Measure to address double-tax issues between the US and Taiwan sails through House

Legislation to address double taxation on investments between the United States and Taiwan easily cleared the House of Representatives this week, however, the measure's path forward in the Senate remains uncertain at this time.

The United States-Taiwan Expedited Double-Tax Relief Act

The measure, H.R. 33, dubbed the United States-Taiwan Expedited Double-Tax Relief Act, passed the lower chamber on January 15 by a nearly unanimous 423 – 1 vote. Under a special fast-track process that was established as part of the House rules package for the 119th Congress that GOP members adopted on January 3, the Taiwan measure was subject to only one hour of debate on the House floor and no amendments were permitted to be offered. (For prior coverage, see *Tax News & Views*, Vol. 26, No. 1, Jan. 10, 2025.)
URL: https://www.congress.gov/bill/119th-congress/house-bill/33/text
URL: https://dhub.deloitte.com/Newsletters/Tax/2025/TNV/250110_1.html

In general, the House-passed bill would provide benefits for income from US sources earned or received by qualified residents of Taiwan, including reduced tax rates, taxation of only that income effectively connected with a US permanent establishment, and preferential treatment of wages and related income earned by qualified residents. It also would authorize the president to negotiate additional tax benefits between the US and Taiwan subject to certain limitations. The provisions reflect the fact that the US cannot sign a tax treaty with Taiwan because of the "One China" policy, under which the US recognizes the People's Republic of China (PRC) as the sole legal government of China, therefore maintaining formal relations with the PRC and only unofficial relations with Taiwan.

The language mirrors text included as Title III of H.R. 7024, the Tax Relief for American Families and Workers Act of 2024, which passed the House with wide bipartisan support during January of last year but – for a variety of reasons, including opposition from key GOP senators to separate provisions in the bill that would have expanded the child tax credit – was blocked in the Senate. [The broader bill, which was negotiated by House Ways and Means Committee Chairman Jason Smith (R-Mo.) and then-Senate Finance Committee Chairman Ron Wyden (D-Ore.) also included a number of other business tax relief provisions such as reinstating (through 2025) certain business-unfriendly tax provisions related to the treatment of research expenditures, bonus depreciation, and the deduction for business interest expenses that were included in the Tax Cuts and Jobs Act of 2017 (TCJA, P.L. 115-97) but did not take effect until several years after that measure was enacted. (For prior coverage, see *Tax News & Views*, Vol. 25, No.26, Aug. 2, 2024.)]
URL: https://www.congress.gov/bill/118th-congress/house-bill/7024/text
URL: https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.pdf
URL: https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240802_1.html

Smith: Legislation key to securing US supply chains

During floor remarks before the House vote, Ways and Means Committee Chairman Smith argued that the Taiwan bill will help secure supply chains critical to the US, particularly in the area of semiconductor manufacturing.

"Reducing burdens to Taiwanese investment in America will help aid in building new cutting-edge manufacturing plants staffed by American workers," Smith said. "It will help support our domestic semiconductor and chip manufacturing capabilities, securing strategic supply chains and helping us further move away from China."

Smith also contended that the US is an outlier in terms of international trade relations with Taiwan.

"Citizens and companies from countries like Great Britain, the European Union, Japan, Australia, and New Zealand all enjoy better tax treatment than Americans in Taiwan currently do," Smith said. "That's not right. In fact, the United States is Taiwan's largest trading partner without a tax treaty."

Next steps in Senate remain unclear

Having passed the House, the US-Taiwan tax measure now heads across the Capitol to the Senate where, at this time, its prospects for near-term action remain unclear.

Although the measure would likely garner at least 60 votes in the Senate – that is, enough to clear procedural hurdles in the chamber which generally require a three-fifths vote to end debate and move toward final passage – the anticipated opposition of certain members could drag the process out.

"I know of several Republicans where there would be challenges," Finance Committee ranking Democrat Ron Wyden told reporters on January 13.

A GOP senator of particular concern is Rand Paul of Kentucky. Paul, a longstanding and persistent opponent of information exchange provisions within conventional tax treaties, could force the chamber to expend the full amount of debate time on the measure – a reality that may dissuade Senate Majority Leader John Thune, R-S.D., from attempting to bring the measure to the floor, especially this winter and spring when the chamber will be focused on processing and confirming President-elect Donald Trump's nominees to the executive and judicial branch.

Republicans could also attempt to fold the Taiwan tax measure into any filibuster-proof reconciliation measure they attempt to move this year. However, that approach may run aground procedurally due to the arcane rules that govern the budget reconciliation process, one of which requires all provisions in a reconciliation bill to have a discrete impact on the federal budget. When the Taiwan-related language was scored by the Joint Committee on Taxation last year prior to the House processing the Smith-Wyden tax deal, the nonpartisan scorekeeper determined that those particular provisions would have no revenue effect (see JCX-5-24).

URL: https://www.jct.gov/publications/2024/jcx-5-24/

Still, it perhaps bodes well for eventual Senate action that Finance Committee Chairman Mike Crapo, (R-Idaho) is supportive of enacting the US-Taiwan accord, even if he did oppose the broader Smith-Wyden bill last year that also included it.

"It is … time to act on bipartisan legislation to relieve double taxation on cross-border investment between the US and Taiwan," Crapo said in a January 7 press release. "The legislative package negotiated last Congress – provisions of which passed unanimously through the Finance and House Ways and Means committees—demonstrates Congress's willingness to strengthen its economic partnership with Taiwan and facilitate mutual investment."
URL: https://www.finance.senate.gov/ranking-members-news/crapo-named-chairman-of-senate-finance-committee

— Alex Brosseau
Tax Policy Group
Deloitte Tax LLP