied by sub-
 14 stituting ‘\$15,000,000’ for ‘\$25,000,000’
 15 each place it appears) for the taxable year
 16 in which the loss arose (or, in the case of
 17 a sole proprietorship, which would meet
 18 such test if such proprietorship were a cor-
 19 poration).”.

20 (c) DISALLOWED FOR CERTAIN TAXPAYERS.—Sec-
 21 tion 172(b)(1)(D) of such Code, as amended by the pre-
 22 ceding provisions of this Act, is amended by adding at the
 23 end the following new clauses:

24 “(vi) CARRYBACK DISALLOWED FOR
 25 CERTAIN TAXPAYERS.—Clause (i) shall not

1 apply with respect to any loss arising in a
2 taxable year in which—

3 “(I) the taxpayer (or any related
4 person) is not allowed a deduction
5 under this chapter for the taxable
6 year by reason of section 162(m) or
7 section 280G, or

8 “(II) the taxpayer (or any related
9 person) is a specified corporation for
10 the taxable year.

11 “(vii) SPECIFIED CORPORATION.—For
12 purposes of clause (vi)—

13 “(I) IN GENERAL.—The term
14 ‘specified corporation’ means, with re-
15 spect to any taxable year, a corpora-
16 tion the aggregate distributions (in-
17 cluding redemptions) of which during
18 all taxable years ending after Decem-
19 ber 31, 2017, exceed the sum of appli-
20 cable stock issued of such corporation
21 and 5 percent of the fair market value
22 of the stock of such corporation as of
23 the last day of the taxable year.

24 “(II) APPLICABLE STOCK
25 ISSUED.—The term ‘applicable stock

issued’ means, with respect to any corporation, the aggregate value of stock issued by the corporation during all taxable years ending after December 31, 2017, in exchange for money or property other than stock in such corporation.

“(III) CERTAIN PREFERRED STOCK DISREGARDED.—For purposes of subclause (I), stock described in section 1504(a)(4), and distributions (including redemptions) with respect to such stock, shall be disregarded.

“(viii) RELATED PERSON.—For purposes of clause (vi), a person is a related person to a taxpayer if the related person bears a relationship to the taxpayer specified in section 267(b) or section 707(b)(1).”.

(d) ADVANCE CARRYBACK OF ESTIMATED NET OPERATING LOSSES ARISING IN 2020.—

(1) IN GENERAL.—In the case of a taxable year beginning after December 31, 2019, and before January 1, 2021, a taxpayer may file an application with the Secretary of the Treasury for an advance

1 carryback adjustment of the tax for a prior taxable
2 year that would be affected, by reason of the amend-
3 ments made by this section, by so much of any net
4 operating loss estimated by the taxpayer to arise in
5 the taxable year to which the application relates as
6 does not exceed \$100,000.

7 (2) APPLICATION.—The application shall set
8 forth in such detail and with such supporting data
9 and explanation as the Secretary may require an es-
10 timate of the taxpayer's net operating loss that will
11 arise in such taxable year.

12 (3) DUE DATE FOR APPLICATION.—An applica-
13 tion under this subsection may not be filed later
14 than the due date for filing the return for the tax-
15 able year of the net operating loss from which the
16 carryback results.

17 (4) ALLOWANCE OF ADJUSTMENTS.—Not later
18 than 30 days after the date on which an application
19 for an advance carryback adjustment is filed under
20 paragraph (1), the Secretary shall dispose of such
21 application under rules similar to the rules of section
22 6411 of the Internal Revenue Code of 1986.

23 (5) REDUCTION OF NET OPERATING LOSS FOR
24 APPLICATION YEAR.—The amount of any net oper-
25 ating loss (determined without regard to this para-

1 graph) of the taxpayer for any taxable year from
2 which an advance carryback adjustment is made
3 under this subsection shall be reduced (but not
4 below zero) by the amount of estimated net oper-
5 ating loss taken into account in determining an ad-
6 vance carryback adjustment of the taxpayer under
7 this subsection.

8 (6) RECAPTURE.—The taxpayer’s tax imposed
9 by chapter 1 for such taxable year shall be increased
10 by the excess (if any) of—

11 (A) the reduction in tax for all prior tax-
12 able years by reason of an advance carryback
13 adjustment under this subsection, over

14 (B) the reduction in tax for all prior tax-
15 able years by reason of a net operating loss fi-
16 nally arising in the taxable year to which the
17 application under this section relates.

18 (7) REFERENCES TO SECRETARY.—Any ref-
19 erence to the Secretary of the Treasury in this sub-
20 section shall be treated as including a reference to
21 the Secretary’s delegate.

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect as if included in the enact-

1 ment of section 2302(b) of the Coronavirus Aid, Relief,
2 and Economic Security Act.

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