

116TH CONGRESS
1ST SESSION

S. 3136

To amend the Internal Revenue Code of 1986 to establish small business start-up savings accounts.

IN THE SENATE OF THE UNITED STATES

DECEMBER 19, 2019

Mr. GARDNER (for himself and Mr. PETERS) 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 establish small business start-up savings accounts.

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 “Small Business Start-
5 up Savings Accounts Act of 2019”.

6 **SEC. 2. ESTABLISHMENT OF SMALL BUSINESS START-UP**
7 **SAVINGS ACCOUNTS.**

8 (a) IN GENERAL.—Chapter 77 of the Internal Rev-
9 enue Code of 1986 is amended by adding at the end the
10 following new section:

1 **“SEC. 7530. SMALL BUSINESS START-UP SAVINGS AC-**
2 **COUNTS.**

3 “(a) IN GENERAL.—An individual or an eligible small
4 business may establish a small business start-up savings
5 account.

6 “(b) SMALL BUSINESS START-UP SAVINGS AC-
7 COUNT.—For purposes of this section, the term ‘small
8 business start-up savings account’ means a trust created
9 or organized in the United States for the benefit of the
10 account beneficiary, but only if the written governing in-
11 strument creating the trust meets the following require-
12 ments:

13 “(1) Except as provided in subsection (d)(3) in
14 the case of a rollover contribution, no contribution
15 will be accepted unless it is in cash, and contribu-
16 tions will not be accepted for the taxable year on be-
17 half of any account beneficiary in excess of the
18 amount in effect for such taxable year under sub-
19 section (d)(2).

20 “(2) The trustee is a bank (as defined in sec-
21 tion 408(n)) or such other person who demonstrates
22 to the satisfaction of the Secretary that the manner
23 in which such other person will administer the trust
24 will be consistent with the requirements of this sec-
25 tion.

1 “(3) No part of the trust funds will be invested
2 in life insurance contracts.

3 “(4) The interest of an individual in the bal-
4 ance of his account is nonforfeitable.

5 “(5) The assets of the trust will not be commin-
6 gled with other property except in a common trust
7 fund or common investment fund.

8 “(c) ELIGIBLE SMALL BUSINESS.—For purposes of
9 this section, the term ‘eligible small business’ means, with
10 respect to any taxable year, any person engaged in a trade
11 or business if the average number of employees employed
12 by such person on business days during the taxable year
13 was 500 or fewer.

14 “(d) TREATMENT OF CONTRIBUTIONS.—

15 “(1) IN GENERAL.—There shall be allowed as a
16 deduction for the taxable year an amount equal to
17 so much of the account beneficiary’s contributions
18 for the taxable year to all small business start-up
19 savings accounts maintained for the benefit of such
20 beneficiary as do not exceed the contribution limita-
21 tions in effect for the taxable year under paragraph
22 (2).

23 “(2) CONTRIBUTION LIMITATION.—

24 “(A) IN GENERAL.—The amount allowable
25 as a deduction under paragraph (1) with re-

1 spect to all small business start-up savings ac-
 2 counts maintained for the benefit of any person
 3 shall not exceed the lesser of—

4 “(i) \$10,000, or

5 “(ii) \$150,000, reduced by the aggre-
 6 gate contributions by such person for all
 7 taxable years with respect to all small busi-
 8 ness start-up savings accounts of the tax-
 9 payer.

10 “(B) COST OF LIVING ADJUSTMENT.—

11 “(i) IN GENERAL.—In the case of a
 12 taxable year beginning after 2020, the
 13 \$10,000 amount in subparagraph (A) shall
 14 be increased by an amount equal to—

15 “(I) such dollar amount, multi-
 16 plied by

17 “(II) the cost-of-living adjust-
 18 ment determined under section 1(f)(3)
 19 for the calendar year in which the tax-
 20 able year begins, determined by sub-
 21 stituting ‘calendar year 2019’ for ‘cal-
 22 endar year 1992’ in subparagraph
 23 (A)(ii) thereof.

24 “(ii) ROUNDING.—If any amount as
 25 adjusted under clause (i) is not a multiple

1 of \$500, such amount shall be rounded to
2 the next lowest multiple of \$500.

3 “(3) ROLLOVERS FROM RETIREMENT PLANS
4 NOT ALLOWED.—Under regulations prescribed by
5 the Secretary, a person may make a rollover con-
6 tribution to a small business start-up savings ac-
7 count only in the case of a rollover from another
8 small business start-up savings account.

9 “(4) TREATED AS DEDUCTION FOR INDIVID-
10 UALS AND CORPORATIONS.—For purposes of chapter
11 1, the deduction allowed under paragraph (1) shall
12 be treated as a deduction specified in part VI of sub-
13 chapter B of chapter 1 (relating to itemized deduc-
14 tions for individuals and corporations).

15 “(e) TREATMENT OF DISTRIBUTIONS.—

16 “(1) TAX TREATMENT.—

17 “(A) EXCLUSION OF QUALIFIED DISTRIBUTI-
18 ONS.—Any qualified distribution from a small
19 business start-up savings account shall not be
20 includible in gross income.

21 “(B) INCLUSION OF OTHER DISTRIBUTI-
22 ONS.—Any distribution from a small business
23 start-up savings account which is not a quali-
24 fied distribution shall be included in gross in-
25 come.

1 “(2) QUALIFIED DISTRIBUTION.—For purposes
2 of this subsection, the term ‘qualified distribution’
3 means, with respect to any taxable year, any pay-
4 ment or distribution from a small business start-up
5 savings account—

6 “(A) to the extent the amount of such pay-
7 ment or distribution does not exceed the sum
8 of—

9 “(i) the aggregate amounts paid or in-
10 curred by the taxpayer for such taxable
11 year with respect to the taxpayer’s trade or
12 business for the purchase of equipment or
13 facilities, marketing, training, incorpora-
14 tion, and accounting fees, and

15 “(ii) the aggregate capital contribu-
16 tions of the taxpayer with respect to an eli-
17 gible small business for the taxable year
18 (but only to the extent such amounts are
19 used by such small business for purposes
20 described in clause (i)), and

21 “(B) which, in the case of a payment or
22 distribution subsequent to the first payment or
23 distribution from such account (or any prede-
24 cessor to such account)—

1 “(i) is made not later than the close
2 of the 5th taxable year beginning after the
3 date of such first payment or distribution,
4 and

5 “(ii) is made with respect to the same
6 eligible small business with respect to
7 which such first payment or distribution
8 was made.

9 “(3) TREATMENT AFTER DEATH OF ACCOUNT
10 BENEFICIARY.—

11 “(A) IN GENERAL.—If, by reason of the
12 death of the account beneficiary, any person ac-
13 quires the account beneficiary’s interest in a
14 small business start-up savings account—

15 “(i) such account shall cease to be a
16 small business start-up savings account as
17 of the date of death, and

18 “(ii) an amount equal to the fair mar-
19 ket value of the assets in such account on
20 such date shall be includible—

21 “(I) in the case of a person who
22 is not the estate of such beneficiary,
23 in such person’s gross income for the
24 taxable year which includes such date,
25 or

1 “(II) in the case of a person who
2 is the estate of such beneficiary, in
3 such beneficiary’s gross income for
4 the last taxable year of such bene-
5 ficiary.

6 “(B) SPECIAL RULES.—

7 “(i) REDUCTION OF INCLUSION FOR
8 PREDEATH EXPENSES.—The amount in-
9 cludible in gross income under subpara-
10 graph (A) shall be reduced by the amounts
11 described in paragraph (2) which were in-
12 curred by the decedent before the date of
13 the decedent’s death and paid by such per-
14 son within 1 year after such date.

15 “(ii) DEDUCTION FOR ESTATE
16 TAXES.—An appropriate deduction shall be
17 allowed under section 691(c) to any person
18 (other than the decedent) with respect to
19 amounts included in gross income under
20 subparagraph (A)(ii)(I) by such person.

21 “(4) TREATMENT FOR FAILURE TO BE TREAT-
22 ED AS ELIGIBLE SMALL BUSINESS.—If for any tax-
23 able year a taxpayer which holds a small business
24 start-up savings account as an eligible small busi-
25 ness ceases to be an eligible small business—

1 “(A) such account shall cease to be a small
2 business start-up savings account, and

3 “(B) the balance of such account shall be
4 treated as paid out for such taxable year in a
5 distribution which is not a qualified distribu-
6 tion.

7 “(f) SPECIAL RULES.—

8 “(1) DENIAL OF DOUBLE BENEFIT.—Any de-
9 duction or credit otherwise allowed for the taxable
10 year with respect to amounts described in subsection
11 (e)(2)(A) shall be reduced by an amount equal to
12 the qualified distributions attributable to such
13 amounts. The adjusted basis of any property placed
14 in service for the taxable year shall be reduced by
15 the amount of any qualified distributions attrib-
16 utable to such property. For purposes of this para-
17 graph, qualified distributions shall first be treated as
18 attributable to amounts described in subsection
19 (e)(2)(A), then to property placed in service for the
20 taxable year.

21 “(2) AGGREGATION RULE.—For purposes of
22 this section, all persons treated as a single employer
23 under subsection (a) or (b) of section 52, or sub-
24 section (m) or (o) of section 414, shall be treated as
25 one person.”.

1 (b) EXCISE TAX ON EXCESS CONTRIBUTIONS AND
 2 NONQUALIFIED DISTRIBUTIONS.—Subtitle D of the Inter-
 3 nal Revenue Code of 1986 is amended by adding at the
 4 end the following new chapter:

5 **“CHAPTER 50A—SMALL BUSINESS START-**
 6 **UP SAVINGS ACCOUNTS**

“Sec. 5000D. Tax on excess contributions to small business start-up savings accounts.

“Sec. 5000E. Tax on nonqualified distributions from small business start-up savings accounts.

“Sec. 5000F. Cross reference.

7 **“SEC. 5000D. TAX ON EXCESS CONTRIBUTIONS TO SMALL**
 8 **BUSINESS START-UP SAVINGS ACCOUNTS.**

9 “(a) IN GENERAL.—In the case of a small business
 10 start-up savings account (within the meaning of section
 11 7530) there is imposed for each taxable year a tax in an
 12 amount equal to 6 percent of the amount of the excess
 13 contributions to such taxpayer’s account (determined as
 14 of the close of the taxable year).

15 “(b) LIMITATION.—The amount of tax imposed by
 16 subsection (a) shall not exceed 6 percent of the value of
 17 the account (determined as of the close of the taxable
 18 year).

19 “(c) EXCESS CONTRIBUTIONS.—For purposes of this
 20 section, in the case of contributions to all small business
 21 start-up savings accounts maintained for the benefit of a
 22 person, the term ‘excess contributions’ means the sum
 23 of—

1 “(1) the excess (if any) of—

2 “(A) the amount contributed to such ac-
3 counts for the taxable year, over

4 “(B) the amount allowable as a contribu-
5 tion under section 7530(d)(2)(A) for such tax-
6 able year, and

7 “(2) the amount determined under this sub-
8 section for the preceding taxable year, reduced by
9 the sum of—

10 “(A) the distributions out of the accounts
11 for the taxable year, and

12 “(B) the excess (if any) of—

13 “(i) the maximum amount allowable
14 as a contribution under section
15 7530(d)(2)(A) for such taxable year, over

16 “(ii) the amount contributed to such
17 accounts for such taxable year.

18 **“SEC. 5000E. TAX ON NONQUALIFIED DISTRIBUTIONS FROM**
19 **SMALL BUSINESS START-UP SAVINGS AC-**
20 **COUNTS.**

21 “(a) IN GENERAL.—If for any taxable year an
22 amount is paid or distributed out of a taxpayer’s small
23 business start-up savings account, there is imposed for
24 such taxable year a tax in an amount equal to 10 percent

1 of the portion of such amount which is includible in the
2 gross income of the taxpayer.

3 “(b) EXCEPTION FOR DISABILITY OR DEATH.—Sub-
4 section (a) shall not apply if the payment or distribution
5 is made after the account beneficiary becomes disabled
6 within the meaning of section 72(m)(7) (but only if such
7 beneficiary’s account was created before becoming so dis-
8 abled) or dies.

9 **“SEC. 5000F. CROSS REFERENCE.**

10 “For prohibited transactions, see section 4975.”.

11 (c) PROHIBITED TRANSACTIONS.—

12 (1) IN GENERAL.—Paragraph (1) of section
13 4975(e) of such Code is amended by striking “or”
14 at the end of subparagraph (F), by striking the pe-
15 riod at the end of subparagraph and inserting “,
16 or”, and by adding at the end the following new sub-
17 paragraph:

18 “(H) a small business start-up savings ac-
19 count (within the meaning of section 7530).”.

20 (2) SPECIAL RULE FOR CEASING TO BE A
21 SMALL BUSINESS START-UP SAVINGS ACCOUNT.—
22 Section 4975(c) of such Code (relating to tax on
23 prohibited transactions) is amended by adding at the
24 end the following new paragraph:

1 “(7) SPECIAL RULE FOR SMALL BUSINESS
2 START-UP SAVINGS ACCOUNT.—An individual for
3 whose benefit a small business start-up savings ac-
4 count (within the meaning of section 7530) is estab-
5 lished shall be exempt from the tax imposed by this
6 section with respect to any transaction concerning
7 such account (which would otherwise be taxable
8 under this section) if, with respect to such trans-
9 action, the account ceases to be a small business
10 start-up savings account by reason of the application
11 of paragraph (3) or (4) of section 7530(e) to such
12 account.”.

13 (d) DEDUCTION ALLOWED WHETHER OR NOT INDI-
14 VIDUAL ITEMIZES.—Subsection (a) of section 62 of such
15 Code is amended by inserting after paragraph (21) the
16 following new paragraph:

17 “(22) CONTRIBUTIONS TO SMALL BUSINESS
18 START-UP SAVINGS ACCOUNTS.—The deduction al-
19 lowed by section 7530(d)(1)(A).”.

20 (e) CONFORMING AMENDMENTS.—

21 (1) The table of chapters for subtitle D of such
22 Code is amended by adding at the end the following
23 new item:

 “CHAPTER 50A. SMALL BUSINESS START-UP SAVINGS ACCOUNTS”.

1 (2) The table of sections for chapter 77 of such
2 Code is amended by inserting after the item relating
3 to section 7529 the following new item:

 “Sec. 7530. Small Business Start-Up Savings Accounts.”.

4 (f) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2019.

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