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(Original Signature of Member)

116TH CONGRESS
2D SESSION

H. R. _____

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

introduced the following bill; which was referred to the Committee on

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:

1 “(D) CARRYBACK FOR 2020 NET OPER-
2 ATING LOSSES OF SMALL BUSINESSES DUE TO
3 COVID-19.—

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

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

19 “(I) the taxpayer’s net operating
20 loss for any taxable year ending in
21 2020, or

22 “(II) if the taxpayer elects to
23 have this subclause apply in lieu of
24 subclause (I), the taxpayer’s net oper-

1 ating loss for any taxable year begin-
2 ning in 2020.

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

13 “(iv) ELIGIBLE SMALL BUSINESS.—
14 For purposes of this subparagraph, the
15 term ‘eligible small business’ means a
16 small business with fewer than 250 em-
17 ployees that is a small business concern as
18 defined in section 3(a) of the Small Busi-
19 ness Act (15 U.S.C. 632(a).’”.

20 (b) ANTI-ABUSE RULES.—The Secretary of the
21 Treasury or the Secretary’s designee shall prescribe such
22 rules as are necessary to prevent the abuse of the purposes
23 of the amendments made by this section, including anti-
24 stuffing rules, anti-churning rules (including rules relating
25 to sale-leasebacks), and rules similar to the rules under

1 section 1091 of the Internal Revenue Code of 1986 relat-
2 ing to losses from wash sales.

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