U.S. Chamber of Commerce

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June 20, 2025

The Honorable John R. Thune
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Michael D. Crapo
Chairman, Committee on Finance
United States Senate
Washington, D.C. 20510

Re: Maximizing Economic Growth Through Permanent Tax Policy in H.R. 1

Dear Leader Thune and Chairman Crapo:

On behalf of the U.S. Chamber of Commerce ("Chamber"), I am pleased to submit the enclosed comments and recommendations regarding select business and international tax proposals in H.R. 1, the One Big Beautiful Bill Act ("OBBBA"), as amended by the legislative text released by the Senate Committee on Finance on June 16. Among other things, the OBBBA is the intended vehicle for Congress to avert the largest automatic tax increase in American history at the end of this year, when many of the historic reforms in the 2017 Tax Cuts and Jobs Act ("TCJA") are set to expire. We commend House and Senate tax writers for their efforts to deliver critical, long-term tax certainty and stability.

Through our *Growing America's Future* campaign, the Chamber calls on lawmakers to prioritize policies that would help achieve the goal of at least 3% annual economic growth. Ensuring that America has a stable, pro-growth, and globally competitive tax code is central to this effort. The House-passed legislation made substantial progress toward this goal, on which the Senate amendment would double down. Below we highlight the crucial ways in which the Senate amendment would maximize the bill's effects on economic growth, consistent with President Trump's America First agenda. We also raise several acute, broad-based concerns among the U.S. business community with certain elements of the legislation and offer constructive recommendations for the Senate to address them.

I. Preserving our Competitive Business Tax Rates

Low marginal tax rates promote capital formation and minimize the effects of other distortions in the tax code, contributing to economic growth. It is laudable, therefore, that both the House bill and Senate amendment would preserve our competitive tax rates on businesses of all types and sizes by maintaining the 21% corporate income tax rate and permanently extending the deduction for qualified business income ("QBI") in section 199A of the Internal Revenue Code ("Code"), which is otherwise slated to expire at the end of this year.[1]

[1] The QBI deduction in section 199A effectively operates as rate reduction for pass-through businesses like sole proprietorships, partnerships, and S corporations, which make up over 95% of all U.S. businesses.

The Chamber commends House and Senate tax writers for ensuring the long-term competitiveness of our business tax rates in this legislation, giving businesses of all types and sizes the certainty they need to hire, invest, and grow.

II. Restoring a Pro-Growth Business Tax Base

a. Prioritizing Permanence for Maximum Economic Growth

Equally important as the competitiveness of a country's business tax rates is the composition of its tax *base* to which those rates are applied. Accordingly, the Chamber has long championed reforms to restore the competitiveness of our business tax base by permanently reinstating three critical pro-growth tax policies: (1) the deduction for research and experimentation expenditures; (2) 100% bonus depreciation (full capital expensing for certain business assets); and (3) a globally competitive (EBITDA-based) limitation on the deduction for business interest expense.

The House-passed legislation would generally reinstate all three business tax policies for five years, retroactive to January 2025 through the end of 2029. The bill also included a potentially potent new business tax incentive, elective 100% expensing for "qualified production property," which would temporarily allow firms to immediately write off the cost of new business investment in factories and other manufacturing facilities. Collectively, these four pro-growth reforms are intended to strengthen the industrial capacity of the United States, promote capital investment and modernization, and facilitate job creation.

The Senate amendment would double down on the first three proposals to permanently restore a pro-growth business tax base in the United States.[2] In so doing, the Senate amendment would eliminate the current tax bias against capital investment and provide businesses the certainty necessary to invest, create jobs, and boost the economy while also simplifying the tax system. And in pairing the permanence of these business tax incentives with the preservation of our lower business tax rates, the bill would help to reassert America's tax competitiveness in the global tug-of-war for cross-border investment.

As history shows, certainty and stability are critical to driving major, long-term capital investment. And the economic data bear this out: according to the Tax Foundation, making all four of the bill's business tax incentives permanent would increase long-run gross domestic product ("GDP") by 1.0% and more than double the long-run economic effect of the House-passed tax package as a whole.[3] We therefore urge Senate tax writers to stay the course and empower American businesses, workers, and their families to realize the full potential of permanent, pro-growth tax reform.

b. Avoiding Distortionary Treatment of State and Local Business Taxes

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[2] *But see* discussion *infra* note 17.

[3] Erica York & Garrett Watson, Tax Found., *House Tax Package Could Double Economic Growth Impact by Prioritizing Permanence for TCJA Business Provisions* (May 15, 2025), https://taxfoundation.org/blog/house-tax-plan-economic-growth-impact-business-tax-permanent/.

While the OBBBA would make important strides toward restoring a pro-growth business tax base in the United States, there are at least two critical areas in which the legislation proposes changes that would undermine this important aim. The first concerns the competing House and Senate proposals to deny pass-through businesses the ability to deduct entity-level state and local business taxes ("B-SALT" deduction).[4] As set forth below, both proposals are highly problematic and the enactment of either would constitute an unprecedented distortion of the federal income tax base for American businesses.

Regardless of the legal form of organization (e.g., sole proprietorship, partnership, S or C corporation), the same general principles apply in the computation of taxable business income—realized gross receipts reduced by allocable costs and expenses.[5] Net income rather than gross revenue has long been viewed as the appropriate tax base, both to accurately measure economic well-being and to avoid distortions of economic activity.[6] The federal income tax system reflects this view and generally allows an uncapped above-the-line deduction for state and local business taxes,[7] which are but one of the many ordinary and necessary expenses incurred in carrying on a trade or business.[8]

The allowance of these deductions is axiomatic. State and local business taxes are not optional. Rather, they are the quintessential ordinary and necessary business expense. Fully deducting these expenses is necessary to compute *net* income, and thus necessary to correctly tax businesses.[9] Enacting either the House bill or Senate amendment's proposal to

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[4] Both House and Senate proposals would amend section 702(a) of the Code to require partnerships and S corporations to treat specified and other entity-level taxes as separately stated items. Both proposals would also deny the partnership or S corporation a deduction for any such taxes or payments in computing its taxable income, thereby abrogating IRS Notice 2020-75. *See* H.R. Rep. No. 119-106, pt. 2, at 1718.

[5] *See, e.g.*, Staff of J. Comm. on Tax'n, 118th Cong., *Estimates of Federal Tax Expenditures for Fiscal Years 2024–2028*, JCX-48-24, at 7 (Dec. 11, 2024).

[6] Louis Kaplow, *Fiscal Federalism and the Deductibility of State and Local Taxes Under the Federal Income Tax*, 82 Va. L. Rev. 413, 461 (1996).

[7] Under existing law, C corporations may claim an uncapped above-the-line deduction for state and local property taxes, income taxes, and other taxes incurred in carrying on a trade or business or an activity to produce income (collectively, "business taxes"). Similarly, an uncapped above-the-line deduction is available for state and local business taxes imposed on pass-through entities, like partnerships and S corporations, that are reflected in a partner's or S corporation shareholder's distributive share or pro rata share of income or loss on a Schedule K-1 (or similar form). *See* H.R. Rep. 115-466, at 260 n.172 (2017); Staff of J. Comm. on Tax'n, 115th Cong., *General Explanation of Public Law 115-97*, JCS-1-18, at 67 n.289 (2018).

[8] *See generally* I.R.C. §§ 62, 164. The deductibility of these taxes has been a feature of the federal income tax throughout its history. *See, e.g.*, Daniel J. Hemel, *Easy on the SALT: A Qualified Defense of the Deduction for State and Local Taxes*, Public Law and Legal Theory Working Paper No. 652 at 4 (2017), https://chicagounbound.uchicago.edu/public_law_and_legal_theory/836/.

[9] This principle is reflected in annual reports of the Office of Management and Budget and the Joint Committee on Taxation, which generally classify the itemized deduction for state and local income, property, and sales taxes as a "tax expenditure" while classifying the above-the-line deduction for state and local *business* taxes as part of the "normal" income tax structure. *See, e.g.*, Off. of Mgmt. & Budget, Exec. Off. of the President, *Analytical Perspectives, Budget of the U.S. Government, Fiscal Year 2021*, at 148 (2020); Staff of J. Comm. on Tax'n, 116th Cong., *Estimates of Federal Tax Expenditures for Fiscal Years 2020–2024*, JCX-23-20, at 2–3 (2020).

preclude unincorporated businesses from deducting their state and local business taxes, therefore, would be tantamount to taxing them on *phantom* profits.

The B-SALT deduction is an indispensable element of the federal income tax system and should not be curtailed for any business—regardless of its legal form of organization or sectoral affiliation. We respectfully urge Senate tax writers to fully restore it by omitting the proposed limitation in section 70601(b) of the Senate amendment from the final legislation.

c. Ensuring Stability in Energy Tax Policy to Unleash Growth

Like any major piece of tax reform legislation, the OBBBA includes a wide range of proposals animated by different—and sometimes competing—policy aims. Perhaps nowhere is this phenomenon more apparent, however, than with the bill's proposed changes to priority pro-growth energy tax policies on which American businesses, workers, and investors rely.

i. Catalysts for Economic Growth and Investment

In the Inflation Reduction Act of 2022 ("IRA"), Congress enacted a range of new and expanded energy tax incentives that are catalyzing tremendous amounts of private-sector investment in new manufacturing and energy infrastructure—investments that are poised to keep the U.S. economy competitive for decades. Since the IRA's enactment in August 2022, businesses have invested roughly $321 billion in new manufacturing, clean electricity, and industrial facilities and created thousands of new American jobs.[10] Critically, these benefits extend to interests across the energy sector, positively impacting oil, gas, hydrogen, nuclear energy, renewables, and battery storage systems, as well as power generation, transportation, manufacturing, and beyond. And a recent independent study commissioned by the American Clean Power Association, with Chamber support, lays bare the law's potential impact. It found that IRA energy tax incentives are expected to grow the U.S. economy by $1.9 trillion while creating 13.7 million jobs over ten years—boosting the U.S. labor market while helping to meet America's rapidly growing energy demand.[11]

As the data suggest, countless projects enabled by IRA energy tax incentives are currently in advanced stages of development, with construction underway, contracts signed, and large amounts of job-creating capital committed. The Chamber therefore appreciates Senate tax writers' efforts to refine and improve upon several proposals in the House bill that would have generated uncertainty, weighed on these investments, and risked halting billions of dollars in deployment of expanded energy resources.[12]

[10] Rhodium Group and MIT Center for Energy and Environmental Policy Research, *Clean Investment Monitor: Q1 2025 Update* (May 13, 2025), https://www.cleaninvestmentmonitor.org/reports/q1-2025-update.

[11] American Clean Power Association, *Inflation Reduction Act Delivers Massive Economic Boost and 4X Return on Investment* (Dec. 19, 2024), https://cleanpower.org/news/economy-wide-benefits-of-energy-tax-credits/.

[12] For example, a Japanese company halted construction on $1.6 billion factory in South Carolina to help make batteries for electric BMWs, citing "policy and market uncertainty." Jeffrey Collins, *Billion-Dollar Battery Plant Pauses Construction Amid Electric Vehicle and Tariff Uncertainty*, AP News (June 6, 2025), https://apnews.com/article/battery-plant-south-carolina-tariffs-evs-f5965cac01dfa1bba9102f6ce4c71299.

The U.S. hydrogen sector is illustrative of these incentives' return on investment. A new analysis by S&P Global estimates that every $1 invested in Department of Energy hydrogen hub projects using the section 45V clean hydrogen production credit will generate $7 in GDP over the next four years, while supporting an annual average of 22,000 jobs.[13] The U.S. hydrogen industry is truly poised for liftoff, with another recent analysis estimating that new hydrogen production projects could support 60,000 jobs per year—a critical advantage in the race to develop the global hydrogen supply chain, given China's rapidly growing market share in the sector.[14] The ability of such projects to deliver these investments and jobs is contingent, however, on the continued availability of section 45V. This is why the Chamber joined a coalition of over 250 other organizations—including 20 state and local chambers of commerce—in calling on Congress to maintain the clean hydrogen production credit until at least 2029 and allow this nascent sector a chance to firmly take root on U.S. soil.[15]

ii. Effects on the Power Grid

Another critical benefit of the IRA's energy tax incentives has been their moderating influence on energy generation costs and affordability. Growth in U.S. electricity demand is now accelerating exponentially after a period of relative stagnancy, driven by the rapid growth of energy-intensive data centers and the reshoring of industrial and manufacturing activity. As a result, the U.S. power sector is working to expand generation of all energy resources as quickly as possible. But recent proposals to repeal or impose prohibitive restrictions or phaseouts on a range of IRA energy tax incentives would significantly impede this effort. Furthermore, the limited supply of new electrons could increase electricity costs.

For example, the House bill proposed to accelerate the statutory sunset of the Code's technology-neutral clean electricity credits, with nearly all qualifying facilities required to commence construction within 60 days of the bill's enactment and be placed in service by December 31, 2028. We commend Senate tax writers for extending this deadline to limit the negative impacts to deploying new power-generation resources in a timely manner. The revised phaseouts in the Senate amendment would partially restore these energy tax incentives, which will safeguard economic growth, defend jobs in urban and rural communities, and ensure America's energy independence and technological leadership for decades to come. We also commend Senate tax writers for preserving the transferability of energy tax credits—a valuable tool that allows companies of all sizes to raise private-sector funds for large, capital-intensive energy projects, such as those in the power sector that would otherwise be at risk of not moving forward.

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[13] EFI Foundation, *The Return on Investment of U.S. Clean Hydrogen* (June 5, 2025), https://efifoundation.org/foundation-reports/analysis/the-return-on-investment-of-us-clean-hydrogen-policy/.

[14] CresForum, *The Economic Impact of Blue Hydrogen* (May 5, 2025), https://cresforum.org/wp-content/uploads/2025/04/American-Blue-Hydrogen-04.16.25-CRES-Format_VF.pdf.

[15] Coalition Letter to Hon. John Thune and Hon. Mike Crapo, *Preserve the Section 45V Credit for Production of Clean Hydrogen* (June 5, 2025), https://fchea.org/wp-content/uploads/2025/06/Senate-45V-Sign-On-Letter-Final-6-5-2025.pdf.

iii. Foreign Entity of Concern Restrictions

The Chamber supports policymakers' desire to reshore industrial and manufacturing activity in the United States, including the extended supply chains necessary to improve energy and economic security. Taxpayers need more time, however, to onshore and develop those capabilities domestically. Businesses need a longer runway for the industry to advance projects that are or will soon be in development.

The Chamber applauds Senate tax writers for moderating the proposed rules on what constitutes a "foreign-influenced entity" and providing certain exceptions for publicly traded companies. We particularly appreciate the Senate amendment's inclusion of an improved definition of "material assistance from a prohibited foreign entity," which would clarify that a foreign entity provides "material assistance" only where a project's non-foreign content falls below a specified cost ratio threshold.

While the Senate amendment's foreign entity of concern ("FEOC") rules appear to be clearer and more workable than those in the House bill, we urge Senate tax writers to continue working with impacted industries to further improve the language. For example, concerns remain that the Senate amendment would impose significant compliance burdens on companies that may constrict the number of qualifying projects across the credits. Moreover, the quick phase-in of the FEOC rules proposed in both the House bill and Senate amendment would leave little practical opportunity for companies to comprehensively examine their supply chains for the purpose of determining credit eligibility. Further refinements to the Senate amendment's FEOC provisions could increase their administrability and provide needed certainty to critical sectors.

iv. Treatment of Intangible Drilling and Development Costs

Finally, the Chamber commends Senate tax writers for proposing a long-sought fix to the punitive treatment of intangible drilling and development costs under the corporate alternative minimum tax ("AMT"). Intangible drilling and development costs are expenses incurred during the drilling of oil and natural gas wells that have no salvage value, like workers' wages, supplies, and maintenance. By preventing the full deduction of such costs, however, the corporate AMT imposes a tax penalty on investment in American oil and gas drilling. The Senate amendment would end this counterproductive treatment by adding an appropriate adjustment for intangible drilling and development costs to section 56A of the Code.

III. Maintaining a Globally Competitive U.S. International Tax System

a. Permanently Extending Competitive Rates and Other Reforms

Both the House bill and Senate amendment seek to maintain the overall competitiveness of our post-TCJA international tax system by permanently extending lower effective U.S. tax rates on two principal categories of international business income: foreign-derived intangible income ("FDII") and global intangible low-taxed income ("GILTI"). Absent congressional intervention, both regimes will become more restrictive—and therefore less competitive—at the end of this year, with effective U.S. tax rates on FDII and GILTI set to increase from 13.125% to 16.406% (a 25% increase).

The Chamber commends House and Senate tax writers for taking action to prevent these scheduled tax hikes from taking effect at the end of the year, which would otherwise reduce the incentives for multinational companies to maintain their headquarters and intellectual property in the United States while decreasing America's attractiveness as a destination for inbound business investment.[16] Like many of the bill's other proposed changes, permanently extending lower effective U.S. tax rates on international business income would provide U.S. multinational employers the predictability necessary to support continued investment and innovation.[17] But unlike those other changes, merely preventing these scheduled tax increases alone would ultimately fail to ensure the global competitiveness of our U.S. international tax system in the years ahead.

The Senate amendment seeks to meet this challenge head on by tackling certain structural issues inherent in the TCJA's design that are known to result in excessive or double taxation for U.S. multinationals, placing them at a disadvantage relative to foreign-based competitors. Perhaps the most obvious example is the current 20% GILTI foreign tax credit "haircut," which is a form of *structural* double taxation without analog or precedent anywhere in the world. Another is the requirement to allocate U.S. expenses to foreign-source income in the GILTI foreign tax credit limitation basket, which can trigger residual U.S. taxation in cases where a U.S. multinational's foreign effective tax rate on GILTI exceeds the level below which Congress intended the levy to apply.[18] Among other proposed reforms, the Senate amendment would halve the 20% GILTI foreign tax credit "haircut" and eliminate the requirement to allocate indirect U.S. expenses (e.g., interest, research, stewardship) to foreign-source income in the GILTI foreign tax credit limitation basket. Beyond the TCJA, the Senate amendment would, inter alia, permanently extend the expiring look-through rule for related controlled foreign corporations in section 954(c)(6) of the Code—a critical feature of our international tax system on which U.S. multinationals rely but whose longevity is perpetually uncertain.

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[16] For taxable years beginning after December 31, 2025, the Senate amendment would permanently adjust the effective U.S. tax rates on FDII and GILTI to 14% (after considering the adjusted GILTI foreign tax credit "haircut").

[17] The limitation on the deduction for business interest expense in section 163(j) of the Code is principally based on a percentage of the taxpayer's "adjusted taxable income," which both the House bill and Senate amendment would generally redefine as earnings before interest, taxes, depreciation, and amortization (EBITDA). *See* discussion *supra* Section II.a. For unexplained reasons, however, the Senate amendment includes a separate proposal that would exclude subpart F and GILTI inclusions and the associated section 78 gross-up amounts, as well as amounts determined under section 956, from a taxpayer's adjusted taxable income for purposes of section 163(j). This counterintuitive proposal would undermine the Senate's push to permanently reinstate the pro-growth, EBITDA-based limitation by increasing the tax burden on U.S. multinationals that use debt financing to create jobs and invest in America. We suspect this was not Senate tax writers' intent.

[18] If the GILTI regime operated as a true "minimum tax" on foreign income, as Congress intended, there would be no residual U.S. tax liability in cases where a U.S. multinational's foreign effective tax rate exceeds 13.125%. *See* H.R. Rep. No. 115-466, at 626–27 (2017) (Conf. Rep.) (explaining Congress's intent that "[a]t foreign tax rates greater than or equal to 13.125 percent, there is no residual U.S. tax owed on GILTI, so that the combined foreign and U.S. tax rate on GILTI equals the foreign tax rate").

Viewed holistically, the Senate amendment's collection of international tax reform proposals resembles a thoughtful and logically cohesive attempt to permanently enhance the global competitiveness of the U.S. international tax system, ensure the TCJA's reforms operate as intended, and reduce the incidence of international double taxation. We commend Chairman Crapo for his leadership in prioritizing these additional systemic reforms.

b. Protecting Our Corporate Tax Base

Both the House bill and Senate amendment would add a new section 899 to the Code to deter foreign countries from inappropriately taxing the income of U.S. corporations and their subsidiaries through the imposition of extraterritorial or discriminatory taxes (collectively, "unfair foreign taxes"). In general, the provision would protect against unfair foreign taxes of the extraterritorial variety, like the OECD-inspired undertaxed profit rule ("UTPR"),[19] by increasing rates of tax on a foreign country's residents (and their subsidiaries) and other entities connected to such country. The provision would also protect against unfair foreign taxes more broadly, including both extraterritorial and discriminatory taxes (e.g., digital services taxes ("DSTs")),[20] by increasing the base erosion and anti-abuse tax ("BEAT") rate and generally revoking certain favorable BEAT provisions for U.S. corporations that are owned by tax residents of offending foreign countries.

The Chamber applauds House and Senate tax writers for their efforts to reassert Congress's prerogative in global tax matters impacting U.S. companies and advance responsive measures to defend the U.S. corporate tax base against unfair foreign taxes. We also appreciate that the intent of proposed section 899 is *not* to penalize inbound companies or investors but rather to provide the Trump administration with a more effective tool in the negotiator's toolkit for persuading foreign countries to revoke their discriminatory or extraterritorial taxes. To that end, we invite Senate tax writers to consider making the following changes to the proposal with the goal of optimizing the administration's negotiating position in related bilateral and multilateral talks.

i. Clarify Definition of Unfair Foreign Tax

As explained in the report of the House Committee on Ways and Means, proposed section 899 would create an incentive for foreign jurisdictions to remove the unfair treatment of U.S. multinational companies because the provision would cease to apply if the country revokes its discriminatory or extraterritorial tax or if the country provides that the

[19] As the Chamber and others have warned, the UTPR is unprecedented in its design and contemplates the extraterritorial taxation by foreign countries of U.S. multinational companies' U.S.-source income without any genuine nexus to the taxing jurisdiction, in breach of customary international law. *See, e.g.*, Watson M. McLeish, Chamber of Com. of the U.S., *U.S. Chamber Supports Legal Challenge to EU Undertaxed Profit Rule* (Sept. 30, 2024), https://www.uschamber.com/taxes/u-s-chamber-supports-legal-challenge-to-eu-undertaxed-profit-rule.

[20] DSTs are unilateral attempts by foreign countries to impose taxes on the revenue generated by the digital activity of (largely) U.S. multinational companies operating within their jurisdictions. DSTs are often drafted to appear nondiscriminatory on their face but are designed to disproportionately impact American companies and therefore are discriminatory in effect.

discriminatory or extraterritorial tax does not apply to U.S. persons and their subsidiaries.[21] Short of repealing its unfair foreign tax, therefore, a foreign country should be able to avoid triggering the application of proposed section 899 by taking measures to ensure its tax applies to the income of neither U.S. corporations nor their subsidiaries. This income-focused approach makes sense and aligns with the Treasury Department's current negotiating position at the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS).[22]

In defining an "unfair foreign tax" for purposes of proposed section 899, both the House bill and Senate amendment provide an exception for any tax that does not *apply* to any U.S. person or any controlled foreign corporation owned more than 50% by vote or value by U.S. persons. On its face, however, this definition appears to be inconsistent with the legislative intent and U.S. negotiating position described above, which seek to deter foreign countries from inappropriately taxing the *income* of U.S. corporations and their subsidiaries.[23] This distinction is important to the proper application of proposed section 899, especially with respect to UTPRs. If enacted in its current form, proposed section 899's definition of an "unfair foreign tax" could be both overinclusive and underinclusive as applied to foreign countries imposing UTPRs, which are designed to impose top-up taxes on local entities rather than directly on low-taxed entities in other jurisdictions.[24] Accordingly, we offer the following alternative recommendations for Senate tax writers to resolve this ambiguity.

> <u>Recommendation:</u> Revise proposed section 899(d)(1)(B) by substituting the phrase "with respect to the income of" for the word "to," as follows: "(B) EXCEPTIONS.—Such term shall not include any tax which does not apply ~~to~~<u>with respect to the income of</u>—"
>
> <u>Alternative Recommendation:</u> Revise the definition of "offending foreign country" in proposed section 899(c)(1), as follows: "(1) OFFENDING FOREIGN COUNTRY—.The term 'offending foreign country' means any foreign country which has one or more unfair foreign taxes<u> and has not suspended the application of such tax(es) against United States persons and with respect to income subject to tax by the United States</u>."

ii. Optimize U.S. Negotiating Tools to Facilitate Productive Talks

Consistent with its purpose as a negotiating tool to strengthen U.S. leverage over foreign countries with respect to their extraterritorial or discriminatory taxes, early evidence

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[21] H.R. Rep. No. 119-106, pt. 2, at 1760.

[22] *See, e.g.*, Lauren Vella, *Senate GOP's 'Revenge Tax' Still Packs Punch Despite Changes*, Bloomberg Law (June 18, 2025) (reporting on a recent statement by the top U.S. delegate to the OECD/G20 Inclusive Framework on BEPS, Rebecca Burch, that proposed section 899 is the "ultimate backstop" to cement the U.S. position to persuade other countries to change their unfair tax policies), https://news.bloombergtax.com/daily-tax-report/senate-gops-revenge-tax-still-packs-punch-despite-changes.

[23] H.R. Rep. No. 119-106, pt. 2, at 1760. Indeed, the committee report goes on to explain that proposed section 899 is intended to treat a foreign country's UTPR as an unfair foreign tax only if it applies to the *income* of U.S. corporations and their subsidiaries. *See id.*

[24] *See* Danielle Rolfes et al., *Take 2: Evaluating the Revised Retaliatory Measures in the House Bill*, 118 Tax Notes Int'l 1525, 1529 (June 9, 2025); *see also* Lee A. Sheppard, *House Budget Reconciliation Bill's Revenge Tax*, 118 Tax Notes Int's 1467, 1471 (June 9, 2025) (calling this an "obvious drafting error").

suggests that proposed section 899 may already be having its intended effect.[25] But exercising this new leverage will take time, especially where foreign countries have both UTPRs and DSTs in effect. Treasury Department officials face complex multilateral negotiations at the OECD/G20 Inclusive Framework on BEPS, after which other countries will need time to enact legislation to reflect any negotiated outcome and repeal any DSTs—potentially exposing taxpayers to higher taxes in the interim. We therefore commend Senate tax writers for providing a more reasonable period of time after enactment for unfair foreign taxes to be removed.[26]

To further enhance the value of proposed section 899 as a negotiating tool, we encourage Senate tax writers to add language to the bill allowing the Secretary a one-time option to suspend the provision's application for up to 12 months in cases where negotiations with an offending foreign country are progressing in good faith but have yet to reach a successful conclusion.

> Recommendation: Amend proposed section 899(i) by adding a new paragraph (2) (and making current paragraph (2) new paragraph (3)), authorizing the Secretary of the Treasury to issue regulations or other guidance which "(2) suspend the application of this section for up to 12 months with respect to an offending foreign country on his determination that such offending foreign country is engaged in good faith negotiations with the United States to address its unfair foreign tax(es)."

c. Reassessing the Proposed Excise Tax on Remittance Transfers

In a surprise to many observers, both the House bill and Senate amendment include proposals to impose a new 3.5% excise tax on remittance transfers from individual consumers to foreign recipients. And while the Senate proposal represents a vast improvement over the version approved by the House, either would impose burdensome implementation, compliance, and reporting costs on remittance transfer providers ("RTPs") like money services businesses, thrift institutions, and certain other financial institutions—notwithstanding that none of these businesses is an intended target of the tax.[27] Furthermore, under either chamber's proposal, RTPs failing to collect and remit the new excise tax would be liable for its payment. So, although the proposed excise tax is not technically a *business* tax, the costs of its implementation and application would nonetheless be borne by many U.S. companies. The Chamber has material concerns about the unfunded mandates and collection risk facing American businesses under the proposal, and we respectfully urge Senate tax writers to withdraw it from the final legislation.

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[25] Reporting has linked New Zealand's recent removal of a DST from its legislative agenda as, in part, a response to proposed section 899. *See, e.g.*, Stephanie Soong, *New Zealand Considered Trump Before Scrapping Digital Tax Bill*, 118 Tax Notes Int'l 1251 (May 26, 2025).

[26] In effect, for applicable persons with a calendar year end, the increased rates of tax and BEAT modifications would not apply until a taxable year beginning after December 31, 2026—one year later than under the House bill.

[27] *See* H.R. Rep. No. 119-106, pt. 2, at 1779 (explaining the belief of House tax writers that "the ability of non-citizens and non-nationals of the United States to send payments to individuals in other countries through the system of remittance transfers may encourage illegal immigration and lead to the overreliance of some jurisdictions on the receipt of such remittance flows").

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Maintaining a globally competitive business tax system that fuels economic growth and opportunity for all Americans is the Chamber's top priority this year. The Senate amendment to the House-passed bill represents another crucial step forward in the 2025 tax reform debate. As the legislative process continues to advance, we renew our call for policymakers to prioritize the enactment of *permanent*, *pro-growth* tax reforms that will drive American innovation, boost investment, and benefit workers, businesses, and communities nationwide. Thank you for your time and consideration.

Sincerely,

W. M. McLeish

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