

114TH CONGRESS
1ST SESSION

S. 341

To amend the Internal Revenue Code of 1986 to make permanent certain small business tax provisions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 2015

Mr. TOOMEY (for himself, Mr. MENENDEZ, Mr. ROBERTS, and Mr. CARPER) 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 make permanent certain small business tax provisions, 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 “Start-up Jobs and In-
5 novation Act”.

6 **SEC. 2. PERMANENT EXTENSION OF INCREASED EXPENS-**
7 **ING LIMITATION.**

8 (a) DOLLAR LIMITATION.—Section 179(b)(1) of the
9 Internal Revenue Code of 1986 is amended by striking

1 “shall not exceed” and all that follows and inserting “shall
2 not exceed \$500,000.”.

3 (b) REDUCTION IN LIMITATION.—Section 179(b)(2)
4 of the Internal Revenue Code of 1986 is amended—

5 (1) by striking subparagraph (C),

6 (2) by striking “, and” at the end of subpara-
7 graph (B) and inserting a period,

8 (3) by striking the comma at the end of sub-
9 paragraph (A) and inserting “, and”, and

10 (4) by inserting “beginning before 2016” after
11 “The limitation under paragraph (1) for any taxable
12 year”.

13 (c) ADJUSTMENT FOR INFLATION.—Subsection (b)
14 of section 179 of the Internal Revenue Code of 1986 is
15 amended by adding at the end the following new para-
16 graph:

17 “(6) ADJUSTMENT FOR INFLATION.—In the
18 case of any taxable year beginning after December
19 31, 2016, the \$500,000 amount in paragraph (1)
20 shall be increased by an amount equal to—

21 “(A) such dollar amount, multiplied by

22 “(B) the cost-of-living adjustment deter-
23 mined under section 1(f)(3) for the calendar
24 year in which the taxable year begins, by sub-

1 stituting ‘calendar year 2014’ for ‘calendar year
2 1992’ in subparagraph (B) thereof.

3 If any amount as increased under the preceding sen-
4 tence is not a multiple of \$1,000, such amount shall
5 be rounded to the nearest multiple of \$1,000.”.

6 (d) COMPUTER SOFTWARE.—Section
7 179(d)(1)(A)(ii) of the Internal Revenue Code of 1986 is
8 amended by striking “and before 2015”.

9 (e) ELECTION.—Section 179(c)(2) of the Internal
10 Revenue Code of 1986 is amended by striking “and before
11 2015”.

12 (f) SPECIAL RULES FOR TREATMENT OF QUALIFIED
13 REAL PROPERTY.—

14 (1) IN GENERAL.—Section 179(f)(1) of the In-
15 ternal Revenue Code of 1986 is amended by striking
16 “beginning after 2009 and before 2015” and insert-
17 ing “beginning after 2009”.

18 (2) REPEAL OF LIMITATION.—Section 179(f) of
19 such Code is amended by striking paragraph (3).

20 (3) CONFORMING AMENDMENT.—Section 179(f)
21 of such Code is amended by striking paragraph (4).

22 (g) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to property placed in service in
24 taxable years beginning after December 31, 2014.

1 **SEC. 3. PERMANENT FULL EXCLUSION APPLICABLE TO**
 2 **QUALIFIED SMALL BUSINESS STOCK.**

3 (a) IN GENERAL.—Paragraph (4) of section 1202(a)
 4 of the Internal Revenue Code of 1986 is amended—

5 (1) by striking “and before January 1, 2015”,
 6 and

7 (2) by striking “CERTAIN PERIODS IN 2010,
 8 2011, 2012, 2013, AND 2014” in the heading and in-
 9 serting “CERTAIN PERIODS AFTER 2009”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) The heading for section 1202 of the Inter-
 12 nal Revenue Code of 1986 is amended by striking
 13 “**PARTIAL**”.

14 (2) The item relating to section 1202 in the
 15 table of sections for part I of subchapter P of chap-
 16 ter 1 of such Code is amended by striking “Partial
 17 exclusion” and inserting “Exclusion”.

18 (3) Section 1223(13) of such Code is amended
 19 by striking “1202(a)(2),”.

20 (c) INCREASE IN GROSS ASSET THRESHOLD.—

21 (1) IN GENERAL.—Paragraph (1) of section
 22 1202(d) of the Internal Revenue Code of 1986 is
 23 amended by striking “\$50,000,000” each place it
 24 appears and inserting “\$150,000,000”.

1 (2) ADJUSTMENT FOR INFLATION.—Subsection
2 (d) of section 1202 of such Code is amended by add-
3 ing at the end the following new paragraph:

4 “(4) ADJUSTMENT FOR INFLATION.—In the
5 case of any taxable year beginning after December
6 31, 2016, the \$150,000,000 amount in subpara-
7 graphs (A) and (B) of paragraph (1) shall be in-
8 creased by an amount equal to—

9 “(A) such dollar amount, multiplied by

10 “(B) the cost-of-living adjustment deter-
11 mined under section 1(f)(3) for the calendar
12 year in which the taxable year begins, by sub-
13 stituting ‘calendar year 2015’ for ‘calendar year
14 1992’ in subparagraph (B) thereof.

15 If any amount as increased under the preceding sen-
16 tence is not a multiple of \$1,000, such amount shall
17 be rounded to the nearest multiple of \$1,000.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to stock acquired after December
20 31, 2015.

21 **SEC. 4. UNIFICATION OF DEDUCTION FOR START-UP AND**
22 **ORGANIZATIONAL EXPENDITURES.**

23 (a) IN GENERAL.—Subsection (a) of section 195 of
24 the Internal Revenue Code of 1986 is amended by insert-
25 ing “and organizational” after “start-up”.

1 (b) ORGANIZATIONAL EXPENDITURES.—Subsection
 2 (c) of section 195 of the Internal Revenue Code of 1986
 3 is amended by adding at the end the following new para-
 4 graph:

5 “(3) ORGANIZATIONAL EXPENDITURES.—The
 6 term ‘organizational expenditures’ means any ex-
 7 penditure which—

8 “(A) is incident to the creation of a cor-
 9 poration or a partnership,

10 “(B) is chargeable to capital account, and

11 “(C) is of a character which, if expended
 12 incident to the creation of a corporation or a
 13 partnership having a limited life, would be am-
 14 ortizable over such life.”.

15 (c) DOLLAR AMOUNTS.—Clause (ii) of section
 16 195(b)(1)(A) of the Internal Revenue Code of 1986 is
 17 amended—

18 (1) by striking “\$5,000” and inserting
 19 “\$10,000”, and

20 (2) by striking “\$50,000” and inserting
 21 “\$60,000”.

22 (d) ADJUSTMENT FOR INFLATION.—Paragraph (3)
 23 of section 195(b) is amended to read as follows:

24 “(3) ADJUSTMENT FOR INFLATION.—In the
 25 case of any taxable year beginning after December

31, 2016, the \$10,000 and \$60,000 amounts in paragraph (1)(A)(ii) shall each be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting ‘calendar year 2015’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as increased under the preceding sentence is not a multiple of \$1,000, such amount shall be rounded to the nearest multiple of \$1,000.”.

(e) CONFORMING AMENDMENTS.—

(1) Section 195(b)(1) of the Internal Revenue Code of 1986 is amended—

(A) by inserting “(or, in the case of a partnership, the partnership elects)” after “If a taxpayer elects”,

(B) by inserting “(or the partnership, as the case may be)” after “the taxpayer” in subparagraph (A), and

(C) by inserting “or organizational” after “start-up” each place it appears.

(2) Section 195(b)(2) of such Code is amended—

1 (A) by striking “AMORTIZATION PERIOD.—
 2 In any case” and inserting “AMORTIZATION PE-
 3 RIOD.—

4 “(A) IN GENERAL.—In any case”, and
 5 (B) by adding at the end the following new
 6 subparagraph:

7 “(B) SPECIAL PARTNERSHIP RULE.—In
 8 the case of a partnership, subparagraph (A)
 9 shall be applied at the partnership level.”.

10 (3)(A) Part VIII of subchapter B of chapter 1
 11 of such Code is amended by striking section 248.

12 (B) Section 170(b)(2)(C)(ii) of such Code is
 13 amended by striking “(except section 248)”.

14 (C) Section 312(n)(3) of such Code is amended
 15 by striking “Sections 173 and 248” and inserting
 16 “Section 173”.

17 (D) Section 535(b)(3) of such Code is amended
 18 by striking “(except section 248)”.

19 (E) Section 545(b)(3) of such Code is amended
 20 by striking “(except section 248)”.

21 (F) Section 834(c)(7) of such Code is amended
 22 by striking “(except section 248)”.

23 (G) Section 852(b)(2)(C) of such Code is
 24 amended by striking “(except section 248)”.

1 (H) Section 857(b)(2)(A) of such Code is
2 amended by striking “(except section 248)”.

3 (I) Section 1363(b) of such Code is amended by
4 inserting “and” at the end of paragraph (2), by
5 striking paragraph (3), and by redesignating para-
6 graph (4) as paragraph (3).

7 (J) Section 1375(b)(1)(B)(i) of such Code is
8 amended by striking “(other than the deduction al-
9 lowed by section 248, relating to organization ex-
10 penditures)”.

11 (K) The table of sections for part VIII of sub-
12 chapter B of chapter 1 of such Code is amended by
13 striking the item relating to section 248.

14 (4) Part I of subchapter K of chapter 1 of such
15 Code is amended by striking section 709.

16 (5) The table of sections for part I of sub-
17 chapter K of chapter 1 of such Code is amended by
18 striking the item relating to section 709.

19 (f) CLERICAL AMENDMENTS.—

20 (1) The heading of section 195 of the Internal
21 Revenue Code of 1986 is amended by striking “**EX-**
22 **PENDITURES**” and inserting “**AND ORGANIZA-**
23 **TIONAL EXPENDITURES**”.

1 (2) The item relating to section 195 in the table
 2 of contents of part VI of subchapter B of chapter 1
 3 of such Code is amended to read as follows:

“Sec. 195. Start-up and organizational expenditures.”.

4 (g) **EFFECTIVE DATE.**—The amendments made by
 5 this section shall apply to expenses paid or incurred after
 6 December 31, 2015.

7 **SEC. 5. EXPANSION OF GROSS RECEIPTS TEST.**

8 (a) **IN GENERAL.**—Paragraph (1) of section 448(c)
 9 of the Internal Revenue Code of 1986 is amended—

10 (1) by striking “the \$5,000,000 gross receipts
 11 test” and inserting “the gross receipts test”, and

12 (2) by striking “does not exceed \$5,000,000”
 13 and inserting “does not exceed \$10,000,000”.

14 (b) **ADJUSTMENT FOR INFLATION.**—Subsection (c)
 15 of section 448 of the Internal Revenue Code of 1986 is
 16 amended by adding at the end the following new para-
 17 graph:

18 “(4) **ADJUSTMENT FOR INFLATION.**—In the
 19 case of any taxable year beginning after December
 20 31, 2016, the \$10,000,000 amount in paragraph (1)
 21 shall be increased by an amount equal to—

22 “(A) such dollar amount, multiplied by

23 “(B) the cost-of-living adjustment deter-
 24 mined under section 1(f)(3) for the calendar
 25 year in which the taxable year begins, by sub-

1 stituting ‘calendar year 2015’ for ‘calendar year
2 1992’ in subparagraph (B) thereof.

3 If any amount as increased under the preceding sen-
4 tence is not a multiple of \$1,000, such amount shall
5 be rounded to the nearest multiple of \$1,000.”.

6 (c) CONFORMING AMENDMENTS.—

7 (1) Paragraph (3) of section 448(b) of the In-
8 ternal Revenue Code of 1986 is amended by striking
9 “the \$5,000,000 gross receipts test” and inserting
10 “the gross receipts test”.

11 (2) The heading for paragraph (3) of section
12 448(b) of such Code is amended by striking “WITH
13 GROSS RECEIPTS OF NOT MORE THAN \$5,000,000”
14 and inserting “THAT PASS GROSS RECEIPTS TEST”.

15 (3) The heading for subsection (c) of section
16 448 of such Code is amended by striking
17 “\$5,000,000 GROSS” and inserting “GROSS”.

18 (4) Clause (iii) of section 172(b)(1)(F) of such
19 Code is amended by inserting “, applied by sub-
20 stituting ‘\$5,000,000’ for ‘\$10,000,000’ each place
21 it appears,” after “section 448(c)”.

22 (5) Subclause (II) of section 172(b)(1)(H)(v) of
23 such Code is amended by striking “\$5,000,000” and
24 inserting “\$10,000,000”.

25 (d) EFFECTIVE DATE AND SPECIAL RULES.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to taxable years beginning
3 after December 31, 2015.

4 (2) CHANGE IN METHOD OF ACCOUNTING.—In
5 the case of any taxpayer changing the taxpayer’s
6 method of accounting for any taxable year under the
7 amendments made by this section—

8 (A) such change shall be treated as initi-
9 ated by the taxpayer; and

10 (B) such change shall be treated as made
11 with the consent of the Secretary of the Treas-
12 ury.

13 **SEC. 6. CLARIFICATION OF INVENTORY AND ACCOUNTING**
14 **RULES FOR SMALL BUSINESS.**

15 (a) CASH ACCOUNTING PERMITTED.—Section 446 of
16 the Internal Revenue Code of 1986 is amended by adding
17 at the end the following new subsection:

18 “(g) CERTAIN SMALL BUSINESS TAXPAYERS PER-
19 MITTED TO USE CASH ACCOUNTING METHOD WITHOUT
20 LIMITATION.—

21 “(1) IN GENERAL.—With respect to an eligible
22 taxpayer who uses the cash receipts and disburse-
23 ments method for any taxable year, such method
24 shall be deemed to clearly reflect income and the

1 taxpayer shall not be required to use an accrual
2 method.

3 “(2) ELIGIBLE TAXPAYER.—For purposes of
4 this subsection, a taxpayer is an eligible taxpayer
5 with respect to any taxable year if—

6 “(A) for all prior taxable years beginning
7 after December 31, 2015, the taxpayer (or any
8 predecessor) met the gross receipts test of sec-
9 tion 448(c), and

10 “(B) the taxpayer is not subject to section
11 447 or 448.”.

12 (b) INVENTORY RULES.—

13 (1) IN GENERAL.—Section 471 of the Internal
14 Revenue Code of 1986 is amended by redesignating
15 subsection (c) as subsection (d) and by inserting
16 after subsection (b) the following new subsection:

17 “(c) SMALL BUSINESS TAXPAYERS NOT REQUIRED
18 TO USE INVENTORIES.—

19 “(1) IN GENERAL.—A qualified taxpayer shall
20 not be required to use inventories under this section
21 for a taxable year.

22 “(2) TREATMENT OF TAXPAYERS NOT USING
23 INVENTORIES.—If a qualified taxpayer does not use
24 inventories with respect to any property for any tax-
25 able year beginning after December 31, 2015, such

1 property shall be treated as a material or supply
 2 which is not incidental.

3 “(3) QUALIFIED TAXPAYER.—For purposes of
 4 this subsection, the term ‘qualified taxpayer’
 5 means—

6 “(A) any eligible taxpayer (as defined in
 7 section 446(g)(2)), and

8 “(B) any taxpayer described in section
 9 448(b)(3).”.

10 (2) INCREASED ELIGIBILITY FOR SIMPLIFIED
 11 DOLLAR-VALUE LIFO METHOD.—Section 474(c) of
 12 such Code is amended by striking “\$5,000,000” and
 13 inserting “\$10,000,000”.

14 (3) CONFORMING AMENDMENT.—Subsection (c)
 15 of section 263A of such Code is amended by adding
 16 at the end the following new paragraph:

17 “(7) EXCLUSION FROM INVENTORY RULES.—
 18 Nothing in this section shall require the use of in-
 19 ventories for any taxable year by a qualified tax-
 20 payer (within the meaning of section 471(c)) who is
 21 not required to use inventories under section 471 for
 22 such taxable year.”.

23 (c) EFFECTIVE DATE AND SPECIAL RULES.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to taxable years beginning
3 after December 31, 2015.

4 (2) CHANGE IN METHOD OF ACCOUNTING.—In
5 the case of any taxpayer changing the taxpayer’s
6 method of accounting for any taxable year under the
7 amendments made by this section—

8 (A) such change shall be treated as initi-
9 ated by the taxpayer; and

10 (B) such change shall be treated as made
11 with the consent of the Secretary of the Treas-
12 ury.

13 **SEC. 7. EXCEPTION FROM PASSIVE LOSS RULES FOR IN-**
14 **VESTMENTS IN HIGH TECHNOLOGY RE-**
15 **SEARCH SMALL BUSINESS PASS-THRU ENTI-**
16 **TIES.**

17 (a) IN GENERAL.—Subsection (c) of section 469 is
18 amended by redesignating paragraphs (4) through (7) as
19 paragraphs (5) through (8), respectively, and by inserting
20 after paragraph (3) the following new paragraph:

21 “(4) HIGH TECHNOLOGY RESEARCH ACTIVI-
22 TIES.—

23 “(A) IN GENERAL.—The term ‘passive ac-
24 tivity’ shall not include any qualified research
25 activity of the taxpayer carried on by a high

1 technology research small business pass-thru
2 entity.

3 “(B) TREATMENT OF LOSSES AND DEDUC-
4 TIONS.—

5 “(i) IN GENERAL.—Losses or deduc-
6 tions of a taxpayer in connection with
7 qualified research activities carried on by a
8 high technology research small business
9 pass-thru entity shall not be treated as
10 losses or deductions, respectively, from a
11 passive activity except as provided in
12 clause (ii) and subparagraph (C).

13 “(ii) LIMITATION.—Clause (i) shall
14 apply to losses and deductions of a tax-
15 payer in connection with a high technology
16 small business pass-thru entity for a tax-
17 able year only to the extent that the aggre-
18 gate losses and deductions of the taxpayer
19 in connection with qualified research activi-
20 ties of such entity for such taxable year do
21 not exceed the portion of the taxpayer’s
22 adjusted basis in the taxpayer’s ownership
23 interest in such entity that is attributable
24 to money or other property contributed—

1 “(I) in exchange for such owner-
2 ship interest, and

3 “(II) specifically for use in con-
4 nection with qualified research activi-
5 ties.

6 For purposes of the preceding sentence,
7 the taxpayer’s basis shall not include any
8 portion of such basis which is attributable
9 to an increase in a partner’s share of the
10 liabilities of a partnership that is consid-
11 ered under section 752(a) as a contribution
12 of money.

13 “(C) TREATMENT OF CARRYOVERS.—Sub-
14 paragraph (B)(i) shall not apply to the portion
15 of any loss or deduction that is carried over
16 under subsection (b) into a taxable year other
17 than the taxable year in which such loss or de-
18 duction arose.

19 “(D) QUALIFIED RESEARCH ACTIVITY.—
20 For purposes of this paragraph, the term
21 ‘qualified research activity’ means any activity
22 constituting qualified research (within the
23 meaning of section 41(d)(1)(B) and taking into
24 account paragraphs (3) and (4) of section

1 41(d)) which involves a process of experimen-
2 tation.

3 “(E) HIGH TECHNOLOGY RESEARCH
4 SMALL BUSINESS PASS-THRU ENTITY.—For
5 purposes of this paragraph, the term ‘high tech-
6 nology research small business pass-thru entity’
7 means any domestic pass-thru entity for any
8 taxable year if—

9 “(i) either—

10 “(I) more than 75 percent of the
11 entity’s expenditures (including sala-
12 ries, rent and overhead) for such tax-
13 able year are paid or incurred in con-
14 nection with qualified research (within
15 the meaning of section 41(d)(1)(B),
16 taking into account paragraphs (3)
17 and (4) of section 41(d)) that involves
18 a process of experimentation con-
19 ducted by the entity, or

20 “(II) more than 50 percent of
21 the entity’s expenditures for such tax-
22 able year constitute qualified research
23 expenses (as defined in section 41(b),
24 but determined without regard to the

1 phrase ‘65 percent of’ in paragraph
2 (3)(A) thereof),

3 “(ii) such entity is a small business
4 (within the meaning of section
5 41(b)(3)(D)(iii), applied by substituting
6 ‘250’ for ‘500’ in subclause (I) thereof),
7 and

8 “(iii) at no time during the taxable
9 year does the entity have aggregate gross
10 assets in excess of \$150,000,000.

11 “(F) PROVISIONS RELATED TO AGGRE-
12 GATE GROSS ASSETS LIMITATION.—For pur-
13 poses of this paragraph—

14 “(i) IN GENERAL.—Except as other-
15 wise provided in this subparagraph, the
16 term ‘aggregate gross assets’ has the
17 meaning given such term in section
18 1202(d)(2).

19 “(ii) EXCEPTION FOR CERTAIN IN-
20 TANGIBLES.—Any section 197 intangible
21 (as defined in section 197(d) and deter-
22 mined without regard to section 197(e))
23 which is used directly in connection with
24 the research referred to in subparagraph

1 (E)(i) shall not be taken into account in
2 determining aggregate gross assets.

3 “(iii) EXCEPTION FOR CERTAIN FOL-
4 LOW-ON INVESTMENTS.—Cash from a sale
5 of equity interests shall not be taken into
6 account in determining aggregate gross as-
7 sets if—

8 “(I) the aggregate gross assets of
9 such entity (determined immediately
10 after such sale and without regard to
11 this clause) do not exceed the sum of
12 \$150,000,000, plus 25 percent of the
13 aggregate gross assets of such entity
14 (determined immediately before such
15 sale and without regard to this
16 clause), and

17 “(II) the aggregate gross assets
18 of such entity (determined imme-
19 diately before such sale and without
20 regard to this clause) do not exceed
21 \$150,000,000.

22 Sales of equity interests which are part of
23 the same plan or arrangement, or which
24 are carried out with the principal purpose
25 of increasing the amount of cash to which

1 this clause applies (determined without re-
 2 gard to this sentence), shall be treated as
 3 a single sale for purposes of this clause.

4 “(iv) INFLATION ADJUSTMENT.—In
 5 the case of any taxable year beginning
 6 after 2016, the \$150,000,000 amount in
 7 subparagraph (E)(iii) and subclauses (I)
 8 and (II) of clause (iii) shall each be in-
 9 creased by an amount equal to—

10 “(I) such dollar amount, multi-
 11 plied by

12 “(II) the cost of living adjust-
 13 ment determined under section 1(f)(3)
 14 for the calendar year in which the tax-
 15 able year begins determined by sub-
 16 stituting ‘calendar year 2015’ for ‘cal-
 17 endar year 1992’ in subparagraph (B)
 18 thereof.

19 Any increase determined under the pre-
 20 ceding sentence shall be rounded to the
 21 nearest \$100,000.

22 “(G) CAPITAL EXPENDITURES TAKEN INTO
 23 ACCOUNT FOR EXPENDITURES TEST.—An ex-
 24 penditure shall not fail to be taken into account

under subparagraph (E)(i) merely because such expenditure is chargeable to capital account.

“(H) PASS-THRU ENTITY.—For purposes of this paragraph, the term ‘pass-thru entity’ means any partnership, S corporation, or other entity identified by the Secretary as a pass-thru entity for purposes of this paragraph.

“(I) AGGREGATION RULES.—

“(i) IN GENERAL.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (m) or (o) of section 414, shall be treated as a single entity for purposes of subparagraphs (E) and (F)(iii).

“(ii) LIMITATION WHERE ENTITY WOULD NOT QUALIFY.—No entity shall be treated as a high technology research small business pass-thru entity unless such entity qualifies as such both with and without the application of clause (i).

“(J) ACTIVITIES NOT ENGAGED IN FOR PROFIT AND ECONOMIC SUBSTANCE RULES.—Section 183 and the economic substance rules of section 7701(o) shall not apply to disallow the losses, deductions, and credits of a high

1 technology research small business pass-thru
 2 entity solely as a result of losses incurred by
 3 such entity.”.

4 (b) MATERIAL PARTICIPATION NOT REQUIRED.—
 5 Paragraph (5) of section 469(c) of such Code, as redesign-
 6 nated by subsection (a), is amended by striking “and (3)”
 7 in the heading and text and inserting “, (3), and (4)”.

8 (c) CERTAIN RESEARCH-RELATED DEDUCTIONS AND
 9 CREDITS OF HIGH TECHNOLOGY RESEARCH SMALL
 10 BUSINESS PASS-THRU ENTITIES ALLOWED FOR PUR-
 11 POSES OF DETERMINING ALTERNATIVE MINIMUM TAX.—

12 (1) DEDUCTION FOR RESEARCH AND EXPERI-
 13 MENTAL EXPENDITURES.—Paragraph (2) of section
 14 56(b) of such Code is amended by adding at the end
 15 the following new subparagraph:

16 “(E) EXCEPTION FOR HIGH TECHNOLOGY
 17 RESEARCH SMALL BUSINESS PASS-THRU ENTI-
 18 TIES.—In the case of a high technology re-
 19 search small business pass-thru entity (as de-
 20 fined in section 469(c)(4)), this paragraph shall
 21 not apply to any amount allowable as a deduc-
 22 tion under section 174(a).”.

23 (2) ALLOWANCE OF CERTAIN RESEARCH-RE-
 24 LATED CREDITS.—Subparagraph (B) of section
 25 38(c)(4) of such Code is amended by redesignating

1 clauses (ii) through (ix) as clauses (iii) through (x),
 2 respectively, and by inserting after clause (i) the fol-
 3 lowing new clause:

4 “(ii) the credits of an individual tax-
 5 payer determined under section 41 to the
 6 extent attributable to a high technology re-
 7 search small business pass-thru entity (as
 8 defined in section 469(c)(4)),”.

9 (d) EXCEPTION TO LIMITATION ON PASS-THRU OF
 10 RESEARCH CREDIT.—Subsection (g) of section 41 of such
 11 Code is amended by adding at the end the following:
 12 “Paragraphs (2) and (4) shall not apply with respect to
 13 any high technology research small business pass-thru en-
 14 tity (as defined in section 469(c)(4)).”.

15 (e) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to losses and credits arising in tax-
 17 able years beginning on or after the date of the enactment
 18 of this Act.

○