To amend the Internal Revenue Code of 1986 to allow for a 5-year carryback of operating losses of small businesses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 2020

Mr. SCHNEIDER 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 allow for a 5-year carryback of operating losses of small businesses, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. 5-YEAR CARRYBACK OF OPERATING LOSSES OF
SMALL BUSINESSES.

(a) IN GENERAL.—Section 172(b)(1) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(D) CARRYBACK FOR 2020 NET OPER-
ATING LOSSES OF SMALL BUSINESSES DUE TO
COVID-19.—
“(i) IN GENERAL.—If an eligible small business elects the application of this subparagraph with respect to an applicable 2020 net operating loss due to COVID-19, subparagraph (A)(i) shall be applied by substituting ‘shall be a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss’ for ‘shall not be a net operating loss carryback to any taxable year preceding the taxable year of such loss’.

“(ii) APPLICABLE 2020 NET OPERATING LOSS.—For purposes of this subparagraph, the term ‘applicable 2020 net operating loss’ means—

“(I) the taxpayer’s net operating loss for any taxable year ending in 2020, or

“(II) if the taxpayer elects to have this subclause apply in lieu of subclause (I), the taxpayer’s net operating loss for any taxable year beginning in 2020.

“(iii) ELECTION.—Any election under this subparagraph shall be made in such
manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer’s return for the taxable year of the net operating loss. Any such election, once made, shall be irrevocable. Any election under this subparagraph may be made only with respect to 1 taxable year.

“(iv) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term ‘eligible small business’ means a small business with fewer than 250 employees that is a small business concern as defined in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).”.

(b) ANTI-ABUSE RULES.—The Secretary of the Treasury or the Secretary’s designee shall prescribe such rules as are necessary to prevent the abuse of the purposes of the amendments made by this section, including anti-stuffing rules, anti-churning rules (including rules relating to sale-leasebacks), and rules similar to the rules under section 1091 of the Internal Revenue Code of 1986 relating to losses from wash sales.
(c) Effective Date.—The amendments made by this section shall apply to net operating losses arising in taxable years ending after December 31, 2019.