

116TH CONGRESS  
2D SESSION

# S. 3549

To amend the Internal Revenue Code of 1986 to provide advance tax refunds to small businesses, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

MARCH 20, 2020

Mr. WYDEN (for himself and Mr. CARDIN) 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 provide advance tax refunds to small businesses, 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 “Save America’s Main  
5 Street Act”.

6 **SEC. 2. SMALL BUSINESS REBATE.**

7 (a) IN GENERAL.—Subchapter B of chapter 65 of  
8 subtitle F of the Internal Revenue Code of 1986 is amend-  
9 ed by inserting after section 6427 the following new sec-  
10 tion:

1 **“SEC. 6428. SMALL BUSINESS REBATE.**

2 “(a) ALLOWANCE OF CREDIT.—

3 “(1) IN GENERAL.—In the case of a qualifying  
4 business, there shall be allowed as a credit against  
5 the tax imposed by subtitle A for the first taxable  
6 year beginning in 2020 an amount equal to the less-  
7 er of—

8 “(A) 30 percent of qualified gross receipts  
9 of such qualifying business for the first taxable  
10 year beginning in 2019, or

11 “(B) \$75,000.

12 “(2) SPECIAL RULE.—In the case of—

13 “(A) a qualifying business which did not  
14 file a tax return for the taxable year described  
15 in paragraph (1)(A), or

16 “(B) a sole proprietorship for which gross  
17 receipts were not reported on a return of tax  
18 for such taxable year,

19 such paragraph shall be applied by substituting  
20 ‘2018’ for ‘2019’.

21 “(3) QUALIFIED GROSS RECEIPTS.—For pur-  
22 poses of paragraph (1)(A), the term ‘qualified gross  
23 receipts’ means gross receipts of the qualifying busi-  
24 ness which are effectively connected with the conduct  
25 of a trade or business within the United States  
26 (within the meaning of section 864(c), determined

1 by substituting ‘qualifying business’ for ‘nonresident  
2 alien individual or a foreign corporation’ or for ‘for-  
3 eign corporation’ each place it appears) for the ap-  
4 plicable taxable year under paragraph (1)(A), as re-  
5 ported by the taxpayer on—

6 “(A) in the case of a qualifying business  
7 which is a partnership, the return required to  
8 be filed under section 6031,

9 “(B) in the case of a qualifying business  
10 which is an S corporation, the return required  
11 to be filed under section 6037, and

12 “(C) in the case of any other qualifying  
13 business, the return of tax for the taxable year.

14 “(b) QUALIFYING BUSINESS.—

15 “(1) IN GENERAL.—For purposes of this sec-  
16 tion, the term ‘qualifying business’ means any per-  
17 son which—

18 “(A) meets the gross receipts test of sub-  
19 section (c) of section 448 for the applicable tax-  
20 able year under subsection (a)(1)(A), except  
21 that subsection (c) of section 448 shall be ap-  
22 plied—

23 “(i) without regard to paragraph (4)  
24 of such subsection, and

1                   “(ii) by substituting ‘\$1,000,000’ for  
2                   ‘\$25,000,000’, and

3                   “(B) with respect to the preceding cal-  
4                   endar year, employed an average of not greater  
5                   than 50 full-time employees (as such term is  
6                   defined in paragraph (4) of section 4980H(c))  
7                   on business days during such calendar year.

8                   “(2) SPECIAL RULE.—For purposes of para-  
9                   graph (1)(A), in the case of any taxpayer which is  
10                  not a corporation or a partnership, the gross re-  
11                  ceipts test of section 448(c) shall be applied in the  
12                  same manner as if such taxpayer were a corporation  
13                  or partnership.

14                  “(3) FULL-TIME EQUIVALENTS.—For purposes  
15                  of paragraph (1)(B), the number of full-time em-  
16                  ployees shall be determined pursuant to rules similar  
17                  to the rules described in paragraph (2)(E) of section  
18                  4980H(c).

19                  “(4) AGGREGATION RULES.—All persons treat-  
20                  ed as a single employer under subsection (a) or (b)  
21                  of section 52 or subsection (m) or (o) of section 414  
22                  shall be treated as a single person for purposes of  
23                  paragraph (1)(B).

24                  “(5) QUALIFIED ORGANIZATIONS.—

1           “(A) INCLUSION AS QUALIFYING BUSI-  
2           NESS.—

3           “(i) IN GENERAL.—For purposes of  
4           this section, the term ‘qualifying business’  
5           shall include any qualified organization.

6           “(ii) DEFINITION.—For purposes of  
7           this paragraph, the term ‘qualified organi-  
8           zation’ means an organization which—

9                   “(I) is described in section  
10                   501(c)(3) and exempt from tax under  
11                   section 501(a),

12                   “(II) is described in section  
13                   170(b)(1)(A),

14                   “(III) is not described in section  
15                   509(a)(3), and

16                   “(IV) satisfies the requirements  
17                   under subparagraphs (A) and (B) of  
18                   paragraph (1).

19           “(B) QUALIFIED GROSS RECEIPTS.—

20           “(i) IN GENERAL.—For purposes of  
21           subsection (a)(1)(A), in the case of a quali-  
22           fied organization, the term ‘qualified gross  
23           receipts’ means gross receipts of the orga-  
24           nization for the taxable year described in  
25           such subsection.

1           “(ii) SPECIAL RULE.—In the case of a  
2 qualified organization which did not file a  
3 tax return for the taxable year described in  
4 subsection (a)(1)(A), such subsection shall  
5 be applied by substituting ‘2018’ for  
6 ‘2019’.

7           “(iii) ORGANIZATION EXEMPT FROM  
8 FILING.—

9           “(I) IN GENERAL.—In the case  
10 of an organization which is exempt  
11 from filing a return pursuant to sec-  
12 tion 6033(a) or which is not required  
13 to include in such return the informa-  
14 tion necessary to determine the  
15 amount of the credit allowed under  
16 this section, such organization may  
17 submit to the Secretary (in such form  
18 and manner as is deemed appropriate  
19 by the Secretary) any information re-  
20 quired for purposes of determining—

21           “(aa) whether such organi-  
22 zation satisfies the requirements  
23 under subparagraphs (A) and  
24 (B) of paragraph (1), and

1                   “(bb) the amount of the  
2                   credit allowed under subsection  
3                   (a)(1).

4                   “(II) PUBLICITY OF INFORMA-  
5                   TION.—For purposes of section 6104,  
6                   any information submitted by an or-  
7                   ganization under subclause (I) shall  
8                   be deemed to be information required  
9                   to be furnished by such organization  
10                  pursuant to section 6033.

11               “(c) TREATMENT OF CREDIT.—The credit allowed by  
12               subsection (a) shall be treated as allowed by subpart C  
13               of part IV of subchapter A of chapter 1.

14               “(d) COORDINATION WITH ADVANCE REFUNDS OF  
15               CREDIT.—The amount of credit which would (but for this  
16               subsection) be allowable under this section shall be re-  
17               duced (but not below zero) by the aggregate refunds and  
18               credits made or allowed to the taxpayer under subsection  
19               (e). Any failure to so reduce the credit shall be treated  
20               as arising out of a mathematical or clerical error and as-  
21               sessed according to section 6213(b)(1).

22               “(e) ADVANCE REFUNDS AND CREDITS.—

23                   “(1) IN GENERAL.—Any person which was a  
24                   qualifying business for such person’s last taxable  
25                   year ending before January 1, 2020, shall be treated

1 as having made a payment against the tax imposed  
2 by chapter 1 for such taxable year in an amount  
3 equal to the advance refund amount for such taxable  
4 year, regardless of whether such tax would have  
5 been imposed on such person.

6 “(2) ADVANCE REFUND AMOUNT.—For pur-  
7 poses of paragraph (1), the advance refund amount  
8 is the amount that would have been allowed as a  
9 credit under this section for such taxable year if this  
10 section (other than subsection (d) and this sub-  
11 section) had applied to such taxable year.

12 “(3) TIMING OF PAYMENTS.—The Secretary  
13 shall, subject to the provisions of this title, refund  
14 or credit any overpayment attributable to this sec-  
15 tion as rapidly as possible. No refund or credit shall  
16 be made or allowed under this subsection after De-  
17 cember 31, 2020.

18 “(4) NO INTEREST.—No interest shall be al-  
19 lowed on any overpayment attributable to this sec-  
20 tion.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) DEFINITION OF DEFICIENCY.—Section  
23 6211(b)(4)(A) of the Internal Revenue Code of 1986  
24 is amended by striking “and 36B, 168(k)(4)” and  
25 inserting “36B, and 6428”.

1           (2) Paragraph (2) of section 1324(b) of title  
2           31, United States Code, is amended by inserting  
3           “6428,” after “54B(h),”.

4           (3) The table of sections for subchapter B of  
5           chapter 65 of subtitle F of the Internal Revenue  
6           Code of 1986 is amended by inserting after the item  
7           relating to section 6427 the following:

“Sec. 6428. Small Business Rebate.”.

8   **SEC. 3. MODIFICATION OF ESTIMATED TAX PAYMENTS FOR**  
9                                   **SMALL BUSINESSES.**

10          (a) **TIMING AND AMOUNT OF REQUIRED INSTALL-**  
11 **MENTS.—**

12           (1) **IN GENERAL.—**In the case of any taxable  
13          year beginning in 2020, with respect to a qualified  
14          individual, notwithstanding section 6654(c) and sec-  
15          tion 6654(d)(1)(A) of the Internal Revenue Code of  
16          1986—

17                   (A) there shall be 2 required installments  
18                   (within the meaning of section 6654 of such  
19                   Code) for the taxable year;

20                   (B) the due date for the 1st installment is  
21                   September 15, 2020;

22                   (C) the due date for the 2nd installment is  
23                   January 15, 2021;

24                   (D) the amount of each such required in-  
25                   stallment shall be 50 percent of the required

1 annual payment (as defined in section  
2 6654(d)(1)(B) of such Code, after the applica-  
3 tion of subparagraph (E));

4 (E) in determining such required annual  
5 payment, section 6654(d)(1)(C) of such Code  
6 shall not apply and section 6654(d)(1)(B)(ii) of  
7 such Code shall be applied by substituting “75  
8 percent” for “100 percent”;

9 (F) if (after the application of this para-  
10 graph) section 6654(d)(2) of such Code applies  
11 to the qualified individual, the table contained  
12 in subparagraph (C)(ii) thereof shall be applied  
13 by substituting “0” for “22.5” and for “45”,  
14 and by substituting “45” for “67.5”; and

15 (G) section 6654(h) of such Code shall be  
16 applied by treating the 2nd required installment  
17 as the 4th required installment.

18 (2) QUALIFIED INDIVIDUAL.—For purposes of  
19 this subsection, the term “qualified individual”  
20 means any individual for a taxable year if—

21 (A) the adjusted gross income shown on  
22 the return of tax of such individual for the pre-  
23 ceeding taxable year is less than \$250,000  
24 (\$500,000 in the case of a joint return); and

1 (B) such individual certifies, in such form  
2 or manner as is required by the Secretary of  
3 the Treasury (or the Secretary's delegate), that  
4 more than 50 percent of the gross income  
5 shown on the return of tax of such individual  
6 for such preceding taxable year was income  
7 from a qualified small business.

8 (3) INCOME FROM QUALIFIED SMALL BUSI-  
9 NESS.—For purposes of this section, the term “in-  
10 come from a qualified small business” means, with  
11 respect to any taxable year, income from a trade or  
12 business—

13 (A) which is located in the United States;  
14 and

15 (B) the average number of employees of  
16 which was less than 500 full-time equivalent  
17 employees (within the meaning of section  
18 4980H of the Internal Revenue Code of 1986)  
19 for the calendar year ending with or within the  
20 preceding taxable year.

21 (b) COORDINATION WITH SECTION 7508A.—In the  
22 case of any postponement or extension by the Secretary  
23 of the Treasury (or the Secretary's delegate) under section  
24 7508A of the Internal Revenue Code of 1986 affecting the  
25 due date of the required installments under section 6654

1 of such Code, subsection (a) shall apply only if the due  
 2 date for the 1st installment under paragraph (1)(B) there-  
 3 of is later than the due date prescribed for the 1st install-  
 4 ment under such postponement or extension.

5 **SEC. 4. EMPLOYEE RETENTION CREDIT FOR EMPLOYERS**  
 6 **OF EMPLOYEES AFFECTED BY COVID-19.**

7 (a) IN GENERAL.—In the case of an eligible em-  
 8 ployer, there shall be allowed as a credit against the tax  
 9 imposed by section 3111(a) of the Internal Revenue Code  
 10 of 1986 or section 3221(a) of such Code for each calendar  
 11 quarter an amount equal to 50 percent of the qualified  
 12 wages with respect to each eligible employee of such em-  
 13 ployer for such taxable year. The amount of qualified  
 14 wages with respect to any eligible employee which may be  
 15 taken into account under this subsection by the eligible  
 16 employer for all calendar quarters during any designated  
 17 period shall not exceed \$7,500.

18 (b) ELIGIBLE EMPLOYER.—

19 (1) IN GENERAL.—The term “eligible em-  
 20 ployer” means any employer which—

21 (A) which has less than 500 full-time em-  
 22 ployees on the first day of the designated period  
 23 with respect to the employer; and

24 (B) which—

1 (i) conducted an active trade or busi-  
2 ness in a qualified coronavirus disaster  
3 zone and meets the requirements of para-  
4 graph (2)(A); or

5 (ii) meets the requirement of para-  
6 graph (2)(B).

7 (2) REQUIREMENTS.—

8 (A) IN GENERAL.—An employer meets the  
9 requirements of this subparagraph if—

10 (i) the employer is required to close as  
11 a result of a directive by a Federal, State,  
12 or local authority; or

13 (ii) the employer is required to close  
14 due to lack of available employees due to  
15 qualifying needs related to a public health  
16 emergency (as defined in section 110 of  
17 the Family and Medical Leave Act of  
18 1993, as added by section 3102 of the  
19 Emergency Family and Medical Leave Ex-  
20 pansion Act).

21 (B) ALTERNATIVE REQUIREMENTS.—An  
22 employer meets the requirements of this sub-  
23 paragraph if the employer's gross receipts for  
24 any 30-day period during the calendar year are  
25 more than 25 percent less than such gross re-

1 receipts for the corresponding 30-day period for  
2 the preceding calendar year.

3 (c) OTHER DEFINITIONS.—For purposes of this sec-  
4 tion—

5 (1) ELIGIBLE EMPLOYEE.—The term “eligible  
6 employee” means any employee whose principle place  
7 of employment was with an eligible employer.

8 (2) QUALIFIED WAGES.—The term “qualified  
9 wages” means wages (as defined in section 3121(a)  
10 of the Internal Revenue Code of 1986) and com-  
11 pensation (as defined in section 3231(e) of the In-  
12 ternal Revenue Code) paid by an employer, except  
13 that such term shall not include any wages taken  
14 into account under section 7001 or section 7003 of  
15 the Families First Coronavirus Response Act.

16 (3) DESIGNATED PERIOD.—The term “des-  
17 ignated period” means, with respect to any eligible  
18 employer, the period—

19 (A) beginning on the date the employer  
20 first meets the requirements of subparagraph  
21 (A) or (B) of subsection (b)(2); and

22 (B) ending on the earlier of—

23 (i)(I) in the case of an employer who  
24 is an eligible employer by reason of meet-  
25 ing the requirements of subsection

1 (b)(2)(A)(i), the date the directive requir-  
2 ing the closure is no longer in effect;

3 (II) in the case of an employer who is  
4 an eligible employer by reason of meeting  
5 the requirements of subsection  
6 (b)(2)(A)(ii), the date the public health  
7 emergency lapses; and

8 (III) in the case of an employer who  
9 is an eligible employer by reason of meet-  
10 ing the requirements of subsection  
11 (b)(2)(B), the date on which the employ-  
12 er's gross receipts for any 30-day period  
13 beginning after the date described in sub-  
14 paragraph (A) are more than 90 percent of  
15 such gross receipts for the corresponding  
16 30-day period in the preceding calendar  
17 year; or

18 (ii) the date which is 120 days after  
19 the date described in subparagraph (A).

20 (4) QUALIFIED CORONAVIRUS DISASTER  
21 ZONE.—The term “qualified coronavirus disaster  
22 zone” means any State or geographic area for which  
23 an emergency with respect to COVID–19 has been  
24 declared by a Federal, State, or local authority.

25 (d) OTHER RULES.—

1 (1) REFUNDABILITY OF EXCESS CREDIT.—

2 (A) IN GENERAL.—If the amount of the  
3 credit under subsection (a) exceeds the tax im-  
4 posed by section 3111(a) of the Internal Rev-  
5 enue Code of 1986 or section 3221(a) of such  
6 Code for any calendar quarter, such excess shall  
7 be treated as an overpayment that shall be re-  
8 funded under sections 6402(a) and 6413(b) of  
9 such Code.

10 (B) TREATMENT OF PAYMENTS.—For pur-  
11 poses of section 1324 of title 31, United States  
12 Code, any amounts due to an employer under  
13 this subsection shall be treated in the same  
14 manner as a refund due from a credit provision  
15 referred to in subsection (b)(2) of such section.

16 (2) TREATMENT OF DEPOSITS.—The Secretary  
17 of the Treasury (or the Secretary's delegate) shall  
18 waive any penalty under section 6656 of the Internal  
19 Revenue Code of 1986 for any failure to make a de-  
20 posit of the tax imposed by section 3111(a) of such  
21 Code or section 3221(a) of such Code if the Sec-  
22 retary determines that such failure was due to the  
23 anticipation of the credit allowed under this section.

24 (3) APPLICATION OF OTHER RULES.—For pur-  
25 poses of this section, rules similar to the rules of

1 sections 51(i)(1), 52, and 280C(a), of the Internal  
2 Revenue Code of 1986, shall apply.

3 (4) EMPLOYEE NOT TAKEN INTO ACCOUNT  
4 MORE THAN ONCE.—An employee shall not be treat-  
5 ed as an eligible employee for purposes of this sec-  
6 tion for any period with respect to any employer if  
7 such employer is allowed a credit under section 51  
8 of the Internal Revenue Code of 1986 with respect  
9 to such employee for such period.

10 (e) TRUST FUNDS HELD HARMLESS.—There are  
11 hereby appropriated (out of any money in the Treasury  
12 not otherwise appropriated) for each fiscal year to the  
13 Federal Old-Age and Survivors Insurance Trust Fund and  
14 the Federal Disability Insurance Trust Fund established  
15 under section 201 of the Social Security Act (42 U.S.C.  
16 401) and the Social Security Equivalent Benefit Account  
17 established under section 15A(a) of the Railroad Retire-  
18 ment Act of 1974 (45 U.S.C. 231n-1(a)) an amount equal  
19 to the reduction in the transfers to such fund for such  
20 fiscal year by reason of this section. Amounts appropriated  
21 by the preceding sentence shall be transferred from the  
22 general fund at such times and in such manner as to rep-  
23 licate to the extent possible the transfers which would have

1 occurred to such Trust Fund had such amendments not  
2 been enacted.

○