

June XX, 2020

The Honorable Charles Grassley
Chairman
Senate Finance Committee
219 Dirksen Building
Washington, DC 20515

The Honorable Ron Wyden
Ranking Member
Senate Finance Committee
219 Dirksen Building
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Wyden:

As the American business community strives to rebuild following the unprecedented challenges caused by the COVID-19 pandemic, we want to express strong support and appreciation for the provisions enacted in the CARES Act relating to net operating losses (NOLs). These beneficial changes come at a challenging time for many industries and will provide necessary liquidity for operations. We are concerned that some in Congress are seeking to reverse these changes and would urge you to leave them in place.

As you are aware, in response to the overwhelming adverse economic impact of the COVID-19 pandemic, Congress included in the bipartisan CARES Act several changes to the tax rules for NOLs. First, the CARES Act provides a five-year carryback for NOLs generated in 2018, 2019, or 2020. Second, the CARES Act suspends for 2018, 2019, and 2020 the otherwise applicable limitations on excess business losses for non-corporate taxpayers.

The ability to carryback NOLs is a critical component of a well-operating income tax system. Indeed, NOL carryback provisions have long been bipartisan tools utilized by lawmakers to provide liquidity and are routinely expanded during times of economic dislocation. As the non-partisan Joint Committee on Taxation has noted (see JCX-12R-20), the “provision allows taxpayers to use NOLs to a greater extent to offset taxable income in prior or future years in order to provide taxpayers with liquidity in the form of tax refunds and reduced current and future tax liability.” The provision suspending limitations on excess business losses for non-corporate taxpayers offers similar relief. As Chairman Grassley recently noted, the “key was for businesses to keep cash on hand, if they hadn’t already filed, or get refunds to give them liquidity to keep the doors open, machinery running, and most importantly, employees paid, to the greatest extent possible.”

The tax and liquidity provisions in the CARES Act are helping to ensure that the severe economic situation created by COVID-19 do not become even worse. We urge Congress to protect American jobs by preserving the NOL carryback and suspension of limitation of excess business loss provisions contained in the CARES Act.

Thank you for your consideration of our views.
Sincerely,