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Senate of Pennsylvania Session of 2019 - 2020 Regular Session

MEMORANDUM

Posted: July 28, 2020 07:54 AM
From: [Senator Camera Bartolotta](#) and [Sen. Judy Ward](#)
To: All Senate members
Subject: COVID-19 Small Business Tax Relief Package

The COVID-19 crisis has had a dramatic impact on our small businesses across the Commonwealth. The effects of month-long business closures have been catastrophic with some being forced to close their doors indefinitely and others struggling to reopen. Though several state and federal grant and loan programs have helped many of these businesses, these funds are available on a limited basis. There is much more that we can do to help with the revival of our small business community.

Several targeted changes to Pennsylvania's Tax Code will allow small businesses to benefit from tax relief, setting them up to succeed even as they have experienced losses. Because these businesses typically do not have access to large amounts of capital to manage losses, it is critical that we allow them to use tax strategies to manage the consequences of the pandemic, resulting in immediate relief to many cash-strapped Main Street businesses.

The first change in our proposal would allow small businesses to take a net loss against other sources of income. For example, if the owner sells some personal property to make payroll, he would be able to deduct the business loss against the tax bill from selling the personal property. This change would be critically important to many small businesses across the state that have recently had to dip into personal resources to keep their businesses afloat.

The second change is a matter of parity. Currently, corporations in Pennsylvania may take Net Operating Losses (NOL) against future years for up to 20 years. However, small businesses paying their taxes through personal income cannot carry losses forward. This unfairness has been exacerbated during the COVID-19 crisis by the fact that, while countless small businesses were shuttered, many large corporate entities were able to stay open as life-sustaining businesses. These large corporations will be able to deduct their losses from the year, while the small, family-owned businesses that closed their doors cannot.

Third, in order to get cash into the hands of small businesses quicker without creating a new grant or loan program, we are proposing to temporarily allow small businesses to "carry back" losses to previous tax years. As a model for this provision, we look to the April 2020 federal CARES Act, which temporarily reintroduced net operating loss carrybacks, which had been suspended with the Tax Cuts and Jobs Act. Congress saw this as a means to get cash to struggling businesses quickly. The CARES Act allows carrybacks for tax years 2018, 2019, and 2020 for a period of five years, which is similar to what we are proposing to do for small businesses in Pennsylvania.

With this final provision, businesses that suffered net operating losses in 2018 or 2019 can apply now for a tentative tax refund if they were profitable in any of the five years prior to the loss. If the business suffered its first loss since 2017 this year as a result of the pandemic, they will be able to request a refund against a previous profitable tax year along with or after filing for the 2020 return. This carryforward provision would be temporary, providing immediate relief for small businesses just when they need it most.

We ask you to join us in this effort by cosponsoring our proposal and supporting these tax changes that would provide fairness and set small businesses on the road to recovery.

Introduced as [SB1278](#)