

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

June 16, 2022

The Honorable Janet Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

Secretary Yellen:

The clear intent of Congress when it codified the foreign tax credit was to protect Americans from double taxation by providing a credit for foreign income taxes paid. Alarming, some elements of Treasury's foreign tax credit regulations issued on December 28, 2021, run contrary to that intent. What's more, the interpretive guidance in the final regulations was not sufficiently detailed to allow reliable determinations of whether specific foreign taxes will qualify for a credit, and the timeline for implementation was not reasonable.

We share Treasury's goal of countering discriminatory taxes enacted by foreign countries that target American businesses and workers. However, taxpayers were given only three days between issuance of the regulations and their effective date to analyze hundreds of existing foreign taxes under the new parameters for claiming a foreign tax credit. This task was impossible to perform because the final regulations suggest fundamental changes to the creditability determinations from decades of foreign tax credit jurisprudence and prior Treasury guidance.

Further, Treasury's delay in providing necessary clarifying guidance has levied undue burdens on taxpayers attempting to comply with the final regulations. Lack of clarity in the final regulations has undermined the integrity of public financial reporting and affected investment decisions. These problems are compounded each fiscal quarter that guidance is delayed and businesses and financial auditors try to guess Treasury's final landing spot.

It is similarly unclear whether the IRS has the capacity to respond to taxpayer questions about how these new rules apply in practice. With taxpayers already harmed by historic backlogs and delays at the IRS, the IRS should not be forced to redeploy resources to meet the unreasonable implementation timeline included in the final regulations.

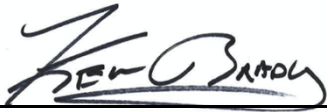
We are encouraged by Treasury's commitment to return to the normal rulemaking process and re-issue proposed regulations with respect to matters not previously included in the notice of proposed rulemaking. We request that Treasury expedite the release of those proposed regulations and consider all substantive comments by taxpayers. When Treasury is informed of

likely double taxation under its regulations, Congress expects Treasury to act to prevent multiple layers of tax.

Bipartisan concerns over the final regulations and their implementation were made clear through an April 29, 2022, letter from ten Ways and Means Committee Members and during your testimony before the Committee on June 8, 2022.

Because of Treasury's significant delays in providing necessary clarifying guidance, we respectfully request that Treasury extend the implementation window for the final foreign tax credit regulations. We suggest applying to the entire final regulations package the January 1, 2023, effective date that applies to the Puerto Rico Law 154 excise tax.

Respectfully,



Kevin Brady
Republican Leader
Committee on Ways and Means



Vern Buchanan
Committee on Ways and Means



Adrian Smith
Committee on Ways and Means



Mike Kelly
Committee on Ways and Means



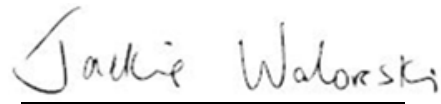
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