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Part 1: Tax Relief for Working Families

Calculation of Refundable Credit on a Per-Child Basis. —Under current law, the maximum refundable child tax credit for a taxpayer is computed by multiplying that taxpayer's earned income (in excess of $2,500) by 15 percent. This provision modifies the calculation of the maximum refundable credit amount by providing that taxpayers first multiply their earned income (in excess of $2,500) by 15 percent, and then multiply that amount by the number of qualifying children. This policy would be effective for tax years 2023, 2024, and 2025.

Modification in Overall Limit on Refundable Child Tax Credit. —Under current law, the maximum refundable child tax credit is limited to $1,600 per child for 2023, even if the earned income limitation described above is in excess of this amount. This provision increases the maximum refundable amount per child to $1,800 in tax year 2023, $1,900 in tax year 2024, and $2,000 in tax year 2025, along with the inflation adjustment described below.

Adjustment of Child Tax Credit for Inflation. —This provision would adjust the $2,000 value of the child tax credit for inflation in tax years 2024 and 2025, rounded down to the nearest $100.

Rule for Determination of Earned Income. —For tax years 2024 and 2025, taxpayers may, at their election, use their earned income from the prior taxable year in calculating their maximum child tax credit if the taxpayer's earned income in the current taxable year was less than the taxpayer's earned income in the prior taxable year.

Special Rule for Certain Early-Filed 2023 Returns. –This provision ensures that taxpayers filing their 2023 tax returns at the beginning of the 2024 tax filing season receive the correct child tax credit amount given the per-child and refundable amount changes made in this title. Additionally, to the extent that a taxpayer is eligible for an increased credit, the IRS is to execute such payment expeditiously.

Part 2: American Innovation and Growth

Deduction for Research and Experimental Expenditures. —Current law provides that research or experimental costs paid or incurred in tax years beginning after December 31, 2021, are required to be deducted over a five-year period. Research or experimental costs that are attributable to research that is conducted outside of the United States are required to be deducted over a 15-year period.

The provision delays the date when taxpayers must begin deducting their domestic research or experimental costs over a five-year period until taxable years beginning after December 31, 2025. Therefore, taxpayers may deduct currently domestic research or experimental costs that are paid or incurred in tax years beginning after December 31, 2021, and before January 1, 2026.

Extension of Allowance for Depreciation, Amortization, or Depletion in Determining the Limitation on Business Interest. —For tax years beginning before January 1, 2022, the computation of adjusted taxable income (ATI) for purposes of the limitation on the deduction for business interest is determined without regard to any deduction allowable for depreciation, amortization, or depletion (i.e., earnings before interest, taxes, depreciation, and amortization (EBITDA)).

The provision extends the application of EBITDA to taxable years beginning after December 31, 2023 (and, if elected, for taxable years beginning after December 31, 2021), and before January 1, 2026. Therefore, for taxable years beginning after December 31, 2021, and before January 1, 2024, ATI is computed with regard to deductions allowable for depreciation, amortization, or depletion (i.e., earnings before interest and taxes (EBIT)). However, ATI may be computed as EBITDA, if elected, for such taxable years. For taxable years beginning after December 31, 2023, and before January 1, 2026, ATI is computed as EBITDA. For taxable years beginning after December 31, 2025, ATI is computed as EBIT.

Extension of 100 Percent Bonus Depreciation. —Qualified property acquired and placed in service after September 27, 2017, and before January 1, 2023 (January 1, 2024, for longer production period property and certain aircraft), as well as specified plants planted or grafted after September 27, 2017, and before January 1, 2023, are eligible for 100-percent bonus depreciation. The 100-percent allowance is phased down by 20 percent per calendar year for qualified property acquired after September 27, 2017, and placed in service after December 31, 2022 (after December 31, 2023, for longer production period property and certain aircraft), as well as for specified plants planted or grafted after December 31, 2022.

The provision extends 100-percent bonus depreciation for qualified property placed in service after December 31, 2022, and before January 1, 2026 (January 1, 2027, for longer production period property and certain aircraft) and for specified plants planted or grafted after December 31, 2022, and before January 1, 2026. The provision retains 20-percent bonus depreciation for property placed in service after December 31, 2025, and before January 1, 2027 (after December 31, 2026, and before January 1, 2028, for longer production period property and certain aircraft), as well as for specified plants planted or grafted after December 31, 2025, and before January 1, 2027.

Increase in Limitations on Expensing of Depreciable Business Assets. —Under Internal Revenue Code ("IRC") section 179, a taxpayer may elect to expense the cost of qualifying property, rather than to recover such costs through tax depreciation deductions, subject to limitation. Under current law, the maximum amount a taxpayer may expense is $1 million of the cost of qualifying property placed in service for the taxable year. The $1 million amount is reduced by the amount by which the cost of such property placed in service during the taxable year exceeds $2.5 million. The $1 million and $2.5 million amounts are adjusted for inflation for taxable years beginning after 2018, and were $1.16 million and $2.89 million in 2023, respectively. In general, qualifying property is defined as depreciable tangible personal property, off-the shelf computer software, and qualified real property that is purchased for use in the active conduct of a trade or business.

The provision increases the maximum amount a taxpayer may expense to $1.29 million, reduced by the amount by which the cost of qualifying property exceeds $3.22 million. The $1.29 million and $3.22 million amounts are adjusted for inflation for taxable years beginning after 2024. The proposal applies to property placed in service in taxable years beginning after December 31, 2023.

Part 3: Increasing Global Competitiveness

Subtitle A – United States-Taiwan Expedited Double-Tax Relief Act
This subtitle provides targeted and expedited relief from double taxation on U.S.-Taiwan cross border investment through changes to the U.S. tax code.

Short Title. —This section provides the short title for subtitle A (the "United States-Taiwan Expedited Double-Tax Relief Act").

Special Rules for Taxation of Certain Residents of Taiwan. —This section creates new section 894A of the IRC, providing substantial benefits to Taiwan residents ("qualified residents of Taiwan"), similar to those that are provided in the 2016 United States Model Income Tax Convention ("U.S. Model Tax Treaty"). The provisions fall into four primary categories:

1. Reduction of withholding taxes;
2. Application of permanent establishment ("PE") rules;
3. Treatment of income from employment; and
4. Determination of qualified residents of Taiwan, including rules for dual residents.

Since the application of these provisions requires full reciprocal benefits, the new tax code section does not come into effect until Taiwan provides the same set of benefits to U.S. persons with income subject to tax in Taiwan, similar to the reciprocal operation of a tax treaty.

Reduction of withholding taxes

A reduced rate of withholding tax would apply to certain income from U.S. sources received by qualified residents of Taiwan, such as interest, dividends, royalties, and certain other comparable payments, such as dividend equivalent amounts.

Instead of the 30 percent withholding tax presently imposed on U.S. source income received by nonresident aliens and foreign corporations, interest and royalties would be subject to a 10 percent withholding tax rate. Generally, dividends would be subject to a 15 percent withholding tax rate. Dividends would be subject to a lower 10 percent rate if paid to a recipient that owns at least ten percent of the shares of stock in the corporation, subject to limitations.

Lower withholding tax rates would not apply to certain amounts, such as those subject to the Foreign Investment in Real Property Tax Act ("FIRPTA"), received from or paid by an inverted company, and others.

Application of permanent establishment ("PE") rules

The threshold of whether a qualified resident of Taiwan's income from a U.S. trade or business is subject to U.S. income tax would be raised to the PE standard in treaties, rather than the U.S.

trade or business standard applied in the IRC. If a qualified resident of Taiwan has a PE in the United States, income which is subject to U.S. income tax would be only the qualified resident of Taiwan's taxable income effectively connected to the United States PE.

Treatment of income from employment

No U.S. tax would be imposed on certain wages of qualified residents of Taiwan in connection with personal services performed in the U.S. Such wages cannot be paid by a U.S. person or borne by a U.S. PE of a foreign person. This treatment does not apply to certain types of wages, such as directors' fees, pensions, and other wages that are generally taxable under the U.S. Model Tax Treaty.

Determination of qualified residents of Taiwan, including rules for dual residents

A "qualified resident of Taiwan" generally is any person who is liable for tax to Taiwan because of such person's domicile, residence, place of management, place of incorporation, or any similar criterion, and is not a U.S. person. Additional rules are provided to determine whether certain dual resident individuals are treated as qualified residents of Taiwan. For corporations, a qualified resident of Taiwan must also meet one of the limitation on benefits tests to be a beneficiary of the provision.

Application and regulatory authority

The tax benefits provided to qualified residents of Taiwan only apply once the U.S. has determined that Taiwan has granted reciprocal benefits to U.S. persons. Specific regulatory authority is provided for a number of policies, and any regulations or other guidance should be consistent with the provisions of the U.S. Model Tax Treaty.

Subtitle B – United States-Taiwan Tax Agreement Authorization Act

Because the U.S. is unable to enter into a bilateral tax treaty with Taiwan due to Taiwan's unique status, subtitle B provides authorization to the President to negotiate and enter into a U.S.-Taiwan tax agreement that includes provisions generally conforming with those customarily contained in U.S. tax treaties.

Short Title. —This section provides the short title for subtitle B (the "United States-Taiwan Tax Agreement Authorization Act").

Definitions. —This section provides definitions for terms used in subtitle B, including the terms "Agreement," "appropriate congressional committees," "approval legislation," and "implementing legislation."

Authorization to Negotiate and Enter Into Agreement. —This section states that the President is authorized to negotiate and enter into a U.S.-Taiwan tax agreement only after the U.S. tax code provisions described in subtitle A are enacted and effective. The tax agreement should include only provisions customarily contained in U.S. tax treaties. In addition, the tax agreement may incorporate and restate provisions of any agreement or existing law addressing double taxation for residents of the U.S. and Taiwan. Finally, the tax agreement should include a statement of authority and a provision conditioning the entry into force of the tax agreement upon (i) enactment of approval and implementing legislation and (ii) confirmation by the Treasury Secretary that Taiwan has approved and taken appropriate steps required to implement the tax agreement.

Consultations with Congress. —This section stipulates that the President provide written notification to the appropriate congressional committees at least 15 days before commencement of negotiations on a U.S.-Taiwan tax agreement. In addition, the section includes rules providing that these committees be regularly briefed by the President on the status of negotiations and that the Treasury Secretary, in coordination with the Secretary of State, meet and consult with these committees throughout the negotiations. Finally, the section provides rules regarding the elements of those consultations.

Approval and Implementation of Agreement. —This section states that a tax agreement does not enter into force unless (i) the President, at least 60 days before the tax agreement is entered into, publishes the text of the contemplated tax agreement on a publicly available website of the Treasury Department, and (ii) approval and implementing legislation with respect to the tax agreement is enacted into law. Further, this section provides that the President may provide for the tax agreement to enter into force upon (i) enactment of approval and implementing legislation, and (ii) confirmation by the Treasury Secretary that Taiwan has approved and taken appropriate steps required to implement the tax agreement.

Submission to Congress of Agreement and Implementation Policy. —This section stipulates that not later than 270 days after the President enters into the tax agreement, (i) the President or the President's designee should submit to Congress the final text and a technical explanation of the tax agreement, and (ii) the Treasury Secretary should submit to Congress a description of changes to existing laws that the President considers would be necessary to ensure the U.S. acts in a manner consistent with the tax agreement and a statement of anticipated administrative action proposed to implement the tax agreement.

Consideration of Approval Legislation and Implementing Legislation. —This section provides language that should be included in approval legislation and indicates the congressional committees to whom the approval and implementing legislation would be referred. Approval legislation would be referred to the Senate Foreign Relations Committee and House Ways & Means Committee, and implementing legislation would be referred to the Senate Finance Committee and House Ways & Means Committee.

Relationship of Agreement to Internal Revenue Code of 1986. —This section states that no provision of a tax agreement or approval legislation which is inconsistent with any provision of the IRC shall have effect. Further, this section provides that nothing in subtitle B should be construed to amend or modify any U.S. law or limit any authority conferred under any U.S. law unless specifically provided for in subtitle B.

Authorization of Subsequent Tax Agreements Relative to Taiwan. —This section modifies the treatment of the terms "Agreement" and "tax agreement" so that, subsequent to the enactment of approval and implementing legislation, the tax agreement authorization framework provided in subtitle B may be utilized for a future U.S.-Taiwan tax agreement(s) that supplements or supersedes a previous tax agreement(s). The section also provides that the provisions of subtitle B, including the congressional consultation requirements in section 204, should be applied separately with respect to each tax agreement.

United States Treatment of Double Taxation Matters With Respect to Taiwan. —This section provides congressional findings and a statement of policy regarding double taxation matters with respect to Taiwan.

Part 4: Assistance for Disaster-Impacted Communities

Extension of Rules for Treatment of Certain Disaster-Related Personal Casualty Losses. — The Taxpayer Certainty and Disaster Tax Relief Act of 2020 provided tax relief to certain individuals in qualified disaster areas. The relief included special rules for qualified disaster-related personal casualty losses, including eliminating the requirement that casualty losses must exceed 10 percent of adjusted gross income (AGI) to qualify for the deduction, requiring losses to exceed $500 per casualty in order to be deductible, and allowing taxpayers to claim the casualty loss deduction "above the line," i.e., without itemizing their deductions.

This section extends the rules for the treatment of certain disaster-related personal casualty losses as passed in the Taxpayer Certainty and Disaster Tax Relief Act of 2020, including any area with respect to which a major disaster was declared by the President during the period beginning on January 1, 2020, and ending 60 days after the date of enactment of the proposal if the incident period of the disaster (as specified by the Federal Emergency Management Agency as the period during which the disaster occurred) begins on or after December 28, 2019, and on or before the date of enactment of the proposal.

Exclusion From Gross Income for Compensation for Losses or Damages Resulting From Certain Wildfires. —In general, gross income is defined as income from whatever source derived. This section excludes from gross income any amount received by or on behalf of an individual as a qualified wildfire relief payment. It defines "qualified wildfire relief payment" as any amount received by or on behalf of an individual for expenses, damages, or losses incurred as a result of a qualified wildfire disaster, but only to the extent any expense, damage, or loss is not compensated for by insurance or otherwise. This section also includes provisions to deny double benefits.

This section applies only to qualified wildfire relief payments received by an individual during taxable years beginning after December 31, 2019, and before January 1, 2026.

East Palestine Disaster Relief Payments. —In general, gross income is defined as income from whatever source derived. This section treats East Palestine train derailment payments as qualified disaster relief payments as defined in IRC section 139(b). Thus, these payments are excluded from gross income and are subject to other present-law provisions applicable to qualified disaster relief payments.

East Palestine train derailment payments are any amount received by or on behalf of an individual as compensation for loss, damages, expenses, loss in real property value, closing costs with respect to real property, or inconvenience resulting from the East Palestine train derailment paid by a Federal, State, or local government agency, Norfolk Southern Railway, or any subsidiary, insurer, or agent of Norfolk Southern Railway or any related person.

"East Palestine train derailment" is defined as the derailment of a train in East Palestine, Ohio, on February 3, 2023. This section applies to amounts received on or after February 3, 2023.

Part 5: More Affordable Housing

State Housing Credit Ceiling Increase for Low-Income Housing Credit. —In calendar years 2018 through 2021, the 9 percent LIHTC ceiling was increased by 12.5 percent, allowing states to allocate more credits for affordable housing projects. This provision restores the 12.5 percent increase for calendar years 2023 through 2025 and is effective for taxable years beginning after December 31, 2022.

Tax-Exempt Bond Financing Requirement. —Under current law, to receive LIHTC a building must either receive a credit allocation from the state housing finance authority or be bond-financed. To be bond-financed, 50 percent or more of the aggregate basis of the building and land must be financed with bonds that are subject to a state's private activity bond volume cap. This provision lowers the bond-financing threshold to 30 percent for projects financed by bonds with an issue date before 2026. This section provides a transition rule for buildings that already have bonds issued by requiring that a building must have 5 percent or more of its aggregate basis financed by bonds with an issue date in 2024 or 2025.

This provision is effective for buildings placed in service after December 31, 2023. In the case of rehabilitation expenditures, which are treated as a separate new building by the IRS, the building is considered placed in service at the end of the rehabilitation expenditures period. The 30 percent requirement is applied to the aggregate basis of both the existing building and the rehabilitation expenditures.

Part 6: Tax Administration and Eliminating Fraud

Increase in Threshold for Information Reporting on Forms 1099-NEC and 1099-MISC. — Under current law, the reporting threshold for payments by a business for services performed by an independent contractor or subcontractor and for certain other payments is generally $600. This section generally increases the threshold to $1,000 and adjusts it for inflation after 2024. Under current law, the reporting threshold is, in some cases, based on payments during the taxable year. The new threshold is based on payments during the calendar year. This section applies to payments made after December 31, 2023.

Enforcement Provisions with Respect to COVID-Related Employee Retention Tax Credit (ERTC). —Under current law, a $1,000 penalty may apply to a person who knows or has reason to know that an understatement of tax or excessive credit would result from the use of the person's aid, assistance, or advice and knows that the advice "could not be supported on any reasonable basis under the law."[1] Nevertheless tax preparers are not subject to the penalty merely for suggesting "an aggressive but supportable filing position" that is later rejected by the courts.[2] This section increases the penalty for aiding and abetting the understatement of a tax liability by a COVID-ERTC promoter, separately defined, to the greater of $200,000 for a business promoter ($10,000 for an individual) or 75 percent of the gross income of the ERTC promoter derived (or to be derived) from providing aid, assistance, or advice with respect to a return or claim for ERTC refund or a document relating to the return or claim. The bill makes clear that the pre-enactment standard for applying the aiding & abetting penalty remains unchanged despite the targeted increase in the amount of the penalty that applies solely to ERTC promoters.

Under current law, a paid tax return preparer may be subject to a $500 penalty for each failure to comply with due diligence requirements relating to the filing status and amount of certain credits with respect to a taxpayer's return or claim for refund. This section requires a COVID-ERTC promoter to comply with similar due diligence requirements with respect to a taxpayer's eligibility for (or the amount of) an ERTC and applies a $1,000 penalty for each failure to comply. If the COVID-ERTC promoter does not comply with the due diligence requirements, the promoter is also treated as knowing that his aid, assistance, or advice, would (if used) result in an understatement of tax liability by another person, for purposes of imposing the penalty for aiding and abetting the understatement of tax liability.

Under current law, certain material advisors are required to disclose information to the IRS with respect to designated types of transactions (known as "listed transactions") and to make lists of advice recipients with respect to such transactions available to the IRS upon request. Under this section, a COVID-ERTC promoter is similarly required to file return disclosures and provide lists of clients to the IRS upon request.

This section defines a COVID-ERTC promoter as any person who provides aid, assistance, or advice with respect to an affidavit, refund, claim, or other document relating to an ERTC, if the person charges fees for ERTC-related aid, assistance, or advice based on the amount of the credit (contingency fees) and gross receipts from such advice exceed 20% of the person's total gross receipts or meets a separate gross-receipts test. The separate gross receipts test is met if (1) gross receipts from ERTC-related aid, assistance, or advice regardless of the manner in which fees are charged equal or exceed 50% of the person's gross receipts for the relevant year, or (2) both (i) the gross receipts for the relevant year from such advice exceeds 20 percent of the person's gross receipts for the relevant year and (ii) the person's aggregate gross receipts from all such advice exceeds $500,000 (after application of an aggregation rule that applies solely to this dollar-threshold test). For this purpose, certified professional employer organizations (PEOs) are not treated as COVID-ERTC promoters.

[1] IRM 20.1.6.1.14.1 (10-13-2021)

[2] Id.

Under current law, the statute of limitations period on assessment for the COVID-related ERTC is generally five years from the date of the claim. This section extends the period to six years. As a correlative matter, it extends the period for taxpayers to claim valid deductions for wages attributable to invalid ERTC claims that are corrected after the normal period of limitations.

Under current law, taxpayers can claim COVID-related ERTC until April 15, 2025. This section bars additional claims after January 31, 2024.

This section is effective for aid, assistance, or advice provided after March 12, 2020. The due diligence requirement is effective for aid, assistance, or advice provided after the date of enactment. The requirement for a COVID-ERTC promoter to file disclosures or maintain lists with respect to aid, assistance, or advice provided before the date of enactment is effective 90 days after the date of enactment. The extension of the statute of limitations on assessment is effective for assessments made after the date of enactment.