

116TH CONGRESS
1ST SESSION

S. 1996

To amend the Internal Revenue Code of 1986 to clarify the application of the net operating loss deduction.

IN THE SENATE OF THE UNITED STATES

JUNE 26, 2019

Ms. MCSALLY (for herself, Ms. SINEMA, Mrs. BLACKBURN, Mr. CORNYN, and Mr. ALEXANDER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to clarify the application of the net operating loss deduction.

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 “Net Operating Loss
5 Clarification Act of 2019”.

6 **SEC. 2. TECHNICAL AMENDMENTS RELATING TO THE NET**
7 **OPERATING LOSS DEDUCTION.**

8 (a) CLARIFICATION OF EFFECTIVE DATE OF NET
9 OPERATING LOSS RULES.—Section 13302(e) of Public
10 Law 115–97 is amended—

1 (1) by striking all that follows “shall apply to”
2 in paragraph (1) and inserting “taxable years to
3 which losses arising in taxable years beginning after
4 December 31, 2017, may be carried.”, and

5 (2) by striking “ending” in paragraph (2) and
6 inserting “beginning”.

7 (b) CLARIFICATION OF NET OPERATING LOSS
8 CARRYBACK FOR FARMING LOSSES AND CERTAIN INSUR-
9 ANCE COMPANIES.—Section 172(b)(1)(A) of the Internal
10 Revenue Code of 1986 is amended to read as follows:

11 “(A) GENERAL RULE.—A net operating
12 loss for any taxable year—

13 “(i) shall be a net operating loss
14 carryback to the extent provided in sub-
15 paragraphs (B) and (C)(i), and

16 “(ii) except as provided in subpara-
17 graph (C)(ii), shall be a net operating loss
18 carryover—

19 “(I) in the case of a net oper-
20 ating loss arising in a taxable year be-
21 ginning before January 1, 2018, to
22 each of the 20 taxable years following
23 the taxable year of the loss, and

24 “(II) in the case of a net oper-
25 ating loss arising in a taxable year be-

1 ginning after December 31, 2017, to
2 each taxable year following the tax-
3 able year of the loss.”.

4 (c) CLARIFICATION OF DETERMINATION OF TAX-
5 ABLE INCOME.—Section 172(a)(2) of the Internal Rev-
6 enue Code of 1986 is amended by striking “deduction al-
7 lowable under this section” and inserting “deductions al-
8 lowable under this section and sections 199A and 250”.

9 (d) CLARIFICATION OF ORDER AND METHOD OF NET
10 OPERATING LOSS CALCULATION.—

11 (1) IN GENERAL.—Section 172 of the Internal
12 Revenue Code of 1986 is amended by redesignating
13 subsection (g) as subsection (h) and by inserting
14 after subsection (f) the following new subsection:

15 “(g) SPECIAL RULE FOR LOSSES FROM TAXABLE
16 YEARS BEGINNING BEFORE JANUARY 1, 2018.—In the
17 case of a taxable year (hereafter in this subsection referred
18 to as the ‘current year’) to which is carried a net operating
19 loss arising in a taxable year beginning before January
20 1, 2018, the amount determined under subsection (a) for
21 the current taxable year shall be an amount equal to the
22 sum of—

23 “(1) the aggregate amount of such net oper-
24 ating losses carried to the current taxable year, and

25 “(2) the lesser of—

1 “(A) the aggregate amount of net oper-
2 ating losses arising in taxable years beginning
3 after December 31, 2017, which are carried to
4 the current taxable year, or

5 “(B) 80 percent of the excess (if any) of—

6 “(i) taxable income computed without
7 regard to the deductions allowable under
8 this section and sections 199A and 250,
9 over

10 “(ii) the amount determined under
11 paragraph (1).”.

12 (2) CONFORMING AMENDMENT.—Section
13 172(b)(2)(C) of such Code is amended to read as
14 follows:

15 “(C) be reduced by 20 percent of taxable
16 income computed under section (a)(2) for such
17 prior taxable year (or if subsection (g) applies
18 to such prior taxable year, 20 percent of the ex-
19 cess described in subsection (g)(2)(B) for such
20 year).”.

21 (e) CONFORMING AMENDMENTS TO RULES REGARD-
22 ING REMICs.—Section 860E(a)(3)(B) of the Internal
23 Revenue Code of 1986 is amended by striking all that fol-
24 lows “for purposes of” and inserting “subsection (a)(2),

1 and the second sentence of subsection (b)(2), of section
2 172.”.

3 (f) ACCELERATED REFUNDS.—In the case of a net
4 operating loss carryback which is allowed for a taxable
5 year by reason of the amendments made by subsections
6 (a) through (e), an application under section 6411(a) of
7 the Internal Revenue Code of 1986 with respect to such
8 carryback shall not fail to be treated as timely filed if filed
9 by the later of—

10 (1) the date which is 4 months after the date
11 of the enactment of this Act, or

12 (2) the date otherwise applicable under section
13 6411(a) of such Code.

14 (g) EFFECTIVE DATE.—The amendments made by
15 subsections (a) through (e) shall take effect as if included
16 in the provision of Public Law 115–97 to which they re-
17 late.

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