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

Mr. Wyden (for himself and Mr. Cardin) introduced the following bill; which was read twice and referred to the Committee on __________________

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 Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Save America’s Main Street Act”.

4 SEC. 2. SMALL BUSINESS REBATE.

5 (a) In general.—Subchapter B of chapter 65 of subtitle F of the Internal Revenue Code of 1986 is amended by inserting after section 6427 the following new section:

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“SEC. 6428. SMALL BUSINESS REBATE.

“(a) ALLOWANCE OF CREDIT.—

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

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

“(B) $75,000.

“(2) SPECIAL RULE.—In the case of—

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

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

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

“(3) QUALIFIED GROSS RECEIPTS.—For purposes of paragraph (1)(A), the term ‘qualified gross receipts’ means gross receipts of the qualifying business which are effectively connected with the conduct of a trade or business within the United States (within the meaning of section 864(c), determined
by substituting ‘qualifying business’ for ‘nonresident alien individual or a foreign corporation’ or for ‘foreign corporation’ each place it appears) for the applicable taxable year under paragraph (1)(A), as reported by the taxpayer on—

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

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

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

“(b) QUALIFYING BUSINESS.—

“(1) IN GENERAL.—For purposes of this section, the term ‘qualifying business’ means any person which—

“(A) meets the gross receipts test of subsection (c) of section 448 for the applicable taxable year under subsection (a)(1)(A), except that subsection (c) of section 448 shall be applied—

“(i) without regard to paragraph (4) of such subsection, and
“(ii) by substituting ‘$1,000,000’ for ‘$25,000,000’, and

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

“(2) SPECIAL RULE.—For purposes of paragraph (1)(A), in the case of any taxpayer which is not a corporation or a partnership, the gross receipts test of section 448(c) shall be applied in the same manner as if such taxpayer were a corporation or partnership.

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

“(4) AGGREGATION RULES.—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 person for purposes of paragraph (1)(B).

“(5) QUALIFIED ORGANIZATIONS.—
“(A) INCLUSION AS QUALIFYING BUSINESS.—

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

“(ii) DEFINITION.—For purposes of this paragraph, the term ‘qualified organization’ means an organization which—

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

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

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

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

“(B) QUALIFIED GROSS RECEIPTS.—

“(i) IN GENERAL.—For purposes of subsection (a)(1)(A), in the case of a qualified organization, the term ‘qualified gross receipts’ means gross receipts of the organization for the taxable year described in such subsection.
“(ii) SPECIAL RULE.—In the case of a qualified organization which did not file a tax return for the taxable year described in subsection (a)(1)(A), such subsection shall be applied by substituting ‘2018’ for ‘2019’.

“(iii) ORGANIZATION EXEMPT FROM FILING.—

“(I) IN GENERAL.—In the case of an organization which is exempt from filing a return pursuant to section 6033(a) or which is not required to include in such return the information necessary to determine the amount of the credit allowed under this section, such organization may submit to the Secretary (in such form and manner as is deemed appropriate by the Secretary) any information required for purposes of determining—

“(aa) whether such organization satisfies the requirements under subparagraphs (A) and (B) of paragraph (1), and
“(bb) the amount of the credit allowed under subsection (a)(1).

“(II) Publicity of Information.—For purposes of section 6104, any information submitted by an organization under subclause (I) shall be deemed to be information required to be furnished by such organization pursuant to section 6033.

“(c) Treatment of Credit.—The credit allowed by subsection (a) shall be treated as allowed by subpart C of part IV of subchapter A of chapter 1.

“(d) Coordination with Advance Refunds of Credit.—The amount of credit which would (but for this subsection) be allowable under this section shall be reduced (but not below zero) by the aggregate refunds and credits made or allowed to the taxpayer under subsection (e). Any failure to so reduce the credit shall be treated as arising out of a mathematical or clerical error and assessed according to section 6213(b)(1).

“(e) Advance Refunds and Credits.—

“(1) In General.—Any person which was a qualifying business for such person’s last taxable year ending before January 1, 2020, shall be treated
as having made a payment against the tax imposed by chapter 1 for such taxable year in an amount equal to the advance refund amount for such taxable year, regardless of whether such tax would have been imposed on such person.

“(2) ADVANCE REFUND AMOUNT.—For purposes of paragraph (1), the advance refund amount is the amount that would have been allowed as a credit under this section for such taxable year if this section (other than subsection (d) and this subsection) had applied to such taxable year.

“(3) TIMING OF PAYMENTS.—The Secretary shall, subject to the provisions of this title, refund or credit any overpayment attributable to this section as rapidly as possible. No refund or credit shall be made or allowed under this subsection after December 31, 2020.

“(4) NO INTEREST.—No interest shall be allowed on any overpayment attributable to this section.”.

(b) CONFORMING AMENDMENTS.—

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

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

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

“Sec. 6428. Small Business Rebate.”.

SEC. 3. MODIFICATION OF ESTIMATED TAX PAYMENTS FOR SMALL BUSINESSES.

(a) Timing and Amount of Required Installments.—

(1) In general.—In the case of any taxable year beginning in 2020, with respect to a qualified individual, notwithstanding section 6654(c) and section 6654(d)(1)(A) of the Internal Revenue Code of 1986—

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

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

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

(D) the amount of each such required installment shall be 50 percent of the required
annual payment (as defined in section 6654(d)(1)(B) of such Code, after the application of subparagraph (E));

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

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

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

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

(A) the adjusted gross income shown on the return of tax of such individual for the preceding taxable year is less than $250,000 ($500,000 in the case of a joint return); and
(B) such individual certifies, in such form or manner as is required by the Secretary of the Treasury (or the Secretary’s delegate), that more than 50 percent of the gross income shown on the return of tax of such individual for such preceding taxable year was income from a qualified small business.

(3) Income from Qualified Small Business.—For purposes of this section, the term “income from a qualified small business” means, with respect to any taxable year, income from a trade or business—

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

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

(b) Coordination With Section 7508A.—In the case of any postponement or extension by the Secretary of the Treasury (or the Secretary’s delegate) under section 7508A of the Internal Revenue Code of 1986 affecting the due date of the required installments under section 6654
of such Code, subsection (a) shall apply only if the due
date for the 1st installment under paragraph (1)(B) there-
of is later than the due date prescribed for the 1st install-
ment under such postponement or extension.

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

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

(b) Eligible Employer.—

(1) In General.—The term “eligible em-
ployer” means any employer which—

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

(B) which—
(i) conducted an active trade or business in a qualified coronavirus disaster zone and meets the requirements of paragraph (2)(A), or

(ii) meets the requirement of paragraph (2)(B).

(2) REQUIREMENTS.—

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

(i) the employer is required to close as a result of a directive by a Federal, state, or local authority, or

(ii) the employer is required to close due to lack of available employees due to qualifying needs related to a public health emergency (as defined in section 110 of the Family and Medical Leave Act of 1993, as added by section 3102 of the Emergency Family and Medical Leave Expansion Act), or

(B) ALTERNATIVE REQUIREMENTS.—An employer meets the requirements of this subparagraph if the employer’s gross receipts for any 30-day period during the calendar year are more than 25 percent less than such gross-re-
receipts for the corresponding 30-day period for the preceding calendar year.

(c) OTHER DEFINITIONS.—For purposes of this section—

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

(2) QUALIFIED WAGES.—The term “qualified wages” means wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) and compensation (as defined in section 3231(e) of the Internal Revenue Code) paid by an employer, except that such term shall not include any wages taken into account under section 7001 or section 7003 of the Families First Coronavirus Response Act.

(3) DESIGNATED PERIOD.—The term “designated period” means, with respect to any eligible employer, the period—

(A) beginning on the date the employer first meets the requirements of subparagraph (A) or (B) of subsection (b)(2), and

(B) ending on the earlier of—

(i)(I) in the case of an employer who is an eligible employer by reason of meeting the requirements of subsection
(b)(2)(A)(i), the date the directive requiring the closure is no longer in effect,

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

(III) in the case of an employer who is an eligible employer by reason of meeting the requirements of subsection (b)(2)(B), the date on which the employer’s gross receipts for any 30-day period beginning after the date described in subparagraph (A) are more than 90 percent of such gross receipts for the corresponding 30-day period in the preceding calendar year, or

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

(4) Qualified Coronavirus Disaster Zone.—The term “qualified coronavirus disaster zone” means any State or geographic area for which an emergency with respect to COVID-19 has been declared by a Federal, State, or local authority.

(d) Other Rules.—
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(1) Refundability of excess credit.—

(A) In general.—If the amount of the 
credit under subsection (a) exceeds the tax im-
posed by section 3111(a) of the Internal Rev-
ue Code of 1986 or section 3221(a) of such 
Code for any calendar quarter, such excess shall 
be treated as an overpayment that shall be re-
funded under sections 6402(a) and 6413(b) of 
such Code.

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

(2) Treatment of deposits.—The Secretary 
of the Treasury (or the Secretary’s delegate) shall 
waive any penalty under section 6656 of the Internal 
Revenue Code of 1986 for any failure to make a de-
posit of the tax imposed by section 3111(a) of such 
Code or section 3221(a) of such Code if the Sec-
retary determines that such failure was due to the 
anticipation of the credit allowed under this section.

(3) Application of other rules.—For pur-
poses of this section, rules similar to the rules of
sections 51(i)(1), 52, and 280C(a), of the Internal Revenue Code of 1986, shall apply.

(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this section for any period with respect to any employer if such employer is allowed a credit under section 51 of the Internal Revenue Code of 1986 with respect to such employee for such period.

(e) TRUST FUNDS HELD HARMLESS.—There are hereby appropriated (out of any money in the Treasury not otherwise appropriated) for each fiscal year to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) and the Social Security Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(a)) an amount equal to the reduction in the transfers to such fund for such fiscal year by reason of this section. Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendments not been enacted.