

105TH CONGRESS
2D SESSION

S. 2467

To amend the Internal Revenue Code of 1986 to increase the years for carryback of net operating losses for certain farm losses.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 14, 1998

Mr. HARKIN (for himself and Mr. JOHNSON) 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 increase the years for carryback of net operating losses for certain farm losses.

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. NET OPERATING LOSS OF FARMERS.**

4 (a) INCREASE IN CARRYBACK YEARS.—Paragraph
5 (1) of section 172(b) of the Internal Revenue Code of
6 1986 (relating to net operating loss carrybacks and
7 carryforwards) is amended by adding at the end the fol-
8 lowing new subparagraph:

9 “(G) FARMING LOSSES.—Subparagraph

10 (A)(i) shall be applied by substituting ‘10 years’

1 for ‘2 years’ with respect to the portion of the
 2 net operating loss of an eligible taxpayer (as de-
 3 fined in subsection (i)) for any taxable year be-
 4 ginning after December 31, 1997, and ending
 5 before January 1, 2000, which is a farming loss
 6 (as so defined) with respect to the taxpayer.”

7 (b) DEFINITIONS AND RULES RELATING TO FARM-
 8 ING LOSSES.—Section 172 of such Code is amended by
 9 redesignating subsection (i) as subsection (j) and inserting
 10 after subsection (h) the following new subsection:

11 “(i) DEFINITIONS AND RULES RELATING TO FARM-
 12 ING LOSSES.—For purposes of this section—

13 “(1) FARMING LOSS.—

14 “(A) IN GENERAL.—The term ‘farming
 15 loss’ means the lesser of—

16 “(i) the net operating loss of the tax-
 17 payer for the taxable year, or

18 “(ii) the net operating loss of the tax-
 19 payer for the taxable year determined by
 20 only taking into account items of income
 21 and deduction attributable to 1 or more
 22 qualified farming businesses of the tax-
 23 payer.

24 “(B) DOLLAR LIMITATION.—

1 “(i) IN GENERAL.—The farming loss
 2 of a taxpayer for any taxable year shall not
 3 exceed \$200,000.

4 “(ii) AGGREGATION RULES.—

5 “(I) IN GENERAL.—All persons
 6 treated as 1 employer under sub-
 7 sections (a) or (b) of section 52 shall
 8 be treated as 1 person.

9 “(II) PASS-THRU ENTITY.—In
 10 the case of a partnership, trust, or
 11 other pass-thru entity, the limitation
 12 shall be applied at both the entity and
 13 the owner level.

14 “(III) OWNER.—The limitation
 15 shall be reduced by the amount of
 16 farming loss determined for a cor-
 17 poration for which the taxpayer is a
 18 50 percent owner in the taxable year
 19 of the corporation ending in the tax-
 20 able year of the taxpayer owner.

21 “(2) ELIGIBLE TAXPAYER.—

22 “(A) IN GENERAL.—The term ‘eligible tax-
 23 payer’ means a taxpayer which derives more
 24 than 50 percent of its gross income for the 3-
 25 year period beginning 2 years prior to the cur-

1 rent taxable year from qualified farming busi-
2 nesses.

3 “(B) QUALIFIED FARMING BUSINESS.—
4 The term ‘qualified farming business’ means a
5 trade or business of farming (within the mean-
6 ing of section 2032A)—

7 “(i) with respect to which—

8 “(I) the taxpayer or a member of
9 the family of the taxpayer materially
10 participates (within the meaning of
11 section 2032A(e)(6)), or

12 “(II) in the case of a taxpayer
13 other than an individual, a 20 percent
14 owner of the taxpayer or a member of
15 the owner’s family materially partici-
16 pates (as so defined), and

17 “(ii) which does not receive in excess
18 of \$7,000,000 from sales in a taxable year.

19 For purposes of clause (i)(II), owners which are
20 members of a single family shall be treated as
21 a single owner.

22 “(3) OWNER.—

23 “(A) 20 PERCENT OWNER.—The term ‘20
24 percent owner’ means any person who would be
25 described in section 416(i)(1)(B)(i) if ‘20 per-

1 cent' were substituted for '5 percent' each place
2 it appears in such section.

3 “(B) 50 PERCENT OWNER.—The term '50
4 percent owner' means any person who would be
5 described in section 416(i)(1)(B)(i) if '50 per-
6 cent' were substituted for '5 percent' each place
7 it appears in such section.

8 “(4) COORDINATION WITH SUBSECTION
9 (b)(2).—For purposes of applying subsection (b)(2),
10 a farming loss for any taxable year shall be treated
11 as a separate net operating loss for such taxable
12 year to be taken into account after the remaining
13 portion of the net operating loss for such taxable
14 year.

15 “(5) ELECTION.—Any taxpayer entitled to a
16 10-year carryback under subsection (b)(1)(G) from
17 any loss year may elect to have the carryback period
18 with respect to such loss year, and any portion of
19 the farming loss for such year, determined without
20 regard to subsection (b)(1)(G). Such election shall
21 be made in such manner as may be prescribed by
22 the Secretary and shall be made by the due date (in-
23 cluding extensions of time) for filing the taxpayer's
24 return for the taxable year of the net operating loss.

- 1 Such election, once made for any taxable year, shall
- 2 be irrevocable for that taxable year.”

