



Biotechnology
Innovation
Organization

SUPPORT STARTUPS THROUGH THE ECONOMIC CRISIS

Allow startups to monetize tax assets

Research has consistently demonstrated that new businesses – “startups” – are disproportionately responsible for the innovations that drive economic growth and job creation. Startups, therefore, are crucial to the U.S. economy’s capacity to respond to, and recover from, the COVID-19 crisis and the damage it has inflicted on economic growth and the labor market.

As the COVID-19 pandemic rages, startups across America are struggling to find a position to survive an economic crisis of unknown depth and duration. These companies are either in a loss position or completely pre-revenue while they build new products and technologies. Broadly speaking, investors during economic crises tend to pull capital away from this type of high-risk illiquid investment and towards safer and more liquid assets, putting startups and their 2.27 million employees at risk of exhausting the investment capital necessary to continue operations. Left unchecked, this pullback will cost hundreds of thousands of quality jobs and could cost the country years of lost innovation amid a global race for leadership in the next generation of technologies.

The startup ecosystem is a particularly difficult area of the economy to support. It is a small and unique business model where companies take significant losses in early years in pursuit of innovation and growth.

In the Coronavirus Aid, Relief and Economic Security (CARES) Act, Congress recognized that it has several tools to provide immediate liquidity to companies without creating new tax breaks. In particular: 1) a net operating loss (NOL) carryback provision that allows companies to use losses generated this year (and the last two years) to offset taxes paid in the prior five years, 2) temporary suspension of 80% NOL income limitation, and 3) an AMT credit provision that allows companies to accelerate the monetization of their AMT credits (as allowed in the TCJA). These provisions supported the operations of many hard-hit companies. But for the many startups focused on creating long-term value while incurring significant losses these provisions were ineffective for them.

On behalf of startups, their workers and investors, the proposals below are an appropriate complement to the work done in the CARES Act. These proposals deliver similar relief to companies whose success will determine the country’s future competitiveness, as well as the capacity of many companies researching and producing tools to help the U.S. fight the COVID-19 pandemic.

ALLOW STARTUPS TO ACCESS VALUE OF NOLS

Proposal: Allow startups and growth companies to monetize up to \$100 million worth of eligible NOLs. Eligible NOLs must have been incurred in 2020 or in the previous five full taxable years. Any monetized NOLs would no longer be available to offset earnings in the future. Section 382 would be disregarded for purposes of this proposal. The value of NOLs utilized under this proposal would be based upon the current federal corporate tax rate of 21 percent under Section 11.

Background: Startups and growth companies often incur losses in the early years of their operations as they use investment capital to fund research, expand workforces, or otherwise undertake activities intended to create long-term value. These investments generate NOLs which can be carried forward unless loss limitation rules under Section 382 are triggered by the firm in an equity financing round or other type of “ownership change.” When these startups ultimately become profitable companies, these NOLs may become valuable tax assets, but unfortunately, these companies have no way to unlock their value in the short term to provide much-needed liquidity to weather the current economic crisis. Allowing startups to bring the value of these losses forward and monetize them will help many survive the economic crisis.

ENHANCE VALUE OF NOLS FOR EXPENSES RELATED TO PRODUCTION AND DISTRIBUTION OF PRODUCTS NEEDED TO FIGHT COVID-19

Proposal: Double the value of monetized NOLs for expenses related to the production and distribution of products needed to combat COVID-19. Eligible NOLs must be incurred after February 15, 2020. Any monetized NOLs would no longer be available to offset earnings in the future. Section 382 would be disregarded for purposes of this proposal. The value of NOLs utilized under this proposal would be double the current federal corporate tax rate under Section 11.

Background: Startups and growth companies across the country are researching and producing products needed to fight the COVID-19 crisis. From personal protective equipment (PPE) to respirators and testing solutions, these companies are doing what they can to ramp up production of products in critical shortage. Enhancing the value of NOLs generated by these activities is an efficient and targeted way to increase availability of equipment that our emergency service personnel need as they fight this crisis.

MAKE R&D CREDITS TEMPORARILY REFUNDABLE

Proposal: Make the research and development (R&D) tax credit temporarily refundable, using a similar structure to the emergency leave credit. Section 383 would be disregarded for purposes of this proposal.

Background: Because of their research-intensive nature, startups generate significant R&D tax credits that are carried forward as the costs of research and growth activities often outstrip earnings for many years. These credits currently can offset some payroll taxes for early stage companies, but largely stay on the books and are carried forward unless credit limitation rules under Section 383 are triggered by the firm in an equity financing round or other type of “ownership change.” Making these R&D credits refundable will support research that could otherwise go dormant during the economic downturn.

DOUBLE R&D CREDIT VALUE FOR STARTUPS RESEARCHING TECHNOLOGIES TO COMBAT COVID-19 AND OTHER PANDEMIC INFECTIOUS DISEASE THREATS

Proposal: Double the value of the R&D credit with respect to research into products needed to fight the COVID-19 crisis or mitigate its impact (such as research towards vaccines, tests for the disease, PPE, among other products) and make it refundable. In addition, the credit should be enhanced for research into combating further pandemic infectious disease threats.

Background: Many startups are working tirelessly to design novel products that can support the efforts of the country's front-line emergency responders in combating the COVID-19 crisis. This proposal would deliver capital efficiently to accelerate many research projects currently undertaken by some of the country's most innovative companies to create better technology to fight the pandemic, as well as encourage many new projects.