

116TH CONGRESS
2D SESSION

S. 3549

To amend the Internal Revenue Code of 1986 to provide advance tax refunds to small businesses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 20, 2020

Mr. WYDEN (for himself and Mr. CARDIN) 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 provide advance tax refunds to 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. SHORT TITLE.**

4 This Act may be cited as the “Save America’s Main
5 Street Act”.

6 **SEC. 2. SMALL BUSINESS REBATE.**

7 (a) IN GENERAL.—Subchapter B of chapter 65 of
8 subtitle F of the Internal Revenue Code of 1986 is amend-
9 ed by inserting after section 6427 the following new sec-
10 tion:

1 **“SEC. 6428. SMALL BUSINESS REBATE.**

2 “(a) ALLOWANCE OF CREDIT.—

3 “(1) IN GENERAL.—In the case of a qualifying
4 business, there shall be allowed as a credit against
5 the tax imposed by subtitle A for the first taxable
6 year beginning in 2020 an amount equal to the less-
7 er of—

8 “(A) 30 percent of qualified gross receipts
9 of such qualifying business for the first taxable
10 year beginning in 2019, or

11 “(B) \$75,000.

12 “(2) SPECIAL RULE.—In the case of—

13 “(A) a qualifying business which did not
14 file a tax return for the taxable year described
15 in paragraph (1)(A), or

16 “(B) a sole proprietorship for which gross
17 receipts were not reported on a return of tax
18 for such taxable year,

19 such paragraph shall be applied by substituting
20 ‘2018’ for ‘2019’.

21 “(3) QUALIFIED GROSS RECEIPTS.—For pur-
22 poses of paragraph (1)(A), the term ‘qualified gross
23 receipts’ means gross receipts of the qualifying busi-
24 ness which are effectively connected with the conduct
25 of a trade or business within the United States
26 (within the meaning of section 864(c), determined

1 by substituting ‘qualifying business’ for ‘nonresident
2 alien individual or a foreign corporation’ or for ‘for-
3 eign corporation’ each place it appears) for the ap-
4 plicable taxable year under paragraph (1)(A), as re-
5 ported by the taxpayer on—

6 “(A) in the case of a qualifying business
7 which is a partnership, the return required to
8 be filed under section 6031,

9 “(B) in the case of a qualifying business
10 which is an S corporation, the return required
11 to be filed under section 6037, and

12 “(C) in the case of any other qualifying
13 business, the return of tax for the taxable year.

14 “(b) QUALIFYING BUSINESS.—

15 “(1) IN GENERAL.—For purposes of this sec-
16 tion, the term ‘qualifying business’ means any per-
17 son which—

18 “(A) meets the gross receipts test of sub-
19 section (c) of section 448 for the applicable tax-
20 able year under subsection (a)(1)(A), except
21 that subsection (c) of section 448 shall be ap-
22 plied—

23 “(i) without regard to paragraph (4)
24 of such subsection, and

1 “(ii) by substituting ‘\$1,000,000’ for
2 ‘\$25,000,000’, and

3 “(B) with respect to the preceding cal-
4 endar year, employed an average of not greater
5 than 50 full-time employees (as such term is
6 defined in paragraph (4) of section 4980H(c))
7 on business days during such calendar year.

8 “(2) SPECIAL RULE.—For purposes of para-
9 graph (1)(A), in the case of any taxpayer which is
10 not a corporation or a partnership, the gross re-
11 ceipts test of section 448(c) shall be applied in the
12 same manner as if such taxpayer were a corporation
13 or partnership.

14 “(3) FULL-TIME EQUIVALENTS.—For purposes
15 of paragraph (1)(B), the number of full-time em-
16 ployees shall be determined pursuant to rules similar
17 to the rules described in paragraph (2)(E) of section
18 4980H(c).

19 “(4) AGGREGATION RULES.—All persons treat-
20 ed as a single employer under subsection (a) or (b)
21 of section 52 or subsection (m) or (o) of section 414
22 shall be treated as a single person for purposes of
23 paragraph (1)(B).

24 “(5) QUALIFIED ORGANIZATIONS.—

1 “(A) INCLUSION AS QUALIFYING BUSI-
2 NESS.—

3 “(i) IN GENERAL.—For purposes of
4 this section, the term ‘qualifying business’
5 shall include any qualified organization.

6 “(ii) DEFINITION.—For purposes of
7 this paragraph, the term ‘qualified organi-
8 zation’ means an organization which—

9 “(I) is described in section
10 501(c)(3) and exempt from tax under
11 section 501(a),

12 “(II) is described in section
13 170(b)(1)(A),

14 “(III) is not described in section
15 509(a)(3), and

16 “(IV) satisfies the requirements
17 under subparagraphs (A) and (B) of
18 paragraph (1).

19 “(B) QUALIFIED GROSS RECEIPTS.—

20 “(i) IN GENERAL.—For purposes of
21 subsection (a)(1)(A), in the case of a quali-
22 fied organization, the term ‘qualified gross
23 receipts’ means gross receipts of the orga-
24 nization for the taxable year described in
25 such subsection.

1 “(ii) SPECIAL RULE.—In the case of a
2 qualified organization which did not file a
3 tax return for the taxable year described in
4 subsection (a)(1)(A), such subsection shall
5 be applied by substituting ‘2018’ for
6 ‘2019’.

7 “(iii) ORGANIZATION EXEMPT FROM
8 FILING.—

9 “(I) IN GENERAL.—In the case
10 of an organization which is exempt
11 from filing a return pursuant to sec-
12 tion 6033(a) or which is not required
13 to include in such return the informa-
14 tion necessary to determine the
15 amount of the credit allowed under
16 this section, such organization may
17 submit to the Secretary (in such form
18 and manner as is deemed appropriate
19 by the Secretary) any information re-
20 quired for purposes of determining—

21 “(aa) whether such organi-
22 zation satisfies the requirements
23 under subparagraphs (A) and
24 (B) of paragraph (1), and

1 “(bb) the amount of the
2 credit allowed under subsection
3 (a)(1).

4 “(II) PUBLICITY OF INFORMA-
5 TION.—For purposes of section 6104,
6 any information submitted by an or-
7 ganization under subclause (I) shall
8 be deemed to be information required
9 to be furnished by such organization
10 pursuant to section 6033.

11 “(c) TREATMENT OF CREDIT.—The credit allowed by
12 subsection (a) shall be treated as allowed by subpart C
13 of part IV of subchapter A of chapter 1.

14 “(d) COORDINATION WITH ADVANCE REFUNDS OF
15 CREDIT.—The amount of credit which would (but for this
16 subsection) be allowable under this section shall be re-
17 duced (but not below zero) by the aggregate refunds and
18 credits made or allowed to the taxpayer under subsection
19 (e). Any failure to so reduce the credit shall be treated
20 as arising out of a mathematical or clerical error and as-
21 sessed according to section 6213(b)(1).

22 “(e) ADVANCE REFUNDS AND CREDITS.—

23 “(1) IN GENERAL.—Any person which was a
24 qualifying business for such person’s last taxable
25 year ending before January 1, 2020, shall be treated

1 as having made a payment against the tax imposed
2 by chapter 1 for such taxable year in an amount
3 equal to the advance refund amount for such taxable
4 year, regardless of whether such tax would have
5 been imposed on such person.

6 “(2) ADVANCE REFUND AMOUNT.—For pur-
7 poses of paragraph (1), the advance refund amount
8 is the amount that would have been allowed as a
9 credit under this section for such taxable year if this
10 section (other than subsection (d) and this sub-
11 section) had applied to such taxable year.

12 “(3) TIMING OF PAYMENTS.—The Secretary
13 shall, subject to the provisions of this title, refund
14 or credit any overpayment attributable to this sec-
15 tion as rapidly as possible. No refund or credit shall
16 be made or allowed under this subsection after De-
17 cember 31, 2020.

18 “(4) NO INTEREST.—No interest shall be al-
19 lowed on any overpayment attributable to this sec-
20 tion.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) DEFINITION OF DEFICIENCY.—Section
23 6211(b)(4)(A) of the Internal Revenue Code of 1986
24 is amended by striking “and 36B, 168(k)(4)” and
25 inserting “36B, and 6428”.

1 (2) Paragraph (2) of section 1324(b) of title
2 31, United States Code, is amended by inserting
3 “6428,” after “54B(h),”.

4 (3) The table of sections for subchapter B of
5 chapter 65 of subtitle F of the Internal Revenue
6 Code of 1986 is amended by inserting after the item
7 relating to section 6427 the following:

“Sec. 6428. Small Business Rebate.”.

8 **SEC. 3. MODIFICATION OF ESTIMATED TAX PAYMENTS FOR**
9 **SMALL BUSINESSES.**

10 (a) **TIMING AND AMOUNT OF REQUIRED INSTALL-**
11 **MENTS.—**

12 (1) **IN GENERAL.—**In the case of any taxable
13 year beginning in 2020, with respect to a qualified
14 individual, notwithstanding section 6654(c) and sec-
15 tion 6654(d)(1)(A) of the Internal Revenue Code of
16 1986—

17 (A) there shall be 2 required installments
18 (within the meaning of section 6654 of such
19 Code) for the taxable year;

20 (B) the due date for the 1st installment is
21 September 15, 2020;

22 (C) the due date for the 2nd installment is
23 January 15, 2021;

24 (D) the amount of each such required in-
25 stallment shall be 50 percent of the required

1 annual payment (as defined in section
2 6654(d)(1)(B) of such Code, after the applica-
3 tion of subparagraph (E));

4 (E) in determining such required annual
5 payment, section 6654(d)(1)(C) of such Code
6 shall not apply and section 6654(d)(1)(B)(ii) of
7 such Code shall be applied by substituting “75
8 percent” for “100 percent”;

9 (F) if (after the application of this para-
10 graph) section 6654(d)(2) of such Code applies
11 to the qualified individual, the table contained
12 in subparagraph (C)(ii) thereof shall be applied
13 by substituting “0” for “22.5” and for “45”,
14 and by substituting “45” for “67.5”; and

15 (G) section 6654(h) of such Code shall be
16 applied by treating the 2nd required installment
17 as the 4th required installment.

18 (2) QUALIFIED INDIVIDUAL.—For purposes of
19 this subsection, the term “qualified individual”
20 means any individual for a taxable year if—

21 (A) the adjusted gross income shown on
22 the return of tax of such individual for the pre-
23 ceding taxable year is less than \$250,000
24 (\$500,000 in the case of a joint return); and

1 (B) such individual certifies, in such form
2 or manner as is required by the Secretary of
3 the Treasury (or the Secretary's delegate), that
4 more than 50 percent of the gross income
5 shown on the return of tax of such individual
6 for such preceding taxable year was income
7 from a qualified small business.

8 (3) INCOME FROM QUALIFIED SMALL BUSI-
9 NESS.—For purposes of this section, the term “in-
10 come from a qualified small business” means, with
11 respect to any taxable year, income from a trade or
12 business—

13 (A) which is located in the United States;
14 and

15 (B) the average number of employees of
16 which was less than 500 full-time equivalent
17 employees (within the meaning of section
18 4980H of the Internal Revenue Code of 1986)
19 for the calendar year ending with or within the
20 preceding taxable year.

21 (b) COORDINATION WITH SECTION 7508A.—In the
22 case of any postponement or extension by the Secretary
23 of the Treasury (or the Secretary's delegate) under section
24 7508A of the Internal Revenue Code of 1986 affecting the
25 due date of the required installments under section 6654

1 of such Code, subsection (a) shall apply only if the due
 2 date for the 1st installment under paragraph (1)(B) there-
 3 of is later than the due date prescribed for the 1st install-
 4 ment under such postponement or extension.

5 **SEC. 4. EMPLOYEE RETENTION CREDIT FOR EMPLOYERS**
 6 **OF EMPLOYEES AFFECTED BY COVID-19.**

7 (a) IN GENERAL.—In the case of an eligible em-
 8 ployer, there shall be allowed as a credit against the tax
 9 imposed by section 3111(a) of the Internal Revenue Code
 10 of 1986 or section 3221(a) of such Code for each calendar
 11 quarter an amount equal to 50 percent of the qualified
 12 wages with respect to each eligible employee of such em-
 13 ployer for such taxable year. The amount of qualified
 14 wages with respect to any eligible employee which may be
 15 taken into account under this subsection by the eligible
 16 employer for all calendar quarters during any designated
 17 period shall not exceed \$7,500.

18 (b) ELIGIBLE EMPLOYER.—

19 (1) IN GENERAL.—The term “eligible em-
 20 ployer” means any employer which—

21 (A) which has less than 500 full-time em-
 22 ployees on the first day of the designated period
 23 with respect to the employer; and

24 (B) which—

1 (i) conducted an active trade or busi-
2 ness in a qualified coronavirus disaster
3 zone and meets the requirements of para-
4 graph (2)(A); or

5 (ii) meets the requirement of para-
6 graph (2)(B).

7 (2) REQUIREMENTS.—

8 (A) IN GENERAL.—An employer meets the
9 requirements of this subparagraph if—

10 (i) the employer is required to close as
11 a result of a directive by a Federal, State,
12 or local authority; or

13 (ii) the employer is required to close
14 due to lack of available employees due to
15 qualifying needs related to a public health
16 emergency (as defined in section 110 of
17 the Family and Medical Leave Act of
18 1993, as added by section 3102 of the
19 Emergency Family and Medical Leave Ex-
20 pansion Act).

21 (B) ALTERNATIVE REQUIREMENTS.—An
22 employer meets the requirements of this sub-
23 paragraph if the employer's gross receipts for
24 any 30-day period during the calendar year are
25 more than 25 percent less than such gross re-

1 receipts for the corresponding 30-day period for
2 the preceding calendar year.

3 (c) OTHER DEFINITIONS.—For purposes of this sec-
4 tion—

5 (1) ELIGIBLE EMPLOYEE.—The term “eligible
6 employee” means any employee whose principle place
7 of employment was with an eligible employer.

8 (2) QUALIFIED WAGES.—The term “qualified
9 wages” means wages (as defined in section 3121(a)
10 of the Internal Revenue Code of 1986) and com-
11 pensation (as defined in section 3231(e) of the In-
12 ternal Revenue Code) paid by an employer, except
13 that such term shall not include any wages taken
14 into account under section 7001 or section 7003 of
15 the Families First Coronavirus Response Act.

16 (3) DESIGNATED PERIOD.—The term “des-
17 ignated period” means, with respect to any eligible
18 employer, the period—

19 (A) beginning on the date the employer
20 first meets the requirements of subparagraph
21 (A) or (B) of subsection (b)(2); and

22 (B) ending on the earlier of—

23 (i)(I) in the case of an employer who
24 is an eligible employer by reason of meet-
25 ing the requirements of subsection

1 (b)(2)(A)(i), the date the directive requir-
2 ing the closure is no longer in effect;

3 (II) in the case of an employer who is
4 an eligible employer by reason of meeting
5 the requirements of subsection
6 (b)(2)(A)(ii), the date the public health
7 emergency lapses; and

8 (III) in the case of an employer who
9 is an eligible employer by reason of meet-
10 ing the requirements of subsection
11 (b)(2)(B), the date on which the employ-
12 er's gross receipts for any 30-day period
13 beginning after the date described in sub-
14 paragraph (A) are more than 90 percent of
15 such gross receipts for the corresponding
16 30-day period in the preceding calendar
17 year; or

18 (ii) the date which is 120 days after
19 the date described in subparagraph (A).

20 (4) QUALIFIED CORONAVIRUS DISASTER
21 ZONE.—The term “qualified coronavirus disaster
22 zone” means any State or geographic area for which
23 an emergency with respect to COVID–19 has been
24 declared by a Federal, State, or local authority.

25 (d) OTHER RULES.—

1 (1) REFUNDABILITY OF EXCESS CREDIT.—

2 (A) IN GENERAL.—If the amount of the
3 credit under subsection (a) exceeds the tax im-
4 posed by section 3111(a) of the Internal Rev-
5 enue Code of 1986 or section 3221(a) of such
6 Code for any calendar quarter, such excess shall
7 be treated as an overpayment that shall be re-
8 funded under sections 6402(a) and 6413(b) of
9 such Code.

10 (B) TREATMENT OF PAYMENTS.—For pur-
11 poses of section 1324 of title 31, United States
12 Code, any amounts due to an employer under
13 this subsection shall be treated in the same
14 manner as a refund due from a credit provision
15 referred to in subsection (b)(2) of such section.

16 (2) TREATMENT OF DEPOSITS.—The Secretary
17 of the Treasury (or the Secretary's delegate) shall
18 waive any penalty under section 6656 of the Internal
19 Revenue Code of 1986 for any failure to make a de-
20 posit of the tax imposed by section 3111(a) of such
21 Code or section 3221(a) of such Code if the Sec-
22 retary determines that such failure was due to the
23 anticipation of the credit allowed under this section.

24 (3) APPLICATION OF OTHER RULES.—For pur-
25 poses of this section, rules similar to the rules of

1 sections 51(i)(1), 52, and 280C(a), of the Internal
2 Revenue Code of 1986, shall apply.

3 (4) EMPLOYEE NOT TAKEN INTO ACCOUNT
4 MORE THAN ONCE.—An employee shall not be treat-
5 ed as an eligible employee for purposes of this sec-
6 tion for any period with respect to any employer if
7 such employer is allowed a credit under section 51
8 of the Internal Revenue Code of 1986 with respect
9 to such employee for such period.

10 (e) TRUST FUNDS HELD HARMLESS.—There are
11 hereby appropriated (out of any money in the Treasury
12 not otherwise appropriated) for each fiscal year to the
13 Federal Old-Age and Survivors Insurance Trust Fund and
14 the Federal Disability Insurance Trust Fund established
15 under section 201 of the Social Security Act (42 U.S.C.
16 401) and the Social Security Equivalent Benefit Account
17 established under section 15A(a) of the Railroad Retire-
18 ment Act of 1974 (45 U.S.C. 231n-1(a)) an amount equal
19 to the reduction in the transfers to such fund for such
20 fiscal year by reason of this section. Amounts appropriated
21 by the preceding sentence shall be transferred from the
22 general fund at such times and in such manner as to rep-
23 licate to the extent possible the transfers which would have

1 occurred to such Trust Fund had such amendments not
2 been enacted.

○