

116TH CONGRESS
2D SESSION

H. R. 7537

To amend the Internal Revenue Code of 1986 to provide an exception from the passive loss rules for investments in specified medical research small business pass-thru entities.

IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2020

Mr. KELLY of Pennsylvania 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 provide an exception from the passive loss rules for investments in specified medical research small business pass-thru entities.

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 “Infectious Disease
5 Therapies Research and Innovation Act of 2020”.

1 **SEC. 2. EXCEPTION FROM PASSIVE LOSS RULES FOR IN-**
2 **VESTMENTS IN SPECIFIED MEDICAL RE-**
3 **SEARCH SMALL BUSINESS PASS-THRU ENTI-**
4 **TIES.**

5 (a) IN GENERAL.—Subsection (c) of section 469 of
6 the Internal Revenue Code of 1986 is amended by redesign-
7 ating paragraphs (4) through (7) as paragraphs (5)
8 through (8), respectively, and by inserting after paragraph
9 (3) the following new paragraph:

10 “(4) SPECIFIED MEDICAL RESEARCH ACTIVI-
11 TIES.—

12 “(A) IN GENERAL.—The term ‘passive ac-
13 tivity’ shall not include any qualified medical re-
14 search activity of the taxpayer carried on by a
15 specified medical research small business pass-
16 thru entity.

17 “(B) TREATMENT OF LOSSES AND DEDUC-
18 TIONS.—

19 “(i) IN GENERAL.—Losses or deduc-
20 tions of a taxpayer in connection with
21 qualified medical research activities carried
22 on by a specified medical research small
23 business pass-thru entity shall not be
24 treated as losses or deductions, respec-
25 tively, from a passive activity except as

provided in clause (ii) and subparagraph (C).

“(ii) LIMITATION.—Clause (i) shall apply to losses and deductions of a taxpayer in connection with a specified medical small business pass-thru entity for a taxable year only to the extent that the aggregate losses and deductions of the taxpayer in connection with qualified medical research activities of such entity for such taxable year do not exceed the portion of the taxpayer’s adjusted basis in the taxpayer’s ownership interest in such entity that is attributable to money or other property contributed—

“(I) in exchange for such ownership interest, and

“(II) specifically for use in connection with qualified medical research activities.

For purposes of the preceding sentence, the taxpayer’s basis shall not include any portion of such basis which is attributable to an increase in a partner’s share of the liabilities of a partnership that is consid-

1 ered under section 752(a) as a contribution
2 of money.

3 “(C) TREATMENT OF CARRYOVERS.—Sub-
4 paragraph (B)(i) shall not apply to the portion
5 of any loss or deduction that is carried over
6 under subsection (b) into a taxable year other
7 than the taxable year in which such loss or de-
8 duction arose.

9 “(D) QUALIFIED MEDICAL RESEARCH AC-
10 TIVITY.—For purposes of this paragraph, the
11 term ‘qualified medical research activity’ means
12 any qualified research (within the meaning of
13 section 41(d)) with respect to qualified counter-
14 measures (as defined in section 319F–1(a)(2)
15 of the Public Health Service Act (42 U.S.C.
16 247d–6a(a)(2))).

17 “(E) SPECIFIED MEDICAL RESEARCH
18 SMALL BUSINESS PASS-THRU ENTITY.—For
19 purposes of this paragraph, the term ‘specified
20 medical research small business pass-thru enti-
21 ty’ means any domestic pass-thru entity for any
22 taxable year if—

23 “(i) more than 80 percent of such en-
24 tity’s expenditures on qualified research for
25 such taxable year are paid or incurred in

1 connection with qualified medical research
2 activities, and

3 “(ii) the gross receipts (as determined
4 under the rules of section 41(h)(3)) of
5 such entity for the taxable year (and each
6 preceding taxable year) is less than
7 \$1,000,000.

8 “(F) CAPITAL EXPENDITURES TAKEN INTO
9 ACCOUNT FOR EXPENDITURES TEST.—An ex-
10 penditure shall not fail to be taken into account
11 under subparagraph (E)(i) merely because such
12 expenditure is chargeable to capital account.

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

18 “(H) AGGREGATION RULES.—

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

1 “(ii) LIMITATION WHERE ENTITY
 2 WOULD NOT QUALIFY.—No entity shall be
 3 treated as a specified medical research
 4 small business pass-thru entity unless such
 5 entity qualifies as such both with and with-
 6 out the application of clause (i).”.

7 (b) MATERIAL PARTICIPATION NOT REQUIRED.—
 8 Paragraph (5) of section 469(c) of the Internal Revenue
 9 Code of 1986, as redesignated by subsection (a), is amend-
 10 ed by striking “and (3)” in the heading and text and in-
 11 serting “, (3), and (4)”.

12 (c) CERTAIN RESEARCH-RELATED DEDUCTIONS AND
 13 CREDITS OF SPECIFIED MEDICAL RESEARCH SMALL
 14 BUSINESS PASS-THRU ENTITIES ALLOWED FOR PUR-
 15 POSES OF DETERMINING ALTERNATIVE MINIMUM TAX.—

16 (1) DEDUCTION FOR RESEARCH AND EXPERI-
 17 MENTAL EXPENDITURES.—Paragraph (2) of section
 18 56(b) of the Internal Revenue Code of 1986 is
 19 amended by adding at the end the following new
 20 subparagraph:

21 “(E) EXCEPTION FOR SPECIFIED MEDICAL
 22 RESEARCH SMALL BUSINESS PASS-THRU ENTI-
 23 TIES.—In the case of a specified medical re-
 24 search small business pass-thru entity (as de-
 25 fined in section 469(c)(4)), this paragraph shall

1 not apply to any amount allowable as a deduc-
 2 tion under section 174(a).”.

3 (2) ALLOWANCE OF CERTAIN RESEARCH-RE-
 4 LATED CREDITS.—Subparagraph (B) of section
 5 38(c)(4) of such Code is amended by redesignating
 6 clauses (ii) through (ix) as clauses (iii) through (x),
 7 respectively, and by inserting after clause (i) the fol-
 8 lowing new clause:

9 “(ii) the credit of an individual tax-
 10 payer determined under section 41 to the
 11 extent attributable to a specified medical
 12 research small business pass-thru entity
 13 (as defined in section 469(c)(4)),”.

14 (d) EXCEPTION TO LIMITATION ON PASS-THRU OF
 15 RESEARCH CREDIT.—Subsection (g) of section 41 of such
 16 Code is amended by adding at the end the following:
 17 “Paragraphs (2) and (4) shall not apply with respect to
 18 any specified medical research small business pass-thru
 19 entity (as defined in section 469(c)(4)).”.

20 (e) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to losses and credits arising in tax-
 22 able years beginning after December 31, 2020.

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