

November 9, 2023

The Honorable Janet Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

Secretary Yellen:

We write to you about Notice 2023-55, “Temporary Relief Under Sections 901 and 903 of the Internal Revenue Code,” released **on July 21, 2023** (the “Notice”). We appreciate Treasury’s efforts to engage with Congress and stakeholders on the final foreign tax credit regulations under sections 901 and 903 published on January 4, 2022, in the Federal Register (87 FR 276) (2022 FTC final regulations), and to address potential unintended consequences for U.S. businesses such as double taxation. Treasury’s relief efforts were critical to preserving U.S. multinationals’ competitiveness and long-term economic growth.

The Notice provides temporary relief for taxpayers in determining whether a foreign tax is eligible for a foreign tax credit under sections 901 and 903 of the Code during taxable years beginning on or after December 28, 2021, and ending **on or before December 31, 2023**. This relief provides some assurance amid significant changes in the global tax environment, especially as the OECD/G20 Inclusive Framework on base erosion and profit shifting (BEPS) finalizes its work on Pillar Two and foreign jurisdictions implement the Pillar Two tax measures.

The IRS recently shared in public forums that it anticipates extending the relief described in the Notice for a longer period. We kindly request that guidance in alignment with those public statements be issued as soon as possible to extend the current relief period for at least one additional year. This further extension is necessary considering fiscal year taxpayers are already or will soon start filing fiscal year 2024 quarterly financial statements and will need to comply with 2022 FTC final regulations in the absence of additional relief. Extending the relief period for at least one year will give taxpayers necessary assurance and Treasury enough time to analyze thoroughly the issues related to the 2022 FTC final regulations.

Additionally, we request that Treasury give appropriate consideration to addressing concerns of fiscal year taxpayers whose relief period would end earlier than that of calendar year taxpayers if only a one-year extension is provided. One option for addressing those concerns could be aligning the end of the extended relief period to when foreign taxes are paid or accrued for U.S. tax purposes rather than linking it to the end of the U.S. taxpayer’s tax year.

We thank you for the much-needed relief notice and Treasury’s acknowledgment that the 2022 FTC final regulations may have been broader than the original intent to address digital service taxes. We look forward to working together on FTC-related policy to ensure we focus on long-term economic growth that protects U.S. companies’ competitiveness abroad. Thank you for your attention to this matter.

Sincerely,



Kevin Hern
Member of Congress



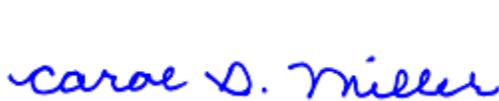
Bradley S. Schneider
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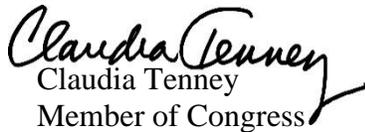


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cc: Lily Batchelder, Assistant Secretary for Tax Policy
Daniel Werfel, Commissioner of Internal Revenue Service
William M. Paul, Chief Counsel (Acting), Internal Revenue Service