

Calendar No. 230118TH CONGRESS
1ST SESSION**S. 3084****[Report No. 118–107]**

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 SENATE OF THE UNITED STATES

OCTOBER 19, 2023

Mr. WYDEN from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

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 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “United States-Taiwan
5 Expedited Double-Tax Relief Act”.

1 **SEC. 2. SPECIAL RULES FOR TAXATION OF CERTAIN RESI-**
 2 **DENTS OF TAIWAN.**

3 (a) IN GENERAL.—Subpart D of part II of sub-
 4 chapter N of chapter 1 of the Internal Revenue Code of
 5 1986 is amended by inserting after section 894 the fol-
 6 lowing new section:

7 **“SEC. 894A. SPECIAL RULES FOR QUALIFIED RESIDENTS OF**
 8 **TAIWAN.**

9 “(a) CERTAIN INCOME FROM UNITED STATES
 10 SOURCES.—

11 “(1) INTEREST, DIVIDENDS, AND ROYALTIES,
 12 ETC.—

13 “(A) IN GENERAL.—In the case of interest
 14 (other than original issue discount), dividends,
 15 royalties, amounts described in section
 16 871(a)(1)(C), and gains described in section
 17 871(a)(1)(D) received by or paid to a qualified
 18 resident of Taiwan—

19 “(i) sections 871(a), 881(a), 1441(a),
 20 1441(c)(5), and 1442(a) shall each be ap-
 21 plied by substituting ‘the applicable per-
 22 centage (as defined in section
 23 894A(a)(1)(C))’ for ‘30 percent’ each place
 24 it appears, and

25 “(ii) sections 871(a), 881(a), and
 26 1441(c)(1) shall each be applied by sub-

1 stituting ‘a United States permanent es-
2 tablishment of a qualified resident of Tai-
3 wan’ for ‘a trade or business within the
4 United States’ each place it appears.

5 “(B) EXCEPTIONS.—

6 “(i) IN GENERAL.—Subparagraph (A)
7 shall not apply to—

8 “(I) any dividend received from
9 or paid by a real estate investment
10 trust which is not a qualified REIT
11 dividend,

12 “(II) any amount subject to sec-
13 tion 897,

14 “(III) any amount received from
15 or paid by an expatriated entity (as
16 defined in section 7874(a)(2)) to a
17 foreign related person (as defined in
18 section 7874(d)(3)), and

19 “(IV) any amount which is in-
20 cluded in income under section 860C
21 to the extent that such amount does
22 not exceed an excess inclusion with re-
23 spect to a REMIC.

24 “(ii) QUALIFIED REIT DIVIDEND.—

25 For purposes of clause (i)(I), the term

1 ‘qualified REIT dividend’ means any divi-
2 dend received from or paid by a real estate
3 investment trust if such dividend is paid
4 with respect to a class of shares that is
5 publicly traded and the recipient of the
6 dividend is a person who holds an interest
7 in any class of shares of the real estate in-
8 vestment trust of not more than 5 percent.

9 “(C) APPLICABLE PERCENTAGE.—For
10 purposes of applying subparagraph (A)(i)—

11 “(i) IN GENERAL.—Except as pro-
12 vided in clause (ii), the term ‘applicable
13 percentage’ means 10 percent.

14 “(ii) SPECIAL RULES FOR DIVI-
15 DENDS.— In the case of any dividend in
16 respect of stock received by or paid to a
17 qualified resident of Taiwan, the applicable
18 percentage shall be 15 percent (10 percent
19 in the case of a dividend which meets the
20 requirements of subparagraph (D) and is
21 received by or paid to an entity taxed as
22 a corporation in Taiwan).

23 “(D) REQUIREMENTS FOR LOWER DIVI-
24 DEND RATE.—

1 “(i) IN GENERAL.—The requirements
2 of this subparagraph are met with respect
3 to any dividend in respect of stock in a
4 corporation if, at all times during the 12-
5 month period ending on the date such
6 stock becomes ex-dividend with respect to
7 such dividend—

8 “(I) the dividend is derived by a
9 qualified resident of Taiwan, and

10 “(II) such qualified resident of
11 Taiwan has held directly at least 10
12 percent (by vote and value) of the
13 total outstanding shares of stock in
14 such corporation.

15 For purposes of subclause (II), a person
16 shall be treated as directly holding a share
17 of stock during any period described in the
18 preceding sentence if the share was held by
19 a corporation from which such person later
20 acquired that share and such corporation
21 was, at the time the share was acquired,
22 both a connected person to such person
23 and a qualified resident of Taiwan.

24 “(ii) EXCEPTION FOR RICS AND
25 REITS.—Notwithstanding clause (i), the re-

1 requirements of this subparagraph shall not
 2 be treated as met with respect to any divi-
 3 dend paid by a regulated investment com-
 4 pany or a real estate investment trust.

5 “(2) QUALIFIED WAGES.—

6 “(A) IN GENERAL.—No tax shall be im-
 7 posed under this chapter (and no amount shall
 8 be withheld under section 1441(a) or chapter
 9 24) with respect to qualified wages paid to a
 10 qualified resident of Taiwan who—

11 “(i) is not a resident of the United
 12 States (determined without regard to sub-
 13 section (c)(3)(E)), or

14 “(ii) is employed as a member of the
 15 regular component of a ship or aircraft op-
 16 erated in international traffic.

17 “(B) QUALIFIED WAGES.—

18 “(i) IN GENERAL.—The term ‘quali-
 19 fied wages’ means wages, salaries, or simi-
 20 lar remunerations with respect to employ-
 21 ment involving the performance of personal
 22 services within the United States which—

23 “(I) are paid by (or on behalf of)
 24 any employer other than a United
 25 States person, and

1 “(II) are not borne by a United
2 States permanent establishment of
3 any person other than a United States
4 person.

5 “(ii) EXCEPTIONS.—Such term shall
6 not include directors’ fees, income derived
7 as an entertainer or athlete, income de-
8 rived as a student or trainee, pensions,
9 amounts paid with respect to employment
10 with the United States, any State (or polit-
11 ical subdivision thereof), or any possession
12 of the United States (or any political sub-
13 division thereof), or other amounts speci-
14 fied in regulations or guidance under sub-
15 section (f)(1)(F).

16 “(3) INCOME DERIVED FROM ENTERTAINMENT
17 OR ATHLETIC ACTIVITIES.—

18 “(A) IN GENERAL.—No tax shall be im-
19 posed under this chapter (and no amount shall
20 be withheld under section 1441(a) or chapter
21 24) with respect to income derived by an enter-
22 tainer or athlete who is a qualified resident of
23 Taiwan from personal activities as such per-
24 formed in the United States if the aggregate

1 amount of gross receipts from such activities
2 for the taxable year do not exceed \$30,000.

3 “(B) EXCEPTION.—Subparagraph (A)
4 shall not apply with respect to—

5 “(i) income which is qualified wages
6 (as defined in paragraph (2)(B), deter-
7 mined without regard to clause (ii) there-
8 of), or

9 “(ii) income which is effectively con-
10 nected with a United States permanent es-
11 tablishment.

12 “(b) INCOME CONNECTED WITH A UNITED STATES
13 PERMANENT ESTABLISHMENT OF A QUALIFIED RESI-
14 DENT OF TAIWAN.—

15 “(1) IN GENERAL.—

16 “(A) IN GENERAL.—In lieu of applying
17 sections 871(b) and 882, a qualified resident of
18 Taiwan that carries on a trade or business
19 within the United States through a United
20 States permanent establishment shall be taxable
21 as provided in section 1, 11, 55, or 59A, on its
22 taxable income which is effectively connected
23 with such permanent establishment.

24 “(B) DETERMINATION OF TAXABLE IN-
25 COME.—In determining taxable income for pur-

1 poses of paragraph (1), gross income includes
2 only gross income which is effectively connected
3 with the permanent establishment.

4 “(2) TREATMENT OF DISPOSITIONS OF UNITED
5 STATES REAL PROPERTY.—In the case of a qualified
6 resident of Taiwan, section 897(a) shall be applied—

7 “(A) by substituting ‘carried on a trade or
8 business within the United States through a
9 United States permanent establishment’ for
10 ‘were engaged in a trade or business within the
11 United States’, and

12 “(B) by substituting ‘such United States
13 permanent establishment’ for ‘such trade or
14 business’.

15 “(3) TREATMENT OF BRANCH PROFITS
16 TAXES.—In the case of any corporation which is a
17 qualified resident of Taiwan, section 884 shall be ap-
18 plied—

19 “(A) by substituting ‘10 percent’ for ‘30
20 percent ’ in subsection (a) thereof, and

21 “(B) by substituting ‘a United States per-
22 manent establishment of a qualified resident of
23 Taiwan’ for ‘the conduct of a trade or business
24 within the United States’ in subsection (d)(1)
25 thereof.

1 “(4) SPECIAL RULE WITH RESPECT TO INCOME
2 DERIVED FROM CERTAIN ENTERTAINMENT OR ATH-
3 LETIC ACTIVITIES.—

4 “(A) IN GENERAL.—Paragraph (1) shall
5 not apply to the extent that the income is de-
6 rived—

7 “(i) in respect of entertainment or
8 athletic activities performed in the United
9 States, and

10 “(ii) by a qualified resident of Taiwan
11 who is not the entertainer or athlete per-
12 forming such activities.

13 “(B) EXCEPTION.—Subparagraph (A)
14 shall not apply if the person described in sub-
15 paragraph (A)(ii) is contractually authorized to
16 designate the individual who is to perform such
17 activities.

18 “(5) SPECIAL RULE WITH RESPECT TO CER-
19 TAIN AMOUNTS.—Paragraph (1) shall not apply to
20 any income which is wages, salaries, or similar re-
21 muneration with respect to employment or with re-
22 spect to any amount which is described in subsection
23 (a)(2)(B)(ii).

24 “(c) QUALIFIED RESIDENT OF TAIWAN.—For pur-
25 poses of this section—

1 “(1) IN GENERAL.—The term ‘qualified resi-
2 dent of Taiwan’ means any person who—

3 “(A) is liable to tax under the laws of Tai-
4 wan by reason of such person’s domicile, resi-
5 dence, place of management, place of incorpora-
6 tion, or any similar criterion,

7 “(B) is not a United States person (deter-
8 mined without regard to paragraph (3)(E)),
9 and

10 “(C) in the case of an entity taxed as a
11 corporation in Taiwan, meets the requirements
12 of paragraph (2).

13 “(2) LIMITATION ON BENEFITS FOR COR-
14 PORATE ENTITIES OF TAIWAN.—

15 “(A) IN GENERAL.—Subject to subpara-
16 graphs (E) and (F), an entity meets the re-
17 quirements of this paragraph only if it—

18 “(i) meets the ownership and income
19 requirements of subparagraph (B),

20 “(ii) meets the publicly traded re-
21 quirements of subparagraph (C), or

22 “(iii) meets the qualified subsidiary
23 requirements of subparagraph (D).

1 “(B) OWNERSHIP AND INCOME REQUIRE-
2 MENTS.—The requirements of this subpara-
3 graph are met for an entity if—

4 “(i) at least 50 percent (by vote and
5 value) of the total outstanding shares of
6 stock in such entity are owned directly or
7 indirectly by qualified residents of Taiwan,
8 and

9 “(ii) less than 50 percent of such enti-
10 ty’s gross income (and in the case of an
11 entity that is a member of a tested group,
12 less than 50 percent of the tested group’s
13 gross income) is paid or accrued, directly
14 or indirectly, in the form of payments that
15 are deductible for purposes of the income
16 taxes imposed by Taiwan, to persons who
17 are not—

18 “(I) qualified residents of Tai-
19 wan, or

20 “(II) United States persons who
21 meet such requirements with respect
22 to the United States as determined by
23 the Secretary to be equivalent to the
24 requirements of this subsection (deter-
25 mined without regard to paragraph

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

3 “(C) PUBLICLY TRADED REQUIRE-
4 MENTS.—An entity meets the requirements of
5 this subparagraph if—

6 “(i) the principal class of its shares
7 (and any disproportionate class of shares)
8 of such entity are primarily and regularly
9 traded on an established securities market
10 in Taiwan, or

11 “(ii) the primary place of manage-
12 ment and control of the entity is in Taiwan
13 and all classes of its outstanding shares
14 described in clause (i) are regularly traded
15 on an established securities market in Tai-
16 wan.

17 “(D) QUALIFIED SUBSIDIARY REQUIRE-
18 MENTS.—An entity meets the requirement of
19 this subparagraph if—

20 “(i) at least 50 percent (by vote and
21 value) of the total outstanding shares of
22 the stock of such entity are owned directly
23 or indirectly by 5 or fewer entities—

24 “(I) which meet the requirements
25 of subparagraph (C), or

1 “(II) which are United States
2 persons the principal class of the
3 shares (and any disproportionate class
4 of shares) of which are primarily and
5 regularly traded on an established se-
6 curities market in the United States,
7 and

8 “(ii) the entity meets the require-
9 ments of clause (ii) of subparagraph (B).

10 “(E) ONLY INDIRECT OWNERSHIP
11 THROUGH QUALIFYING INTERMEDIARIES
12 COUNTED.—

13 “(i) IN GENERAL.—Stock in an entity
14 owned by a person indirectly through 1 or
15 more other persons shall not be treated as
16 owned by such person in determining
17 whether the person meets the requirements
18 of subparagraph (B)(i) or (D)(i) unless all
19 such other persons are qualifying inter-
20 mediate owners.

21 “(ii) QUALIFYING INTERMEDIATE
22 OWNERS.—The term ‘qualifying inter-
23 mediate owner’ means a person that is—

24 “(I) a qualified resident of Tai-
25 wan, or

1 “(II) a resident of any other for-
2 eign country (other than a foreign
3 country that is a foreign country of
4 concern) that has in effect a com-
5 prehensive convention with the United
6 States for the avoidance of double tax-
7 ation.

8 “(iii) SPECIAL RULE FOR QUALIFIED
9 SUBSIDIARIES.—For purposes of applying
10 subparagraph (D)(i), the term ‘qualifying
11 intermediate owner’ shall include any per-
12 son who is a United States person who
13 meets such requirements with respect to
14 the United States as determined by the
15 Secretary to be equivalent to the require-
16 ments of this subsection (determined with-
17 out regard to paragraph (1)(B)) with re-
18 spect to residents of Taiwan.

19 “(F) CERTAIN PAYMENTS NOT IN-
20 CLUDED.—In determining whether the require-
21 ments of subparagraph (B)(ii) or (D)(ii) are
22 met with respect to an entity, the following pay-
23 ments shall not be taken into account:

1 “(i) Arm’s-length payments by the en-
2 tity in the ordinary course of business for
3 services or tangible property.

4 “(ii) In the case of a tested group,
5 intra-group transactions.

6 “(3) DUAL RESIDENTS.—

7 “(A) RULES FOR DETERMINATION OF STA-
8 TUS.—

9 “(i) IN GENERAL.—An individual who
10 is an applicable dual resident and who is
11 described in subparagraph (B), (C), or (D)
12 shall be treated as a qualified resident of
13 Taiwan.

14 “(ii) APPLICABLE DUAL RESIDENT.—
15 For purposes of this paragraph, the term
16 ‘applicable dual resident’ means an indi-
17 vidual who—

18 “(I) is not a United States citi-
19 izen,

20 “(II) is a resident of the United
21 States (determined without regard to
22 subparagraph (E)), and

23 “(III) would be a qualified resi-
24 dent of Taiwan but for paragraph
25 (1)(B).

1 “(B) PERMANENT HOME.—An individual
2 is described in this subparagraph if such indi-
3 vidual—

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

6 “(ii) does not have a permanent home
7 available to such individual in the United
8 States.

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

11 “(i) such individual has a permanent
12 home available to such individual in both
13 Taiwan and the United States, and

14 “(ii) such individual’s personal and
15 economic relations (center of vital inter-
16 ests) are closer to Taiwan than to the
17 United States.

18 “(D) HABITUAL ABODE.—An individual is
19 described in this subparagraph if—

20 “(i) such individual—

21 “(I) does not have a permanent
22 home available to such individual in
23 either Taiwan or the United States, or

24 “(II) has a permanent home
25 available to such individual in both

1 Taiwan and the United States but
2 such individual's center of vital inter-
3 ests under subparagraph (C)(ii) can-
4 not be determined, and

5 “(ii) such individual has a habitual
6 abode in Taiwan and not the United
7 States.

8 “(E) UNITED STATES TAX TREATMENT OF
9 QUALIFIED RESIDENT OF TAIWAN.—Notwith-
10 standing section 7701, an individual who is
11 treated as a qualified resident of Taiwan by
12 reason of this paragraph for all or any portion
13 of a taxable year shall not be treated as a resi-
14 dent of the United States for purposes of com-
15 puting such individual's United States income
16 tax liability for such taxable year or portion
17 thereof.

18 “(4) RULES OF SPECIAL APPLICATION.—

19 “(A) DIVIDENDS.—For purposes of apply-
20 ing this section to any dividend, paragraph
21 (2)(D) shall be applied without regard to clause
22 (ii) thereof.

23 “(B) ITEMS OF INCOME EMANATING FROM
24 AN ACTIVE TRADE OR BUSINESS IN TAIWAN.—
25 For purposes of this section—

1 “(i) IN GENERAL.—Notwithstanding
2 the preceding paragraphs of this sub-
3 section, if an entity taxed as a corporation
4 in Taiwan is not a qualified resident of
5 Taiwan but meets the requirements of sub-
6 paragraphs (A) and (B) of paragraph (1),
7 any qualified item of income such entity
8 derived from the United States shall be
9 treated as income of a qualified resident of
10 Taiwan.

11 “(ii) QUALIFIED ITEMS OF INCOME.—

12 “(I) IN GENERAL.—The term
13 ‘qualified item of income’ means any
14 item of income which emanates from,
15 or is incidental to, the conduct of an
16 active trade or business in Taiwan
17 (other than operating as a holding
18 company, providing overall supervision
19 or administration of a group of com-
20 panies, providing group financing, or
21 making or managing investments (un-
22 less such making or managing invest-
23 ments is carried on by a bank, insur-
24 ance company, or registered securities

1 dealer in the ordinary course of its
2 business as such)).

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

19 “(iii) EXCEPTION.—This subpara-
20 graph shall not apply to any item of in-
21 come derived by an entity if at least 50
22 percent (by vote or value) of such entity is
23 owned (directly or indirectly) or controlled
24 by residents of a foreign country of con-
25 cern.

1 “(d) OTHER DEFINITIONS AND SPECIAL RULES.—

2 For purposes of this section—

3 “(1) UNITED STATES PERMANENT ESTABLISH-
4 MENT.—

5 “(A) IN GENERAL.—The term ‘United
6 States permanent establishment’ means, with
7 respect to a qualified resident of Taiwan, a per-
8 manent establishment of such resident which is
9 within the United States.

10 “(B) SPECIAL RULE.—The determination
11 of whether there is a permanent establishment
12 of a qualified resident of Taiwan within the
13 United States shall be made without regard to
14 whether an entity which is taxed as a corpora-
15 tion in Taiwan and which is a qualified resident
16 of Taiwan controls or is controlled by—

17 “(i) a domestic corporation, or

18 “(ii) any other person that carries on
19 business in the United States (whether
20 through a permanent establishment or oth-
21 erwise).

22 “(2) PERMANENT ESTABLISHMENT.—

23 “(A) IN GENERAL.—The term ‘permanent
24 establishment’ means a fixed place of business

1 through which a trade or business is wholly or
2 partly carried on. Such term shall include—

3 “(i) a place of management,

4 “(ii) a branch,

5 “(iii) an office,

6 “(iv) a factory,

7 “(v) a workshop, and

8 “(vi) a mine, an oil or gas well, a
9 quarry, or any other place of extraction of
10 natural resources.

11 “(B) SPECIAL RULES FOR CERTAIN TEM-
12 PORARY PROJECTS.—

13 “(i) IN GENERAL.—A building site or
14 construction or installation project, or an
15 installation or drilling rig or ship used for
16 the exploration or exploitation of the sea
17 bed and its subsoil and their natural re-
18 sources, constitutes a permanent establish-
19 ment only if it lasts, or the activities of the
20 rig or ship lasts, for more than 12 months.

21 “(ii) DETERMINATION OF 12-MONTH
22 PERIOD.—For purposes of clause (i), the
23 period over which a building site or con-
24 struction or installation project of a person
25 lasts shall include any period of more than

1 30 days during which such person does not
2 carry on activities at such building site or
3 construction or installation project but
4 connected activities are carried on at such
5 building site or construction or installation
6 project by one or more connected persons.

7 “(C) HABITUAL EXERCISE OF CONTRACT
8 AUTHORITY TREATED AS PERMANENT ESTAB-
9 LISHMENT.—Notwithstanding subparagraphs
10 (A) and (B), where a person (other than an
11 agent of an independent status to whom sub-
12 paragraph (D)(ii) applies) is acting on behalf of
13 a trade or business of a qualified resident of
14 Taiwan and has and habitually exercises an au-
15 thority to conclude contracts that are binding
16 on the trade or business, that trade or business
17 shall be deemed to have a permanent establish-
18 ment in the country in which such authority is
19 exercised in respect of any activities that the
20 person undertakes for the trade or business, un-
21 less the activities of such person are limited to
22 those described in subparagraph (D)(i) that, if
23 exercised through a fixed place of business,
24 would not make this fixed place of business a

1 permanent establishment under the provisions
2 of that subparagraph.

3 “(D) EXCLUSIONS.—

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

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

11 “(II) the maintenance of a stock
12 of goods or merchandise belonging to
13 the trade or business solely for the
14 purpose of storage, display, or deliv-
15 ery,

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

21 “(IV) the maintenance of a fixed
22 place of business solely for the pur-
23 pose of purchasing goods or merchan-
24 dise, or of collecting information, for
25 the trade or business,

1 “(V) the maintenance of a fixed
2 place of business solely for the pur-
3 pose of carrying on, for the trade or
4 business, 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 perma-
17 nent establishment in a country merely be-
18 cause it carries on business in such coun-
19 try through a broker, general commission
20 agent, or any other agent of an inde-
21 pendent status, provided that such persons
22 are acting in the ordinary course of their
23 business as 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 pursu-
8 ant to a group relief or other loss sharing re-
9 gime.

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

24 “(5) FOREIGN COUNTRY OF CONCERN.—The
25 term ‘foreign country of concern’ has the meaning

1 given such term under paragraph (7) of section
2 9901 of the William M. (Mac) Thornberry National
3 Defense Authorization Act for Fiscal Year 2021 (15
4 U.S.C. 4651(7)), as added by section 103(a)(4) of
5 the CHIPS Act of 2022).

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

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

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

22 “(7) DENIAL OF BENEFITS FOR CERTAIN PAY-
23 MENTS THROUGH HYBRID ENTITIES.—For purposes
24 of this section, rules similar to the rules of section
25 894(c) shall apply.

1 “(e) APPLICATION.—

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

8 “(2) PROVISION OF RECIPROCITY.—The Presi-
9 dent or his designee is authorized to exchange let-
10 ters, enter into an agreement, or take other nec-
11 essary and appropriate steps relative to Taiwan for
12 the reciprocal provision of the benefits described in
13 this section.

14 “(f) REGULATIONS OR OTHER GUIDANCE.—

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

20 “(A) determining—

21 “(i) what constitutes a United States
22 permanent establishment of a qualified
23 resident of Taiwan, and

1 “(ii) income that is effectively con-
2 nected with such a permanent establish-
3 ment,

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

8 “(C) requirements for record keeping and
9 reporting,

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

17 “(E) the application of subsection
18 (a)(1)(D)(i) to stock held by predecessor own-
19 ers,

20 “(F) determining what amounts are to be
21 treated as qualified wages for purposes of sub-
22 section (a)(2),

23 “(G) determining the amounts to which
24 subsection (a)(3) applies,

1 “(H) defining established securities market
2 for purposes of subsection (c),

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

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

7 “(K) determining ownership interests held
8 by residents of a foreign country of concern,
9 and

10 “(L) determining the starting and ending
11 dates for periods with respect to the application
12 of this section under subsection (e), which may
13 be separate dates for taxes withheld at the
14 source and other taxes.

15 “(2) REGULATIONS TO BE CONSISTENT WITH
16 MODEL TREATY.—Any regulations or other guidance
17 issued under this section shall, to the extent prac-
18 tical, be consistent with the provisions of the United
19 States model income tax convention dated February
20 7, 2016.”.

21 (b) CONFORMING AMENDMENT TO WITHHOLDING
22 TAX.—Subchapter A of chapter 3 of the Internal Revenue
23 Code of 1986 is amended by adding at the end the fol-
24 lowing new section:

1 **“SEC. 1447. WITHHOLDING FOR QUALIFIED RESIDENTS OF**
2 **TAIWAN.**

3 “For reduced rates of withholding for certain resi-
4 dents of Taiwan, see section 894A.”.

5 (c) CLERICAL AMENDMENTS.—

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

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

10 (2) The table of sections for subchapter A of
11 chapter 3 of such Code is amended by adding at the
12 end the following new item:

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

Calendar No. 230

118TH CONGRESS
1ST Session

S. 3084

[Report No. 118-1071]

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.

OCTOBER 19, 2023

Read twice and placed on the calendar.