

116TH CONGRESS
2D SESSION

S. 4290

To provide much needed liquidity to America’s job creators.

IN THE SENATE OF THE UNITED STATES

JULY 23, 2020

Mr. CORNYN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide much needed liquidity to America’s job creators.

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 “Building Businesses
5 Back Act of 2020”.

6 **SEC. 2. MONETIZATION OF GENERAL BUSINESS CREDITS.**

7 (a) IN GENERAL.—Section 38 of the Internal Rev-
8 enue Code of 1986 is amended by inserting after sub-
9 section (d) the following:

10 “(e) SPECIAL RULES FOR ELIGIBLE YEARS.—

1 “(1) IN GENERAL.—If a taxpayer elects the ap-
2 plication of this subsection for any eligible taxable
3 year—

4 “(A) the limitation under subsection (c)
5 shall be increased by an amount equal to the
6 excess (if any) of—

7 “(i) the credit allowed under sub-
8 section (a) for the taxable year (deter-
9 mined without regard to subsection (c)),
10 over

11 “(ii) the credit allowed under sub-
12 section (a) for such taxable year (deter-
13 mined after the application of subsection
14 (c)), and

15 “(B) the amount of the credit determined
16 under section 41(a) for such taxable year shall
17 be determined without regard to the limitation
18 in the first sentence of section 41(g).

19 “(2) TREATMENT OF CREDIT.—For purposes of
20 this title (other than this section and section 39),
21 the excess of—

22 “(A) amount of the credit allowed solely by
23 reason of this subsection, over

24 “(B) net income tax (as defined in sub-
25 section (c)(1)) reduced by credits allowable

1 under subparts D (without regard to this sub-
2 section) and G,
3 shall be treated as an overpayment of tax for the
4 taxable year.

5 “(3) ELIGIBLE TAXABLE YEAR.—For purposes
6 of this subsection, the term ‘eligible taxable year’
7 means any taxable year ending in 2019 or 2020.

8 “(4) ELECTION.—An election under paragraph
9 (1) shall be made at such time and in such manner
10 as the Secretary may prescribe.

11 “(5) GUIDANCE AND REGULATIONS.—The Sec-
12 retary shall prescribe such regulations and guidance
13 as may be necessary to carry out this subsection, in-
14 cluding regulations or guidance to prevent any dou-
15 ble counting of credits allowable under this section.”.

16 (b) ALLOWANCE OF REFUNDS.—Section 1324(b)(2)
17 of title 31, United States Code, is amended by inserting
18 “38(e)” after “36B”.

19 (c) CONFORMING AMENDMENT.—Section
20 6211(b)(4)(A) of the Internal Revenue Code of 1986 is
21 amended by inserting “38(e),” after “36B,”.

22 (d) CREDITS NOT SUBJECT TO SEQUESTRATION.—
23 Section 255(d) of the Balanced Budget and Emergency
24 Deficit Control Act of 1985 (2 U.S.C. 905(d)) is amend-
25 ed—

1 (1) by striking “Payments” and inserting the
2 following:

3 “(1) IN GENERAL.—Payments”; and

4 (2) by adding at the end the following:

5 “(2) GENERAL BUSINESS CREDITS.—Payments
6 made under subsection (e) of section 38 of the Inter-
7 nal Revenue Code of 1986 shall be exempt from re-
8 duction under any order issued under this part.”.

9 (e) SPECIAL RULE FOR REFUNDS.—

10 (1) IN GENERAL.—For purposes of the Internal
11 Revenue Code of 1986, a credit or refund for which
12 an application described in paragraph (2)(A) is filed
13 shall be treated as made under section 6411 of such
14 Code.

15 (2) TENTATIVE REFUND.—

16 (A) APPLICATION.—A taxpayer may file an
17 application for a tentative credit or refund of
18 any amount for which a credit or refund for
19 any taxable year is due by reason of section
20 38(e) of the Internal Revenue Code of 1986.
21 Such application shall be in such manner and
22 form as the Secretary of the Treasury (or the
23 Secretary’s delegate) may prescribe and shall—

1 (i) be verified in the same manner as
2 an application under section 6411(a) of
3 such Code;

4 (ii) be filed not later than the date
5 that is 120 days after the date of the en-
6 actment of this Act; and

7 (iii) set forth—

8 (I) the amount of the credit
9 claimed under section 38(e) of such
10 Code for such taxable year; and

11 (II) the amount of the refund
12 claimed.

13 (B) ALLOWANCE OF ADJUSTMENTS.—

14 Within a period of 90 days from the date on
15 which an application is filed under subpara-
16 graph (A), the Secretary of the Treasury (or
17 the Secretary's delegate) shall—

18 (i) review the application;

19 (ii) determine the amount of the over-
20 payment; and

21 (iii) apply, credit, or refund such over-
22 payment,

23 in a manner similar to the manner provided in
24 section 6411(b) of the Internal Revenue Code
25 of 1986.

1 (C) CONSOLIDATED RETURNS.—The provi-
2 sions of section 6411(c) of the Internal Revenue
3 Code of 1986 shall apply to an adjustment
4 under this paragraph to the same extent and
5 manner as the Secretary of the Treasury (or
6 the Secretary’s delegate) may provide.

7 (3) APPLICATION FOR ADJUSTMENT OF OVER-
8 PAYMENT OF ESTIMATED INCOME TAX.—An applica-
9 tion for adjustment of overpayment of estimated in-
10 come tax under section 6425 of the Internal Rev-
11 enue Code of 1986 by reason of section 38(e) of
12 such Code shall not fail to be treated as timely filed
13 if filed not later than the date which is 120 days
14 after the date of the enactment of this Act.

15 (f) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years ending after De-
17 cember 31, 2018.

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