

SEC. 13302. MODIFICATION OF NET OPERATING LOSS DEDUCTION.

(a) **LIMITATION ON DEDUCTION.**—

(1) **IN GENERAL.**—Section 172(a) is amended to read as follows:

“(a) **DEDUCTION ALLOWED.**—There shall be allowed as a deduction for the taxable year an amount equal to the lesser of—

“(1) the aggregate of the net operating loss carryovers to such year, plus the net operating loss carrybacks to such year, or

“(2) 80 percent of taxable income computed without regard to the deduction allowable under this section.

For purposes of this subtitle, the term ‘net operating loss deduction’ means the deduction allowed by this subsection.”.

(2) **COORDINATION OF LIMITATION WITH CARRYBACKS AND CARRYOVERS.**—Section 172(b)(2) is amended by striking “shall be computed—” and all that follows and inserting “shall— “(A) be computed with the modifications specified in subsection (d) other than paragraphs (1), (4), and (5) thereof, and by determining the amount of the net operating loss deduction without regard to the net operating loss for the loss year or for any taxable year thereafter,

“(B) not be considered to be less than zero, and

“(C) not exceed the amount determined under subsection

(a)(2) for such prior taxable year.”.

(3) **CONFORMING AMENDMENT.**—Section 172(d)(6) is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and

inserting “; and”, and by adding at the end the following new subparagraph:

“(C) subsection (a)(2) shall be applied by substituting ‘real estate investment trust taxable income (as defined in section 857(b)(2) but without regard to the deduction for dividends paid (as defined in section 561))’ for ‘taxable income’.”.

(b) REPEAL OF NET OPERATING LOSS CARRYBACK; INDEFINITE CARRYFORWARD.—

(1) IN GENERAL.—Section 172(b)(1)(A) is amended—

(A) by striking “shall be a net operating loss carryback to each of the 2 taxable years” in clause (i) and inserting “except as otherwise provided in this paragraph, shall not be a net operating loss carryback to any taxable year”, and

(B) by striking “to each of the 20 taxable years” in clause (ii) and inserting “to each taxable year”.

(2) CONFORMING AMENDMENT.—Section 172(b)(1) is amended by striking subparagraphs (B) through (F).

(c) TREATMENT OF FARMING LOSSES.—

(1) ALLOWANCE OF CARRYBACKS.—Section 172(b)(1), as amended by subsection (b)(2), is amended by adding at the end the following new subparagraph:

“(B) FARMING LOSSES.—

“(i) IN GENERAL.—In the case of any portion of a net operating loss for the taxable year which is a farming loss with respect to the taxpayer, such loss shall be a net operating loss carryback to each of the 2 taxable years preceding the taxable year of such loss.

“(ii) FARMING LOSS.—For purposes of this section, the term ‘farming loss’ means the lesser of—

“(I) the amount which would be the net operating loss for the taxable year if only income and deductions attributable to farming businesses (as defined in section 263A(e)(4)) are taken into account, or

“(II) the amount of the net operating loss for such taxable year.

“(iii) COORDINATION WITH PARAGRAPH (2).—For purposes of applying paragraph (2), a farming loss for any taxable year shall be treated as a separate net operating loss for such taxable year to be taken into account after the remaining portion of the net operating loss for such taxable year.

“(iv) ELECTION.—Any taxpayer entitled to a 2-year carryback under clause (i) from any loss year may elect not to have such clause apply to such loss year. Such election shall be made in such manner as prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer’s return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 172 is amended by striking subsections (f), (g), and (h), and by redesignating subsection (i) as subsection (f).

(B) Section 537(b)(4) is amended by inserting “(as in effect before the date of enactment of the Tax Cuts and Jobs Act)” after “as defined in section 172(f)”.

(d) TREATMENT OF CERTAIN INSURANCE LOSSES.—

(1) TREATMENT OF CARRYFORWARDS AND CARRYBACKS.—Section 172(b)(1), as amended by subsections (b)(2) and (c)(1), is amended by adding at the end the following new subparagraph:

“(C) INSURANCE COMPANIES.—In the case of an insurance company (as defined in section 816(a)) other than a life insurance company, the net operating loss for any taxable year—

“(i) shall be a net operating loss carryback to each of the 2 taxable years preceding the taxable year of such loss, and

“(ii) shall be a net operating loss carryover to each of the 20 taxable years following the taxable year of the loss.”.

(2) EXEMPTION FROM LIMITATION.—Section 172, as amended by subsection (c)(2)(A), is amended by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following new subsection:

“(f) SPECIAL RULE FOR INSURANCE COMPANIES.—In the case of an insurance company (as defined in section 816(a)) other than a life insurance company—

“(1) the amount of the deduction allowed under subsection (a) shall be the aggregate of the net operating loss carryovers to such year, plus the net operating loss carrybacks to such year, and

“(2) subparagraph (C) of subsection (b)(2) shall not apply.”.

(e) EFFECTIVE DATE.—

(1) NET OPERATING LOSS LIMITATION.—The amendments made by subsections (a) and (d)(2) shall apply to losses arising in taxable years beginning after December 31, 2017.

(2) CARRYFORWARDS AND CARRYBACKS.—The amendments made by subsections (b), (c), and (d)(1) shall apply to net operating losses arising in taxable years ending after December 31, 2017.