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118TH CONGRESS
1ST SESSION

H. R. 5988

[Report No. 118-309]

To amend the Internal Revenue Code of 1986 to provide special rules for the taxation of certain residents of Taiwan with income from sources within the United States.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 19, 2023

Mr. SMITH of Missouri (for himself, Mr. NEAL, Mr. SMITH of Nebraska, Mr. KELLY of Pennsylvania, Mr. SCHWEIKERT, Mr. LAHOOD, Mr. SMUCKER, Mr. MURPHY, Mr. KUSTOFF, Ms. TENNEY, Mr. MOORE of Utah, Mrs. STEEL, Mr. CAREY, Ms. SÁNCHEZ, Ms. DELBENE, Ms. CHU, and Mr. WENSTRUP) introduced the following bill

OCTOBER 25, 2023

Referred to the Committee on Ways and Means

DECEMBER 12, 2023

Additional sponsors: Mr. GOMEZ, Ms. PLASKETT, Mr. KILDEE, Ms. MALLIOTAKIS, Ms. VAN DUYN, Mr. FITZPATRICK, Mr. KRISHNAMOORTHY, Mr. MOULTON, Ms. SHERRILL, Mrs. FISCHBACH, Mr. PANETTA, Mr. HERN, Mr. FINSTAD, Mr. ELLZEY, Mr. GOTTHEIMER, Mrs. CAMMACK, and Mr. OWENS

DECEMBER 12, 2023

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on October 19, 2023]

A BILL

To amend the Internal Revenue Code of 1986 to provide special rules for the taxation of certain residents of Taiwan with income from sources within the United States.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **TITLE I—UNITED STATES-TAI-**
 4 **WAN EXPEDITED DOUBLE-TAX**
 5 **RELIEF ACT**

6 **SEC. 101. SHORT TITLE.**

7 *This title may be cited as the “United States-Taiwan*
 8 *Expedited Double-Tax Relief Act”.*

9 **SEC. 102. SPECIAL RULES FOR TAXATION OF CERTAIN RESI-**
 10 **DENTS OF TAIWAN.**

11 *(a) IN GENERAL.—Subpart D of part II of subchapter*
 12 *N of chapter 1 of the Internal Revenue Code of 1986 is*
 13 *amended by inserting after section 894 the following new*
 14 *section:*

15 **“SEC. 894A. SPECIAL RULES FOR QUALIFIED RESIDENTS OF**
 16 **TAIWAN.**

17 **“(a) CERTAIN INCOME FROM UNITED STATES**
 18 **SOURCES.—**

19 **“(1) INTEREST, DIVIDENDS, AND ROYALTIES,**
 20 **ETC.—**

21 **“(A) IN GENERAL.—In the case of interest**
 22 **(other than original issue discount), dividends,**
 23 **royalties, amounts described in section**
 24 **871(a)(1)(C), and gains described in section**

1 871(a)(1)(D) received by or paid to a qualified
2 resident of Taiwan—

3 “(i) sections 871(a), 881(a), 1441(a),
4 1441(c)(5), and 1442(a) shall each be ap-
5 plied by substituting ‘the applicable per-
6 centage (as defined in section
7 894A(a)(1)(C))’ for ‘30 percent’ each place
8 it appears, and

9 “(ii) sections 871(a), 881(a), and
10 1441(c)(1) shall each be applied by sub-
11 stituting ‘a United States permanent estab-
12 lishment of a qualified resident of Taiwan’
13 for ‘a trade or business within the United
14 States’ each place it appears.

15 “(B) EXCEPTIONS.—

16 “(i) IN GENERAL.—Subparagraph (A)
17 shall not apply to—

18 “(I) any dividend received from
19 or paid by a real estate investment
20 trust which is not a qualified REIT
21 dividend,

22 “(II) any amount subject to sec-
23 tion 897,

24 “(III) any amount received from
25 or paid by an expatriated entity (as

1 *defined in section 7874(a)(2)) to a for-*
2 *foreign related person (as defined in sec-*
3 *tion 7874(d)(3)), and*

4 “(IV) *any amount which is in-*
5 *cluded in income under section 860C to*
6 *the extent that such amount does not*
7 *exceed an excess inclusion with respect*
8 *to a REMIC.*

9 “(ii) *QUALIFIED REIT DIVIDEND.—For*
10 *purposes of clause (i)(I), the term ‘qualified*
11 *REIT dividend’ means any dividend re-*
12 *ceived from or paid by a real estate invest-*
13 *ment trust if such dividend is paid with re-*
14 *spect to a class of shares that is publicly*
15 *traded and the recipient of the dividend is*
16 *a person who holds an interest in any class*
17 *of shares of the real estate investment trust*
18 *of not more than 5 percent.*

19 “(C) *APPLICABLE PERCENTAGE.—For pur-*
20 *poses of applying subparagraph (A)(i)—*

21 “(i) *IN GENERAL.—Except as provided*
22 *in clause (ii), the term ‘applicable percent-*
23 *age’ means 10 percent.*

24 “(ii) *SPECIAL RULES FOR DIVI-*
25 *DENDS.— In the case of any dividend in re-*

1 *spect of stock received by or paid to a quali-*
2 *fied resident of Taiwan, the applicable per-*
3 *centage shall be 15 percent (10 percent in*
4 *the case of a dividend which meets the re-*
5 *quirements of subparagraph (D) and is re-*
6 *ceived by or paid to an entity taxed as a*
7 *corporation in Taiwan).*

8 “(D) *REQUIREMENTS FOR LOWER DIVIDEND*
9 *RATE.—*

10 “(i) *IN GENERAL.—The requirements*
11 *of this subparagraph are met with respect*
12 *to any dividend in respect of stock in a cor-*
13 *poration if, at all times during the 12-*
14 *month period ending on the date such stock*
15 *becomes ex-dividend with respect to such*
16 *dividend—*

17 “(I) *the dividend is derived by a*
18 *qualified resident of Taiwan, and*

19 “(II) *such qualified resident of*
20 *Taiwan has held directly at least 10*
21 *percent (by vote and value) of the total*
22 *outstanding shares of stock in such cor-*
23 *poration.*

24 *For purposes of subclause (II), a person*
25 *shall be treated as directly holding a share*

1 *of stock during any period described in the*
2 *preceding sentence if the share was held by*
3 *a corporation from which such person later*
4 *acquired that share and such corporation*
5 *was, at the time the share was acquired,*
6 *both a connected person to such person and*
7 *a qualified resident of Taiwan.*

8 “(ii) *EXCEPTION FOR RICS AND*
9 *REITS.—Notwithstanding clause (i), the re-*
10 *quirements of this subparagraph shall not*
11 *be treated as met with respect to any divi-*
12 *dend paid by a regulated investment com-*
13 *pany or a real estate investment trust.*

14 “(2) *QUALIFIED WAGES.—*

15 “(A) *IN GENERAL.—No tax shall be imposed*
16 *under this chapter (and no amount shall be*
17 *withheld under section 1441(a) or chapter 24)*
18 *with respect to qualified wages paid to a quali-*
19 *fied resident of Taiwan who—*

20 “(i) *is not a resident of the United*
21 *States (determined without regard to sub-*
22 *section (c)(3)(E)), or*

23 “(ii) *is employed as a member of the*
24 *regular component of a ship or aircraft op-*
25 *erated in international traffic.*

1 “(B) *QUALIFIED WAGES.*—

2 “(i) *IN GENERAL.*—*The term ‘qualified*
3 *wages’ means wages, salaries, or similar re-*
4 *munerations with respect to employment in-*
5 *volving the performance of personal services*
6 *within the United States which—*

7 “(I) *are paid by (or on behalf of)*
8 *any employer other than a United*
9 *States person, and*

10 “(II) *are not borne by a United*
11 *States permanent establishment of any*
12 *person other than a United States per-*
13 *son.*

14 “(ii) *EXCEPTIONS.*—*Such term shall*
15 *not include directors’ fees, income derived as*
16 *an entertainer or athlete, income derived as*
17 *a student or trainee, pensions, amounts*
18 *paid with respect to employment with the*
19 *United States, any State (or political sub-*
20 *division thereof), or any possession of the*
21 *United States (or any political subdivision*
22 *thereof), or other amounts specified in regu-*
23 *lations or guidance under subsection*
24 *(f)(1)(F).*

1 “(3) *INCOME DERIVED FROM ENTERTAINMENT*
2 *OR ATHLETIC ACTIVITIES.*—

3 “(A) *IN GENERAL.*—*No tax shall be imposed*
4 *under this chapter (and no amount shall be*
5 *withheld under section 1441(a) or chapter 24)*
6 *with respect to income derived by an entertainer*
7 *or athlete who is a qualified resident of Taiwan*
8 *from personal activities as such performed in the*
9 *United States if the aggregate amount of gross*
10 *receipts from such activities for the taxable year*
11 *do not exceed \$30,000.*

12 “(B) *EXCEPTION.*—*Subparagraph (A) shall*
13 *not apply with respect to—*

14 “(i) *income which is qualified wages*
15 *(as defined in paragraph (2)(B), deter-*
16 *mined without regard to clause (ii) thereof),*
17 *or*

18 “(ii) *income which is effectively con-*
19 *ected with a United States permanent es-*
20 *tablishment.*

21 “(b) *INCOME CONNECTED WITH A UNITED STATES*
22 *PERMANENT ESTABLISHMENT OF A QUALIFIED RESIDENT*
23 *OF TAIWAN.*—

24 “(1) *IN GENERAL.*—

1 “(A) *IN GENERAL.*—*In lieu of applying sec-*
2 *tions 871(b) and 882, a qualified resident of*
3 *Taiwan that carries on a trade or business with-*
4 *in the United States through a United States*
5 *permanent establishment shall be taxable as pro-*
6 *vided in section 1, 11, 55, or 59A, on its taxable*
7 *income which is effectively connected with such*
8 *permanent establishment.*

9 “(B) *DETERMINATION OF TAXABLE IN-*
10 *COME.*—*In determining taxable income for pur-*
11 *poses of paragraph (1), gross income includes*
12 *only gross income which is effectively connected*
13 *with the permanent establishment.*

14 “(2) *TREATMENT OF DISPOSITIONS OF UNITED*
15 *STATES REAL PROPERTY.*—*In the case of a qualified*
16 *resident of Taiwan, section 897(a) shall be applied—*

17 “(A) *by substituting ‘carried on a trade or*
18 *business within the United States through a*
19 *United States permanent establishment’ for ‘were*
20 *engaged in a trade or business within the United*
21 *States’, and*

22 “(B) *by substituting ‘such United States*
23 *permanent establishment’ for ‘such trade or busi-*
24 *ness’.*

1 “(3) *TREATMENT OF BRANCH PROFITS TAXES.*—
2 *In the case of any corporation which is a qualified*
3 *resident of Taiwan, section 884 shall be applied—*

4 “(A) *by substituting ‘10 percent’ for ‘30*
5 *percent’ in subsection (a) thereof, and*

6 “(B) *by substituting ‘a United States per-*
7 *manent establishment of a qualified resident of*
8 *Taiwan’ for ‘the conduct of a trade or business*
9 *within the United States’ in subsection (d)(1)*
10 *thereof.*

11 “(4) *SPECIAL RULE WITH RESPECT TO INCOME*
12 *DERIVED FROM CERTAIN ENTERTAINMENT OR ATH-*
13 *LETIC ACTIVITIES.*—

14 “(A) *IN GENERAL.*—*Paragraph (1) shall*
15 *not apply to the extent that the income is de-*
16 *rived—*

17 “(i) *in respect of entertainment or ath-*
18 *letic activities performed in the United*
19 *States, and*

20 “(ii) *by a qualified resident of Taiwan*
21 *who is not the entertainer or athlete per-*
22 *forming such activities.*

23 “(B) *EXCEPTION.*—*Subparagraph (A) shall*
24 *not apply if the person described in subpara-*
25 *graph (A)(ii) is contractually authorized to des-*

1 *ignate the individual who is to perform such ac-*
2 *tivities.*

3 “(5) *SPECIAL RULE WITH RESPECT TO CERTAIN*
4 *AMOUNTS.—Paragraph (1) shall not apply to any in-*
5 *come which is wages, salaries, or similar remunera-*
6 *tion with respect to employment or with respect to*
7 *any amount which is described in subsection*
8 *(a)(2)(B)(ii).*

9 “(c) *QUALIFIED RESIDENT OF TAIWAN.—For purposes*
10 *of this section—*

11 “(1) *IN GENERAL.—The term ‘qualified resident*
12 *of Taiwan’ means any person who—*

13 “(A) *is liable to tax under the laws of Tai-*
14 *wan by reason of such person’s domicile, resi-*
15 *dence, place of management, place of incorpora-*
16 *tion, or any similar criterion,*

17 “(B) *is not a United States person (deter-*
18 *mined without regard to paragraph (3)(E)), and*

19 “(C) *in the case of an entity taxed as a cor-*
20 *poration in Taiwan, meets the requirements of*
21 *paragraph (2).*

22 “(2) *LIMITATION ON BENEFITS FOR CORPORATE*
23 *ENTITIES OF TAIWAN.—*

1 “(A) *IN GENERAL.*—*Subject to subpara-*
2 *graphs (E) and (F), an entity meets the require-*
3 *ments of this paragraph only if it—*

4 “(i) *meets the ownership and income*
5 *requirements of subparagraph (B),*

6 “(ii) *meets the publicly traded require-*
7 *ments of subparagraph (C), or*

8 “(iii) *meets the qualified subsidiary re-*
9 *quirements of subparagraph (D).*

10 “(B) *OWNERSHIP AND INCOME REQUIRE-*
11 *MENTS.*—*The requirements of this subparagraph*
12 *are met for an entity if—*

13 “(i) *at least 50 percent (by vote and*
14 *value) of the total outstanding shares of*
15 *stock in such entity are owned directly or*
16 *indirectly by qualified residents of Taiwan,*
17 *and*

18 “(ii) *less than 50 percent of such enti-*
19 *ty’s gross income (and in the case of an en-*
20 *tity that is a member of a tested group, less*
21 *than 50 percent of the tested group’s gross*
22 *income) is paid or accrued, directly or indi-*
23 *rectly, in the form of payments that are de-*
24 *ductible for purposes of the income taxes*

1 *imposed by Taiwan, to persons who are*
2 *not—*

3 *“(I) qualified residents of Taiwan,*

4 *or*

5 *“(II) United States persons who*
6 *meet such requirements with respect to*

7 *the United States as determined by the*

8 *Secretary to be equivalent to the re-*

9 *quirements of this subsection (deter-*

10 *mined without regard to paragraph*

11 *(1)(B)) with respect to residents of*

12 *Taiwan.*

13 *“(C) PUBLICLY TRADED REQUIREMENTS.—*

14 *An entity meets the requirements of this sub-*

15 *paragraph if—*

16 *“(i) the principal class of its shares*

17 *(and any disproportionate class of shares)*

18 *of such entity are primarily and regularly*

19 *traded on an established securities market*

20 *in Taiwan, or*

21 *“(ii) the primary place of management*

22 *and control of the entity is in Taiwan and*

23 *all classes of its outstanding shares de-*

24 *scribed in clause (i) are regularly traded on*

25 *an established securities market in Taiwan.*

1 “(D) *QUALIFIED SUBSIDIARY REQUIRE-*
2 *MENTS.—An entity meets the requirement of this*
3 *subparagraph if—*

4 “(i) *at least 50 percent (by vote and*
5 *value) of the total outstanding shares of the*
6 *stock of such entity are owned directly or*
7 *indirectly by 5 or fewer entities—*

8 “(I) *which meet the requirements*
9 *of subparagraph (C), or*

10 “(II) *which are United States*
11 *persons the principal class of the*
12 *shares (and any disproportionate class*
13 *of shares) of which are primarily and*
14 *regularly traded on an established se-*
15 *curities market in the United States,*
16 *and*

17 “(ii) *the entity meets the requirements*
18 *of clause (ii) of subparagraph (B).*

19 “(E) *ONLY INDIRECT OWNERSHIP THROUGH*
20 *QUALIFYING INTERMEDIARIES COUNTED.—*

21 “(i) *IN GENERAL.—Stock in an entity*
22 *owned by a person indirectly through 1 or*
23 *more other persons shall not be treated as*
24 *owned by such person in determining*
25 *whether the person meets the requirements*

1 of subparagraph (B)(i) or (D)(i) unless all
2 such other persons are qualifying inter-
3 mediate owners.

4 “(ii) *QUALIFYING INTERMEDIATE OWN-*
5 *ERS.—The term ‘qualifying intermediate*
6 *owner’ means a person that is—*

7 “(I) *a qualified resident of Tai-*
8 *wan, or*

9 “(II) *a resident of any other for-*
10 *foreign country (other than a foreign*
11 *country that is a foreign country of*
12 *concern) that has in effect a com-*
13 *prehensive convention with the United*
14 *States for the avoidance of double tax-*
15 *ation.*

16 “(iii) *SPECIAL RULE FOR QUALIFIED*
17 *SUBSIDIARIES.—For purposes of applying*
18 *subparagraph (D)(i), the term ‘qualifying*
19 *intermediate owner’ shall include any per-*
20 *son who is a United States person who*
21 *meets such requirements with respect to the*
22 *United States as determined by the Sec-*
23 *retary to be equivalent to the requirements*
24 *of this subsection (determined without re-*

1 *gard to paragraph (1)(B)) with respect to*
2 *residents of Taiwan.*

3 “(F) *CERTAIN PAYMENTS NOT INCLUDED.—*
4 *In determining whether the requirements of sub-*
5 *paragraph (B)(ii) or (D)(ii) are met with re-*
6 *spect to an entity, the following payments shall*
7 *not be taken into account:*

8 “(i) *Arm’s-length payments by the en-*
9 *tity in the ordinary course of business for*
10 *services or tangible property.*

11 “(ii) *In the case of a tested group,*
12 *intra-group transactions.*

13 “(3) *DUAL RESIDENTS.—*

14 “(A) *RULES FOR DETERMINATION OF STA-*
15 *TUS.—*

16 “(i) *IN GENERAL.—An individual who*
17 *is an applicable dual resident and who is*
18 *described in subparagraph (B), (C), or (D)*
19 *shall be treated as a qualified resident of*
20 *Taiwan.*

21 “(ii) *APPLICABLE DUAL RESIDENT.—*
22 *For purposes of this paragraph, the term*
23 *‘applicable dual resident’ means an indi-*
24 *vidual who—*

1 “(I) is not a United States cit-
2 izen,

3 “(II) is a resident of the United
4 States (determined without regard to
5 subparagraph (E)), and

6 “(III) would be a qualified resi-
7 dent of Taiwan but for paragraph
8 (1)(B).

9 “(B) PERMANENT HOME.—An individual is
10 described in this subparagraph if such indi-
11 vidual—

12 “(i) has a permanent home available to
13 such individual in Taiwan, and

14 “(ii) does not have a permanent home
15 available to such individual in the United
16 States.

17 “(C) CENTER OF VITAL INTERESTS.—An
18 individual is described in this subparagraph if—

19 “(i) such individual has a permanent
20 home available to such individual in both
21 Taiwan and the United States, and

22 “(ii) such individual’s personal and
23 economic relations (center of vital interests)
24 are closer to Taiwan than to the United
25 States.

1 “(D) *HABITUAL ABODE.*—*An individual is*
2 *described in this subparagraph if—*

3 “(i) *such individual—*

4 “(I) *does not have a permanent*
5 *home available to such individual in*
6 *either Taiwan or the United States, or*

7 “(II) *has a permanent home*
8 *available to such individual in both*
9 *Taiwan and the United States but*
10 *such individual’s center of vital inter-*
11 *ests under subparagraph (C)(ii) cannot*
12 *be determined, and*

13 “(ii) *such individual has a habitual*
14 *abode in Taiwan and not the United States.*

15 “(E) *UNITED STATES TAX TREATMENT OF*
16 *QUALIFIED RESIDENT OF TAIWAN.*—*Notwith-*
17 *standing section 7701, an individual who is*
18 *treated as a qualified resident of Taiwan by rea-*
19 *son of this paragraph for all or any portion of*
20 *a taxable year shall not be treated as a resident*
21 *of the United States for purposes of computing*
22 *such individual’s United States income tax li-*
23 *ability for such taxable year or portion thereof.*

24 “(4) *RULES OF SPECIAL APPLICATION.*—

1 “(A) *DIVIDENDS.*—*For purposes of apply-*
2 *ing this section to any dividend, paragraph*
3 *(2)(D) shall be applied without regard to clause*
4 *(ii) thereof.*

5 “(B) *ITEMS OF INCOME EMANATING FROM*
6 *AN ACTIVE TRADE OR BUSINESS IN TAIWAN.*—
7 *For purposes of this section—*

8 “(i) *IN GENERAL.*—*Notwithstanding*
9 *the preceding paragraphs of this subsection,*
10 *if an entity taxed as a corporation in Tai-*
11 *wan is not a qualified resident of Taiwan*
12 *but meets the requirements of subpara-*
13 *graphs (A) and (B) of paragraph (1), any*
14 *qualified item of income such entity derived*
15 *from the United States shall be treated as*
16 *income of a qualified resident of Taiwan.*

17 “(ii) *QUALIFIED ITEMS OF INCOME.*—

18 “(I) *IN GENERAL.*—*The term*
19 *‘qualified item of income’ means any*
20 *item of income which emanates from,*
21 *or is incidental to, the conduct of an*
22 *active trade or business in Taiwan*
23 *(other than operating as a holding*
24 *company, providing overall super-*
25 *vision or administration of a group of*

1 *companies, providing group financing,*
2 *or making or managing investments*
3 *(unless such making or managing in-*
4 *vestments is carried on by a bank, in-*
5 *surance company, or registered securi-*
6 *ties dealer in the ordinary course of its*
7 *business as such)).*

8 “(II) *SUBSTANTIAL ACTIVITY RE-*
9 *QUIREMENT.—An item of income*
10 *which is derived from a trade or busi-*
11 *ness conducted in the United States or*
12 *from a connected person shall be a*
13 *qualified item of income only if the*
14 *trade or business activity conducted in*
15 *Taiwan to which the item is related is*
16 *substantial in relation to the same or*
17 *a complementary trade or business ac-*
18 *tivity carried on in the United States.*
19 *For purposes of applying this sub-*
20 *clause, activities conducted by persons*
21 *that are connected to the entity de-*
22 *scribed in clause (i) shall be deemed to*
23 *be conducted by such entity.*

24 “(iii) *EXCEPTION.—This subparagraph*
25 *shall not apply to any item of income de-*

1 *rived by an entity if at least 50 percent (by*
2 *vote or value) of such entity is owned (di-*
3 *rectly or indirectly) or controlled by resi-*
4 *dents of a foreign country of concern.*

5 *“(d) OTHER DEFINITIONS AND SPECIAL RULES.—For*
6 *purposes of this section—*

7 *“(1) UNITED STATES PERMANENT ESTABLISH-*
8 *MENT.—*

9 *“(A) IN GENERAL.—The term ‘United*
10 *States permanent establishment’ means, with re-*
11 *spect to a qualified resident of Taiwan, a perma-*
12 *nent establishment of such resident which is*
13 *within the United States.*

14 *“(B) SPECIAL RULE.—The determination of*
15 *whether there is a permanent establishment of a*
16 *qualified resident of Taiwan within the United*
17 *States shall be made without regard to whether*
18 *an entity which is taxed as a corporation in*
19 *Taiwan and which is a qualified resident of Tai-*
20 *wan controls or is controlled by—*

21 *“(i) a domestic corporation, or*

22 *“(ii) any other person that carries on*
23 *business in the United States (whether*
24 *through a permanent establishment or oth-*
25 *erwise).*

1 “(2) *PERMANENT ESTABLISHMENT.*—

2 “(A) *IN GENERAL.*—*The term ‘permanent*
3 *establishment’ means a fixed place of business*
4 *through which a trade or business is wholly or*
5 *partly carried on. Such term shall include—*

6 “(i) *a place of management,*

7 “(ii) *a branch,*

8 “(iii) *an office,*

9 “(iv) *a factory,*

10 “(v) *a workshop, and*

11 “(vi) *a mine, an oil or gas well, a*
12 *quarry, or any other place of extraction of*
13 *natural resources.*

14 “(B) *SPECIAL RULES FOR CERTAIN TEM-*
15 *PORARY PROJECTS.*—

16 “(i) *IN GENERAL.*—*A building site or*
17 *construction or installation project, or an*
18 *installation or drilling rig or ship used for*
19 *the exploration or exploitation of the sea bed*
20 *and its subsoil and their natural resources,*
21 *constitutes a permanent establishment only*
22 *if it lasts, or the activities of the rig or ship*
23 *lasts, for more than 12 months.*

24 “(ii) *DETERMINATION OF 12-MONTH*
25 *PERIOD.*—*For purposes of clause (i), the pe-*

1 *riod over which a building site or construc-*
2 *tion or installation project of a person lasts*
3 *shall include any period of more than 30*
4 *days during which such person does not*
5 *carry on activities at such building site or*
6 *construction or installation project but con-*
7 *ected activities are carried on at such*
8 *building site or construction or installation*
9 *project by one or more connected persons.*

10 *“(C) HABITUAL EXERCISE OF CONTRACT*
11 *AUTHORITY TREATED AS PERMANENT ESTAB-*
12 *LISHMENT.—Notwithstanding subparagraphs (A)*
13 *and (B), where a person (other than an agent of*
14 *an independent status to whom subparagraph*
15 *(D)(ii) applies) is acting on behalf of a trade or*
16 *business of a qualified resident of Taiwan and*
17 *has and habitually exercises an authority to con-*
18 *clude contracts that are binding on the trade or*
19 *business, that trade or business shall be deemed*
20 *to have a permanent establishment in the coun-*
21 *try in which such authority is exercised in re-*
22 *spect of any activities that the person undertakes*
23 *for the trade or business, unless the activities of*
24 *such person are limited to those described in sub-*
25 *paragraph (D)(i) that, if exercised through a*

1 *fixed place of business, would not make this fixed*
2 *place of business a permanent establishment*
3 *under the provisions of that subparagraph.*

4 “(D) *EXCLUSIONS.*—

5 “(i) *IN GENERAL.*—*Notwithstanding*
6 *subparagraphs (A) and (B), the term ‘per-*
7 *manent establishment’ shall not include—*

8 “(I) *the use of facilities solely for*
9 *the purpose of storage, display, or de-*
10 *livery of goods or merchandise belong-*
11 *ing to the trade or business,*

12 “(II) *the maintenance of a stock*
13 *of goods or merchandise belonging to*
14 *the trade or business solely for the pur-*
15 *pose of storage, display, or delivery,*

16 “(III) *the maintenance of a stock*
17 *of goods or merchandise belonging to*
18 *the trade or business solely for the pur-*
19 *pose of processing by another trade or*
20 *business,*

21 “(IV) *the maintenance of a fixed*
22 *place of business solely for the purpose*
23 *of purchasing goods or merchandise, or*
24 *of collecting information, for the trade*
25 *or business,*

1 “(V) *the maintenance of a fixed*
2 *place of business solely for the purpose*
3 *of carrying on, for the trade or busi-*
4 *ness, any other activity of a pre-*
5 *paratory or auxiliary character, or*

6 “(VI) *the maintenance of a fixed*
7 *place of business solely for any com-*
8 *bination of the activities mentioned in*
9 *subclauses (I) through (V), provided*
10 *that the overall activity of the fixed*
11 *place of business resulting from this*
12 *combination is of a preparatory or*
13 *auxiliary character.*

14 “(ii) *BROKERS AND OTHER INDE-*
15 *PENDENT AGENTS.—A trade or business*
16 *shall not be considered to have a permanent*
17 *establishment in a country merely because*
18 *it carries on business in such country*
19 *through a broker, general commission agent,*
20 *or any other agent of an independent sta-*
21 *tus, provided that such persons are acting*
22 *in the ordinary course of their business as*
23 *independent agents.*

24 “(3) *TESTED GROUP.—The term ‘tested group’*
25 *includes, with respect to any entity taxed as a cor-*

1 *poration in Taiwan, such entity and any other entity*
2 *taxed as a corporation in Taiwan that—*

3 *“(A) participates as a member with such*
4 *entity in a tax consolidation, fiscal unity, or*
5 *similar regime that requires members of the*
6 *group to share profits or losses, or*

7 *“(B) shares losses with such entity pursuant*
8 *to a group relief or other loss sharing regime.*

9 *“(4) CONNECTED PERSON.—Two persons shall be*
10 *‘connected persons’ if one owns, directly or indirectly,*
11 *at least 50 percent of the interests in the other (or,*
12 *in the case of a corporation, at least 50 percent of the*
13 *aggregate vote and value of the corporation’s shares)*
14 *or another person owns, directly or indirectly, at least*
15 *50 percent of the interests (or, in the case of a cor-*
16 *poration, at least 50 percent of the aggregate vote and*
17 *value of the corporation’s shares) in each person. In*
18 *any case, a person shall be connected to another if,*
19 *based on all the relevant facts and circumstances, one*
20 *has control of the other or both are under the control*
21 *of the same person or persons.*

22 *“(5) FOREIGN COUNTRY OF CONCERN.—The term*
23 *‘foreign country of concern’ has the meaning given*
24 *such term under paragraph (7) of section 9901 of the*
25 *William M. (Mac) Thornberry National Defense Au-*

1 *thorization Act for Fiscal Year 2021 (15 U.S.C.*
2 *4651(7)), as added by section 103(a)(4) of the CHIPS*
3 *Act of 2022).*

4 “(6) *PARTNERSHIPS; BENEFICIARIES OF ES-*
5 *TATES AND TRUSTS.—For purposes of this section—*

6 “(A) *a qualified resident of Taiwan which*
7 *is a partner of a partnership which carries on*
8 *a trade or business within the United States*
9 *through a United States permanent establish-*
10 *ment shall be treated as carrying on such trade*
11 *or business through such permanent establish-*
12 *ment, and*

13 “(B) *a qualified resident of Taiwan which*
14 *is a beneficiary of an estate or trust which car-*
15 *ries on a trade or business within the United*
16 *States through a United States permanent estab-*
17 *lishment shall be treated as carrying on such*
18 *trade or business through such permanent estab-*
19 *lishment.*

20 “(7) *DENIAL OF BENEFITS FOR CERTAIN PAY-*
21 *MENTS THROUGH HYBRID ENTITIES.—For purposes of*
22 *this section, rules similar to the rules of section 894(c)*
23 *shall apply.*

24 “(e) *APPLICATION.—*

1 “(1) *IN GENERAL.*—*This section shall not apply*
2 *to any period unless the Secretary has determined*
3 *that Taiwan has provided benefits to United States*
4 *persons for such period that are reciprocal to the ben-*
5 *efits provided to qualified residents of Taiwan under*
6 *this section.*

7 “(2) *PROVISION OF RECIPROCITY.*—*The Presi-*
8 *dent or his designee is authorized to exchange letters,*
9 *enter into an agreement, or take other necessary and*
10 *appropriate steps relative to Taiwan for the recip-*
11 *rocal provision of the benefits described in this sec-*
12 *tion.*

13 “(f) *REGULATIONS OR OTHER GUIDANCE.*—

14 “(1) *IN GENERAL.*—*The Secretary shall issue*
15 *such regulations or other guidance as may be nec-*
16 *essary or appropriate to carry out the provisions of*
17 *this section, including such regulations or guidance*
18 *for—*

19 “(A) *determining—*

20 “(i) *what constitutes a United States*
21 *permanent establishment of a qualified resi-*
22 *dent of Taiwan, and*

23 “(ii) *income that is effectively con-*
24 *necting with such a permanent establish-*
25 *ment,*

1 “(B) preventing the abuse of the provisions
2 of this section by persons who are not (or who
3 should not be treated as) qualified residents of
4 Taiwan,

5 “(C) requirements for record keeping and
6 reporting,

7 “(D) rules to assist withholding agents or
8 employers in determining whether a foreign per-
9 son is a qualified resident of Taiwan for pur-
10 poses of determining whether withholding or re-
11 porting is required for a payment (and, if with-
12 holding is required, whether it should be applied
13 at a reduced rate),

14 “(E) the application of subsection
15 (a)(1)(D)(i) to stock held by predecessor owners,

16 “(F) determining what amounts are to be
17 treated as qualified wages for purposes of sub-
18 section (a)(2),

19 “(G) determining the amounts to which sub-
20 section (a)(3) applies,

21 “(H) defining established securities market
22 for purposes of subsection (c),

23 “(I) the application of the rules of sub-
24 section (c)(4)(B),

1 “(J) the application of subsection (d)(6)
2 and section 1446,

3 “(K) determining ownership interests held
4 by residents of a foreign country of concern, and

5 “(L) determining the starting and ending
6 dates for periods with respect to the application
7 of this section under subsection (e), which may
8 be separate dates for taxes withheld at the source
9 and other taxes.

10 “(2) *REGULATIONS TO BE CONSISTENT WITH*
11 *MODEL TREATY.—Any regulations or other guidance*
12 *issued under this section shall, to the extent practical,*
13 *be consistent with the provisions of the United States*
14 *model income tax convention dated February 7,*
15 *2016.”.*

16 **(b) CONFORMING AMENDMENT TO WITHHOLDING**
17 **TAX.—Subchapter A of chapter 3 of the Internal Revenue**
18 **Code of 1986 is amended by adding at the end the following**
19 **new section:**

20 **“SEC. 1447. WITHHOLDING FOR QUALIFIED RESIDENTS OF**
21 **TAIWAN.**

22 *“For reduced rates of withholding for certain residents*
23 *of Taiwan, see section 894A.”.*

24 **(c) CLERICAL AMENDMENTS.—**

1 (1) *The table of sections for subpart D of part*
 2 *II of subchapter N of chapter 1 of the Internal Rev-*
 3 *enue Code of 1986 is amended by inserting after the*
 4 *item relating to section 894 the following new item:*

“Sec. 894A. *Special rules for qualified residents of Taiwan.*”.

5 (2) *The table of sections for subchapter A of*
 6 *chapter 3 of such Code is amended by adding at the*
 7 *end the following new item:*

“Sec. 1447. *Withholding for qualified residents of Taiwan.*”.

8 **TITLE II—UNITED STATES-TAI-**
 9 **WAN TAX AGREEMENT AU-**
 10 **THORIZATION ACT**

11 **SEC. 201. SHORT TITLE.**

12 *This title may be cited as the “United States-Taiwan*
 13 *Tax Agreement Authorization Act”.*

14 **SEC. 202. DEFINITIONS.**

15 *In this title:*

16 (1) *AGREEMENT.*—*The term “Agreement” means*
 17 *the tax agreement authorized by section 203(a).*

18 (2) *APPROPRIATE CONGRESSIONAL COMMIT-*
 19 *TEES.*—*The term “appropriate congressional commit-*
 20 *tees” means—*

21 (A) *the Committee on Foreign Relations*
 22 *and the Committee on Finance of the Senate;*
 23 *and*

1 (B) *the Committee on Ways and Means of*
2 *the House of Representatives.*

3 (3) *APPROVAL LEGISLATION.—The term “ap-*
4 *proval legislation” means legislation that approves*
5 *the Agreement.*

6 (4) *IMPLEMENTING LEGISLATION.—The term*
7 *“implementing legislation” means legislation that*
8 *makes any changes to the Internal Revenue Code of*
9 *1986 necessary to implement the Agreement.*

10 **SEC. 203. AUTHORIZATION TO NEGOTIATE AND ENTER**
11 **INTO AGREEMENT.**

12 (a) *IN GENERAL.—Subsequent to a determination*
13 *under section 894A(e)(1) of the Internal Revenue Code of*
14 *1986 (as added by the United States-Taiwan Expedited*
15 *Double-Tax Relief Act), the President is authorized to nego-*
16 *tiate and enter into a tax agreement relative to Taiwan.*

17 (b) *ELEMENTS OF AGREEMENT.—*

18 (1) *CONFORMITY WITH BILATERAL INCOME TAX*
19 *CONVENTIONS.—The President shall ensure that—*

20 (A) *any provisions included in the Agree-*
21 *ment conform with provisions customarily con-*
22 *tained in United States bilateral income tax*
23 *conventions, as exemplified by the 2016 United*
24 *States Model Income Tax Convention; and*

1 (B) the Agreement does not include elements
2 outside the scope of the 2016 United States
3 Model Income Tax Convention.

4 (2) *INCORPORATION OF TAX AGREEMENTS AND*
5 *LAWS.—Notwithstanding paragraph (1), the Agree-*
6 *ment may incorporate and restate provisions of any*
7 *agreement, or existing United States law, addressing*
8 *double taxation for residents of the United States and*
9 *Taiwan.*

10 (3) *AUTHORITY.—The Agreement shall include*
11 *the following statement: “The Agreement is entered*
12 *into pursuant to the United States-Taiwan Tax*
13 *Agreement Authorization Act.”*

14 (4) *ENTRY INTO FORCE.—The Agreement shall*
15 *include a provision conditioning entry into force*
16 *upon—*

17 (A) *enactment of approval legislation and*
18 *implementing legislation pursuant to section*
19 *207; and*

20 (B) *confirmation by the Secretary of the*
21 *Treasury that the relevant authority in Taiwan*
22 *has approved and taken appropriate steps re-*
23 *quired to implement the Agreement.*

1 **SEC. 204. CONSULTATIONS WITH CONGRESS.**

2 (a) *NOTIFICATION UPON COMMENCEMENT OF NEGOTIATIONS.*—*The President shall provide written notification*
3 *to the appropriate congressional committees of the com-*
4 *mencement of negotiations between the United States and*
5 *Taiwan on the Agreement at least 15 calendar days before*
6 *commencing such negotiations.*

8 (b) *CONSULTATIONS DURING NEGOTIATIONS.*—

9 (1) *BRIEFINGS.*—*Not later than 90 days after*
10 *commencement of negotiations with respect to the*
11 *Agreement, and every 180 days thereafter until the*
12 *President enters into the Agreement, the President*
13 *shall provide a briefing to the appropriate congress-*
14 *sional committees on the status of the negotiations,*
15 *including a description of elements under negotiation.*

16 (2) *MEETINGS AND OTHER CONSULTATIONS.*—

17 (A) *IN GENERAL.*—*In the course of negotia-*
18 *tions with respect to the Agreement, the Sec-*
19 *retary of the Treasury, in coordination with the*
20 *Secretary of State, shall—*

21 (i) *meet, upon request, with the chair-*
22 *man or ranking member of any of the ap-*
23 *propriate congressional committees regard-*
24 *ing negotiating objectives and the status of*
25 *negotiations in progress; and*

1 (ii) consult closely and on a timely
2 basis with, and keep fully apprised of the
3 negotiations, the appropriate congressional
4 committees.

5 (B) *ELEMENTS OF CONSULTATIONS.*—The
6 consultations described in subparagraph (A)
7 shall include consultations with respect to—

8 (i) the nature of the contemplated
9 Agreement;

10 (ii) how and to what extent the con-
11 templated Agreement is consistent with the
12 elements set forth in section 203(b); and

13 (iii) the implementation of the con-
14 templated Agreement, including—

15 (I) the general effect of the con-
16 templated Agreement on existing laws;

17 (II) proposed changes to any ex-
18 isting laws to implement the con-
19 templated Agreement; and

20 (III) proposed administrative ac-
21 tions to implement the contemplated
22 Agreement.

1 **SEC. 205. APPROVAL AND IMPLEMENTATION OF AGREE-**
2 **MENT.**

3 (a) *IN GENERAL.*—*The Agreement may not enter into*
4 *force unless—*

5 (1) *the President, at least 60 days before the day*
6 *on which the President enters into the Agreement,*
7 *publishes the text of the contemplated Agreement on*
8 *a publicly available website of the Department of the*
9 *Treasury; and*

10 (2) *there is enacted into law, with respect to the*
11 *Agreement, approval legislation and implementing*
12 *legislation pursuant to section 207.*

13 (b) *ENTRY INTO FORCE.*—*The President may provide*
14 *for the Agreement to enter into force upon—*

15 (1) *enactment of approval legislation and imple-*
16 *menting legislation pursuant to section 207; and*

17 (2) *confirmation by the Secretary of the Treas-*
18 *ury that the relevant authority in Taiwan has ap-*
19 *proved and taken appropriate steps required to imple-*
20 *ment the Agreement.*

21 **SEC. 206. SUBMISSION TO CONGRESS OF AGREEMENT AND**
22 **IMPLEMENTATION POLICY.**

23 (a) *SUBMISSION OF AGREEMENT.*—*Not later than 270*
24 *days after the President enters into the Agreement, the*
25 *President or the President’s designee shall submit to Con-*
26 *gress—*

1 (1) *the final text of the Agreement; and*

2 (2) *a technical explanation of the Agreement.*

3 (b) *SUBMISSION OF IMPLEMENTATION POLICY.—Not*
4 *later than 270 days after the President enters into the*
5 *Agreement, the Secretary of the Treasury shall submit to*
6 *Congress—*

7 (1) *a description of those changes to existing*
8 *laws that the President considers would be required in*
9 *order to ensure that the United States acts in a man-*
10 *ner consistent with the Agreement; and*

11 (2) *a statement of anticipated administrative ac-*
12 *tion proposed to implement the Agreement.*

13 **SEC. 207. CONSIDERATION OF APPROVAL LEGISLATION**
14 **AND IMPLEMENTING LEGISLATION.**

15 (a) *IN GENERAL.—The approval legislation with re-*
16 *spect to the Agreement shall include the following: “Con-*
17 *gress approves the Agreement submitted to Congress pursu-*
18 *ant to section 206 of the United States-Taiwan Tax Agree-*
19 *ment Authorization Act on _____.”, with the blank*
20 *space being filled with the appropriate date.*

21 (b) *APPROVAL LEGISLATION COMMITTEE REFER-*
22 *RAL.—The approval legislation shall—*

23 (1) *in the Senate, be referred to the Committee*
24 *on Foreign Relations; and*

1 (2) *in the House of Representatives, be referred to*
 2 *the Committee on Ways and Means.*

3 (c) *IMPLEMENTING LEGISLATION COMMITTEE REFER-*
 4 *RAL.—The implementing legislation shall—*

5 (1) *in the Senate, be referred to the Committee*
 6 *on Finance; and*

7 (2) *in the House of Representatives, be referred*
 8 *to the Committee on Ways and Means.*

9 **SEC. 208. RELATIONSHIP OF AGREEMENT TO INTERNAL**
 10 **REVENUE CODE OF 1986.**

11 (a) *INTERNAL REVENUE CODE OF 1986 TO CON-*
 12 *TROL.—No provision of the Agreement or approval legisla-*
 13 *tion, nor the application of any such provision to any per-*
 14 *son or circumstance, which is inconsistent with any provi-*
 15 *sion of the Internal Revenue Code of 1986, shall have effect.*

16 (b) *CONSTRUCTION.—Nothing in this title shall be con-*
 17 *strued—*

18 (1) *to amend or modify any law of the United*
 19 *States; or*

20 (2) *to limit any authority conferred under any*
 21 *law of the United States,*

22 *unless specifically provided for in this title.*

1 **SEC. 209. AUTHORIZATION OF SUBSEQUENT TAX AGREE-**
2 **MENTS RELATIVE TO TAIWAN.**

3 (a) *IN GENERAL.*—Subsequent to the enactment of ap-
4 proval legislation and implementing legislation pursuant
5 to section 207—

6 (1) *the term “tax agreement” in section 203(a)*
7 *shall be treated as including any tax agreement rel-*
8 *ative to Taiwan which supplements or supersedes the*
9 *Agreement to which such approval legislation and im-*
10 *plementing legislation relates, and*

11 (2) *the term “Agreement” shall be treated as in-*
12 *cluding such tax agreement.*

13 (b) *REQUIREMENTS, ETC., TO APPLY SEPARATELY.*—
14 *The provisions of this title (including section 204) shall be*
15 *applied separately with respect to each tax agreement re-*
16 *ferred to in subsection (a).*

17 **SEC. 210. UNITED STATES TREATMENT OF DOUBLE TAX-**
18 **ATION MATTERS WITH RESPECT TO TAIWAN.**

19 (a) *FINDINGS.*—Congress makes the following findings:

20 (1) *The United States addresses issues with re-*
21 *spect to double taxation with foreign countries by en-*
22 *tering into bilateral income tax conventions (known*
23 *as tax treaties) with such countries, subject to the ad-*
24 *vice and consent of the Senate to ratification pursu-*
25 *ant to article II of the Constitution.*

1 (2) *The United States has entered into more*
2 *than sixty such tax treaties, which facilitate economic*
3 *activity, strengthen bilateral cooperation, and benefit*
4 *United States workers, businesses, and other United*
5 *States taxpayers.*

6 (3) *Due to Taiwan's unique status, the United*
7 *States is unable to enter into an article II tax treaty*
8 *with Taiwan, necessitating an agreement to address*
9 *issues with respect to double taxation.*

10 (b) *STATEMENT OF POLICY.—It is the policy of the*
11 *United States to—*

12 (1) *provide for additional bilateral tax relief*
13 *with respect to Taiwan, beyond that provided for in*
14 *section 894A of the Internal Revenue Code of 1986 (as*
15 *added by the United States-Taiwan Expedited Dou-*
16 *ble-Tax Relief Act), only after entry into force of an*
17 *Agreement, as provided for in section 205, and only*
18 *in a manner consistent with such Agreement; and*

19 (2) *continue to provide for bilateral tax relief*
20 *with sovereign states to address double taxation and*
21 *other related matters through entering into bilateral*
22 *income tax conventions, subject to the Senate's advice*
23 *and consent to ratification pursuant to article II of*
24 *the Constitution.*

Union Calendar No. 249

118TH CONGRESS
1ST Session

H. R. 5988

[Report No. 118-309]

A BILL

To amend the Internal Revenue Code of 1986 to provide special rules for the taxation of certain residents of Taiwan with income from sources within the United States.

DECEMBER 12, 2023

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed