

115TH CONGRESS
1ST SESSION

H. R. 2297

To amend the Internal Revenue Code of 1986 to provide an exception from the passive loss rules for investments in high technology research small business pass-thru entities.

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2017

Mr. MEEHAN (for himself, Mr. KELLY of Pennsylvania, Mr. NEAL, Mr. LARSON of Connecticut, and Mr. KIND) 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 provide an exception from the passive loss rules for investments in high technology research small business pass-thru entities.

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 “Partnerships to Ad-
5 vance Revolutionary Technology and Novel Entrepre-
6 neurial Research Act” or the “PARTNER Act”.

1 **SEC. 2. EXCEPTION FROM PASSIVE LOSS RULES FOR IN-**
2 **VESTMENTS IN HIGH TECHNOLOGY RE-**
3 **SEARCH SMALL BUSINESS PASS-THRU ENTI-**
4 **TIES.**

5 (a) IN GENERAL.—Subsection (c) of section 469 of
6 the Internal Revenue Code of 1986 is amended by redesi-
7 gnating paragraphs (4) through (7) as paragraphs (5)
8 through (8), respectively, and by inserting after paragraph
9 (3) the following new paragraph:

10 “(4) HIGH TECHNOLOGY RESEARCH ACTIVI-
11 TIES.—

12 “(A) IN GENERAL.—The term ‘passive ac-
13 tivity’ shall not include any qualified research
14 activity of the taxpayer carried on by a high
15 technology research small business pass-thru
16 entity.

17 “(B) TREATMENT OF LOSSES AND DEDUC-
18 TIONS.—

19 “(i) IN GENERAL.—Losses or deduc-
20 tions of a taxpayer in connection with
21 qualified research activities carried on by a
22 high technology research small business
23 pass-thru entity shall not be treated as
24 losses or deductions, respectively, from a
25 passive activity except as provided in
26 clause (ii) and subparagraph (C).

1 “(ii) LIMITATION.—Clause (i) shall
2 apply to losses and deductions of a tax-
3 payer in connection with a high technology
4 small business pass-thru entity for a tax-
5 able year only to the extent that the aggre-
6 gate losses and deductions of the taxpayer
7 in connection with qualified research activi-
8 ties of such entity for such taxable year do
9 not exceed the portion of the taxpayer’s
10 adjusted basis in the taxpayer’s ownership
11 interest in such entity that is attributable
12 to money or other property contributed—

13 “(I) in exchange for such owner-
14 ship interest, and

15 “(II) specifically for use in con-
16 nection with qualified research activi-
17 ties.

18 For purposes of the preceding sentence,
19 the taxpayer’s basis shall not include any
20 portion of such basis which is attributable
21 to an increase in a partner’s share of the
22 liabilities of a partnership that is consid-
23 ered under section 752(a) as a contribution
24 of money.

1 “(C) TREATMENT OF CARRYOVERS.—Sub-
2 paragraph (B)(i) shall not apply to the portion
3 of any loss or deduction that is carried over
4 under subsection (b) into a taxable year other
5 than the taxable year in which such loss or de-
6 duction arose.

7 “(D) QUALIFIED RESEARCH ACTIVITY.—
8 For purposes of this paragraph, the term
9 ‘qualified research activity’ means any activity
10 constituting qualified research (within the
11 meaning of section 41(d)(1)(B) and taking into
12 account paragraphs (3) and (4) of section
13 41(d)) which involves a process of experimen-
14 tation.

15 “(E) HIGH TECHNOLOGY RESEARCH
16 SMALL BUSINESS PASS-THRU ENTITY.—For
17 purposes of this paragraph, the term ‘high tech-
18 nology research small business pass-thru entity’
19 means any domestic pass-thru entity for any
20 taxable year if—

21 “(i) either—

22 “(I) more than 75 percent of the
23 entity’s expenditures (including sala-
24 ries, rent and overhead) for such tax-
25 able year are paid or incurred in con-

1 nection with qualified research (within
2 the meaning of section 41(d)(1)(B),
3 taking into account paragraphs (3)
4 and (4) of section 41(d)) that involves
5 a process of experimentation con-
6 ducted by the entity, or

7 “(II) more than 50 percent of
8 the entity’s expenditures for such tax-
9 able year constitute qualified research
10 expenses (as defined in section 41(b),
11 but determined without regard to the
12 phrase ‘65 percent of’ in paragraph
13 (3)(A) thereof),

14 “(ii) such entity is a small business
15 (within the meaning of section
16 41(b)(3)(D)(iii), applied by substituting
17 ‘250’ for ‘500’ in subclause (I) thereof),
18 and

19 “(iii) at no time during the taxable
20 year does the entity have aggregate gross
21 assets in excess of \$150,000,000.

22 “(F) PROVISIONS RELATED TO AGGRE-
23 GATE GROSS ASSETS LIMITATION.—For pur-
24 poses of this paragraph—

1 “(i) IN GENERAL.—Except as other-
2 wise provided in this subparagraph, the
3 term ‘aggregate gross assets’ has the
4 meaning given such term in section
5 1202(d)(2).

6 “(ii) EXCEPTION FOR CERTAIN IN-
7 TANGIBLES.—Any section 197 intangible
8 (as defined in section 197(d) and deter-
9 mined without regard to section 197(e))
10 which is used directly in connection with
11 the research referred to in subparagraph
12 (E)(i) shall not be taken into account in
13 determining aggregate gross assets.

14 “(iii) EXCEPTION FOR CERTAIN FOL-
15 LOW-ON INVESTMENTS.—Cash from a sale
16 of equity interests shall not be taken into
17 account in determining aggregate gross as-
18 sets if—

19 “(I) the aggregate gross assets of
20 such entity (determined immediately
21 after such sale and without regard to
22 this clause) do not exceed the sum of
23 \$150,000,000, plus 25 percent of the
24 aggregate gross assets of such entity
25 (determined immediately before such

1 sale and without regard to this
2 clause), and

3 “(II) the aggregate gross assets
4 of such entity (determined imme-
5 diately before such sale and without
6 regard to this clause) do not exceed
7 \$150,000,000.

8 Sales of equity interests which are part of
9 the same plan or arrangement, or which
10 are carried out with the principal purpose
11 of increasing the amount of cash to which
12 this clause applies (determined without re-
13 gard to this sentence), shall be treated as
14 a single sale for purposes of this clause.

15 “(iv) INFLATION ADJUSTMENT.—In
16 the case of any taxable year beginning
17 after 2017, the \$150,000,000 amount in
18 subparagraph (E)(iii) and subclauses (I)
19 and (II) of clause (iii) shall each be in-
20 creased by an amount equal to—

21 “(I) such dollar amount, multi-
22 plied by

23 “(II) the cost of living adjust-
24 ment determined under section 1(f)(3)
25 for the calendar year in which the tax-

1 able year begins determined by sub-
2 stituting ‘calendar year 2016’ for ‘cal-
3 endar year 1992’ in subparagraph (B)
4 thereof.

5 Any increase determined under the pre-
6 ceding sentence shall be rounded to the
7 nearest \$100,000.

8 “(G) CAPITAL EXPENDITURES TAKEN INTO
9 ACCOUNT FOR EXPENDITURES TEST.—An ex-
10 penditure shall not fail to be taken into account
11 under subparagraph (E)(i) merely because such
12 expenditure is chargeable to capital account.

13 “(H) PASS-THRU ENTITY.—For purposes
14 of this paragraph, the term ‘pass-thru entity’
15 means any partnership, S corporation, or other
16 entity identified by the Secretary as a pass-thru
17 entity for purposes of this paragraph.

18 “(I) AGGREGATION RULES.—

19 “(i) IN GENERAL.—All persons treat-
20 ed as a single employer under subsection
21 (a) or (b) of section 52, or subsection (m)
22 or (o) of section 414, shall be treated as a
23 single entity for purposes of subparagraphs
24 (E) and (F)(iii).

1 “(ii) LIMITATION WHERE ENTITY
2 WOULD NOT QUALIFY.—No entity shall be
3 treated as a high technology research small
4 business pass-thru entity unless such enti-
5 ty qualifies as such both with and without
6 the application of clause (i).

7 “(J) ACTIVITIES NOT ENGAGED IN FOR
8 PROFIT AND ECONOMIC SUBSTANCE RULES.—
9 Section 183 and the economic substance rules
10 of section 7701(o) shall not apply to disallow
11 the losses, deductions, and credits of a high
12 technology research small business pass-thru
13 entity solely as a result of losses incurred by
14 such entity.”.

15 (b) MATERIAL PARTICIPATION NOT REQUIRED.—
16 Paragraph (5) of section 469(c) of the Internal Revenue
17 Code of 1986, as redesignated by subsection (a), is amend-
18 ed by striking “and (3)” in the heading and text and in-
19 serting “, (3), and (4)”.

20 (c) CERTAIN RESEARCH-RELATED DEDUCTIONS AND
21 CREDITS OF HIGH TECHNOLOGY RESEARCH SMALL
22 BUSINESS PASS-THRU ENTITIES ALLOWED FOR PUR-
23 POSES OF DETERMINING ALTERNATIVE MINIMUM TAX.—

24 (1) DEDUCTION FOR RESEARCH AND EXPERI-
25 MENTAL EXPENDITURES.—Paragraph (2) of section

1 56(b) of the Internal Revenue Code of 1986 is
2 amended by adding at the end the following new
3 subparagraph:

4 “(E) EXCEPTION FOR HIGH TECHNOLOGY
5 RESEARCH SMALL BUSINESS PASS-THRU ENTI-
6 TIES.—In the case of a high technology re-
7 search small business pass-thru entity (as de-
8 fined in section 469(c)(4)), this paragraph shall
9 not apply to any amount allowable as a deduc-
10 tion under section 174(a).”.

11 (2) ALLOWANCE OF CERTAIN RESEARCH-RE-
12 LATED CREDITS.—Subparagraph (B) of section
13 38(c)(4) of such Code is amended by redesignating
14 clauses (ii) through (ix) as clauses (iii) through (x),
15 respectively, and by inserting after clause (i) the fol-
16 lowing new clause:

17 “(ii) the credit of an individual tax-
18 payer determined under section 41 to the
19 extent attributable to a high technology re-
20 search small business pass-thru entity (as
21 defined in section 469(c)(4)),”.

22 (d) EXCEPTION TO LIMITATION ON PASS-THRU OF
23 RESEARCH CREDIT.—Subsection (g) of section 41 of such
24 Code is amended by adding at the end the following:
25 “Paragraphs (2) and (4) shall not apply with respect to

1 any high technology research small business pass-thru en-
2 tity (as defined in section 469(c)(4)).”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to losses and credits arising in tax-
5 able years beginning after December 31, 2016.

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