

119TH CONGRESS
1ST SESSION

H. R. 33

AN ACT

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,*

1 **TITLE I—UNITED STATES-TAI-**
2 **WAN EXPEDITED DOUBLE-**
3 **TAX RELIEF ACT**

4 **SEC. 101. SHORT TITLE.**

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

7 **SEC. 102. SPECIAL RULES FOR TAXATION OF CERTAIN**
8 **RESIDENTS OF TAIWAN.**

9 (a) IN GENERAL.—Subpart D of part II of sub-
10 chapter N of chapter 1 of the Internal Revenue Code of
11 1986 is amended by inserting after section 894 the fol-
12 lowing new section:

13 **“SEC. 894A. SPECIAL RULES FOR QUALIFIED RESIDENTS OF**
14 **TAIWAN.**

15 “(a) CERTAIN INCOME FROM UNITED STATES
16 SOURCES.—

17 “(1) INTEREST, DIVIDENDS, AND ROYALTIES,
18 ETC.—

19 “(A) IN GENERAL.—In the case of interest
20 (other than original issue discount), dividends,
21 royalties, amounts described in section
22 871(a)(1)(C), and gains described in section
23 871(a)(1)(D) received by or paid to a qualified
24 resident of Taiwan—

1 “(i) sections 871(a), 881(a), 1441(a),
2 1441(c)(5), and 1442(a) shall each be ap-
3 plied by substituting ‘the applicable per-
4 centage (as defined in section
5 894A(a)(1)(C))’ for ‘30 percent’ each place
6 it appears, and

7 “(ii) sections 871(a), 881(a), and
8 1441(c)(1) shall each be applied by sub-
9 stituting ‘a United States permanent es-
10 tablishment of a qualified resident of Tai-
11 wan’ for ‘a trade or business within the
12 United States’ each place it appears.

13 “(B) EXCEPTIONS.—

14 “(i) IN GENERAL.—Subparagraph (A)
15 shall not apply to—

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

20 “(II) any amount subject to sec-
21 tion 897,

22 “(III) any amount received from
23 or paid by an expatriated entity (as
24 defined in section 7874(a)(2)) to a

1 foreign related person (as defined in
2 section 7874(d)(3)), and

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

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

18 “(C) APPLICABLE PERCENTAGE.—For
19 purposes of applying subparagraph (A)(i)—

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

23 “(ii) SPECIAL RULES FOR DIVI-
24 DENDS.— In the case of any dividend in
25 respect of stock received by or paid to a

1 qualified resident of Taiwan, the applicable
2 percentage shall be 15 percent (10 percent
3 in the case of a dividend which meets the
4 requirements of subparagraph (D) and is
5 received by or paid to an entity taxed as
6 a corporation in Taiwan).

7 “(D) REQUIREMENTS FOR LOWER DIVI-
8 DEND RATE.—

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

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

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

23 For purposes of subclause (II), a person
24 shall be treated as directly holding a share
25 of stock during any period described in the

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

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

13 “(2) QUALIFIED WAGES.—

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

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

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

25 “(B) QUALIFIED WAGES.—

1 “(i) IN GENERAL.—The term ‘quali-
2 fied wages’ means wages, salaries, or simi-
3 lar remunerations with respect to employ-
4 ment involving the performance of personal
5 services within the United States which—

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

9 “(II) are not borne by a United
10 States permanent establishment of
11 any person other than a United States
12 person.

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

24 “(3) INCOME DERIVED FROM ENTERTAINMENT
25 OR ATHLETIC ACTIVITIES.—

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

10 “(B) EXCEPTION.—Subparagraph (A)
11 shall not apply with respect to—

12 “(i) income which is qualified wages
13 (as defined in paragraph (2)(B), deter-
14 mined without regard to clause (ii) there-
15 of), or

16 “(ii) income which is effectively con-
17 nected with a United States permanent es-
18 tablishment.

19 “(b) INCOME CONNECTED WITH A UNITED STATES
20 PERMANENT ESTABLISHMENT OF A QUALIFIED RESI-
21 DENT OF TAIWAN.—

22 “(1) IN GENERAL.—

23 “(A) IN GENERAL.—In lieu of applying
24 sections 871(b) and 882, a qualified resident of
25 Taiwan that carries on a trade or business

1 within the United States through a United
2 States permanent establishment shall be taxable
3 as provided in section 1, 11, 55, or 59A, on its
4 taxable income which is effectively connected
5 with such permanent establishment.

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

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

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

19 “(B) by substituting ‘such United States
20 permanent establishment’ for ‘such trade or
21 business’.

22 “(3) TREATMENT OF BRANCH PROFITS
23 TAXES.—In the case of any corporation which is a
24 qualified resident of Taiwan, section 884 shall be ap-
25 plied—

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

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

8 “(4) SPECIAL RULE WITH RESPECT TO INCOME
9 DERIVED FROM CERTAIN ENTERTAINMENT OR ATH-
10 LETIC ACTIVITIES.—

11 “(A) IN GENERAL.—Paragraph (1) shall
12 not apply to the extent that the income is de-
13 rived—

14 “(i) in respect of entertainment or
15 athletic activities performed in the United
16 States, and

17 “(ii) by a qualified resident of Taiwan
18 who is not the entertainer or athlete per-
19 forming such activities.

20 “(B) EXCEPTION.—Subparagraph (A)
21 shall not apply if the person described in sub-
22 paragraph (A)(ii) is contractually authorized to
23 designate the individual who is to perform such
24 activities.

1 “(5) SPECIAL RULE WITH RESPECT TO CER-
2 TAIN AMOUNTS.—Paragraph (1) shall not apply to
3 any income which is wages, salaries, or similar re-
4 munerations with respect to employment or with re-
5 spect to any amount which is described in subsection
6 (a)(2)(B)(ii).

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

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

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

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

18 “(C) in the case of an entity taxed as a
19 corporation in Taiwan, meets the requirements
20 of paragraph (2).

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

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

1 “(i) meets the ownership and income
2 requirements of subparagraph (B),

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

5 “(iii) meets the qualified subsidiary
6 requirements of subparagraph (D).

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

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

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

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

1 “(II) United States persons who
2 meet such requirements with respect
3 to the United States as determined by
4 the Secretary to be equivalent to the
5 requirements of this subsection (deter-
6 mined without regard to paragraph
7 (1)(B)) with respect to residents of
8 Taiwan.

9 “(C) PUBLICLY TRADED REQUIRE-
10 MENTS.—An entity meets the requirements of
11 this subparagraph if—

12 “(i) the principal class of its shares
13 (and any disproportionate class of shares)
14 of such entity are primarily and regularly
15 traded on an established securities market
16 in Taiwan, or

17 “(ii) the primary place of manage-
18 ment and control of the entity is in Taiwan
19 and all classes of its outstanding shares
20 described in clause (i) are regularly traded
21 on an established securities market in Tai-
22 wan.

23 “(D) QUALIFIED SUBSIDIARY REQUIRE-
24 MENTS.—An entity meets the requirement of
25 this subparagraph if—

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

5 “(I) which meet the requirements
6 of subparagraph (C), or

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

14 “(ii) the entity meets the require-
15 ments of clause (ii) of subparagraph (B).

16 “(E) ONLY INDIRECT OWNERSHIP
17 THROUGH QUALIFYING INTERMEDIARIES
18 COUNTED.—

19 “(i) IN GENERAL.—Stock in an entity
20 owned by a person indirectly through 1 or
21 more other persons shall not be treated as
22 owned by such person in determining
23 whether the person meets the requirements
24 of subparagraph (B)(i) or (D)(i) unless all

1 such other persons are qualifying inter-
2 mediate owners.

3 “(ii) QUALIFYING INTERMEDIATE
4 OWNERS.—The term ‘qualifying inter-
5 mediate owner’ means a person that is—

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

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

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

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

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

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

11 “(3) DUAL RESIDENTS.—

12 “(A) RULES FOR DETERMINATION OF STA-
13 TUS.—

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

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

23 “(I) is not a United States cit-
24 izen,

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

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

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

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

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

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

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

20 “(ii) such individual’s personal and
21 economic relations (center of vital inter-
22 ests) are closer to Taiwan than to the
23 United States.

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

1 “(i) such individual—

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

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

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

14 “(E) UNITED STATES TAX TREATMENT OF
15 QUALIFIED RESIDENT OF TAIWAN.—Notwith-
16 standing section 7701, an individual who is
17 treated as a qualified resident of Taiwan by
18 reason of this paragraph for all or any portion
19 of a taxable year shall not be treated as a resi-
20 dent of the United States for purposes of com-
21 puting such individual’s United States income
22 tax liability for such taxable year or portion
23 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 sub-
10 section, if an entity taxed as a corporation
11 in Taiwan is not a qualified resident of
12 Taiwan but meets the requirements of sub-
13 paragraphs (A) and (B) of paragraph (1),
14 any qualified item of income such entity
15 derived from the United States shall be
16 treated as income of a qualified resident of
17 Taiwan.

18 “(ii) QUALIFIED ITEMS OF INCOME.—

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

1 or administration of a group of com-
2 panies, providing group financing, or
3 making or managing investments (un-
4 less such making or managing invest-
5 ments is carried on by a bank, insur-
6 ance company, or registered securities
7 dealer in the ordinary course of its
8 business as such)).

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

1 “(iii) EXCEPTION.—This subpara-
2 graph shall not apply to any item of in-
3 come derived by an entity if at least 50
4 percent (by vote or value) of such entity is
5 owned (directly or indirectly) or controlled
6 by residents of a foreign country of con-
7 cern.

8 “(d) OTHER DEFINITIONS AND SPECIAL RULES.—
9 For purposes of this section—

10 “(1) UNITED STATES PERMANENT ESTABLISH-
11 MENT.—

12 “(A) IN GENERAL.—The term ‘United
13 States permanent establishment’ means, with
14 respect to a qualified resident of Taiwan, a per-
15 manent establishment of such resident which is
16 within the United States.

17 “(B) SPECIAL RULE.—The determination
18 of whether there is a permanent establishment
19 of a qualified resident of Taiwan within the
20 United States shall be made without regard to
21 whether an entity which is taxed as a corpora-
22 tion in Taiwan and which is a qualified resident
23 of Taiwan controls or is controlled by—

24 “(i) a domestic corporation, or

1 “(ii) any other person that carries on
2 business in the United States (whether
3 through a permanent establishment or oth-
4 erwise).

5 “(2) PERMANENT ESTABLISHMENT.—

6 “(A) IN GENERAL.—The term ‘permanent
7 establishment’ means a fixed place of business
8 through which a trade or business is wholly or
9 partly carried on. Such term shall include—

10 “(i) a place of management,

11 “(ii) a branch,

12 “(iii) an office,

13 “(iv) a factory,

14 “(v) a workshop, and

15 “(vi) a mine, an oil or gas well, a
16 quarry, or any other place of extraction of
17 natural resources.

18 “(B) SPECIAL RULES FOR CERTAIN TEM-
19 PORARY PROJECTS.—

20 “(i) IN GENERAL.—A building site or
21 construction or installation project, or an
22 installation or drilling rig or ship used for
23 the exploration or exploitation of the sea
24 bed and its subsoil and their natural re-
25 sources, constitutes a permanent establish-

1 ment only if it lasts, or the activities of the
2 rig or ship lasts, for more than 12 months.

3 “(ii) DETERMINATION OF 12-MONTH
4 PERIOD.—For purposes of clause (i), the
5 period over which a building site or con-
6 struction or installation project of a person
7 lasts shall include any period of more than
8 30 days during which such person does not
9 carry on activities at such building site or
10 construction or installation project but
11 connected activities are carried on at such
12 building site or construction or installation
13 project by one or more connected persons.

14 “(C) HABITUAL EXERCISE OF CONTRACT
15 AUTHORITY TREATED AS PERMANENT ESTAB-
16 LISHMENT.—Notwithstanding subparagraphs
17 (A) and (B), where a person (other than an
18 agent of an independent status to whom sub-
19 paragraph (D)(ii) applies) is acting on behalf of
20 a trade or business of a qualified resident of
21 Taiwan and has and habitually exercises an au-
22 thority to conclude contracts that are binding
23 on the trade or business, that trade or business
24 shall be deemed to have a permanent establish-
25 ment in the country in which such authority is

1 exercised in respect of any activities that the
2 person undertakes for the trade or business, un-
3 less the activities of such person are limited to
4 those described in subparagraph (D)(i) that, if
5 exercised through a fixed place of business,
6 would not make this fixed place of business a
7 permanent establishment under the provisions
8 of that subparagraph.

9 “(D) EXCLUSIONS.—

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

13 “(I) the use of facilities solely for
14 the purpose of storage, display, or de-
15 livery of goods or merchandise belong-
16 ing to the trade or business,

17 “(II) the maintenance of a stock
18 of goods or merchandise belonging to
19 the trade or business solely for the
20 purpose of storage, display, or deliv-
21 ery,

22 “(III) the maintenance of a stock
23 of goods or merchandise belonging to
24 the trade or business solely for the

1 purpose of processing by another
2 trade or business,

3 “(IV) the maintenance of a fixed
4 place of business solely for the pur-
5 pose of purchasing goods or merchan-
6 dise, or of collecting information, for
7 the trade or business,

8 “(V) the maintenance of a fixed
9 place of business solely for the pur-
10 pose of carrying on, for the trade or
11 business, any other activity of a pre-
12 paratory or auxiliary character, or

13 “(VI) the maintenance of a fixed
14 place of business solely for any com-
15 bination of the activities mentioned in
16 subclauses (I) through (V), provided
17 that the overall activity of the fixed
18 place of business resulting from this
19 combination is of a preparatory or
20 auxiliary character.

21 “(ii) BROKERS AND OTHER INDE-
22 PENDENT AGENTS.—A trade or business
23 shall not be considered to have a perma-
24 nent establishment in a country merely be-
25 cause it carries on business in such coun-

1 try through a broker, general commission
2 agent, or any other agent of an inde-
3 pendent status, provided that such persons
4 are acting in the ordinary course of their
5 business as independent agents.

6 “(3) TESTED GROUP.—The term ‘tested group’
7 includes, with respect to any entity taxed as a cor-
8 poration in Taiwan, such entity and any other entity
9 taxed as a corporation in Taiwan that—

10 “(A) participates as a member with such
11 entity in a tax consolidation, fiscal unity, or
12 similar regime that requires members of the
13 group to share profits or losses, or

14 “(B) shares losses with such entity pursu-
15 ant to a group relief or other loss sharing re-
16 gime.

17 “(4) CONNECTED PERSON.—Two persons shall
18 be ‘connected persons’ if one owns, directly or indi-
19 rectly, at least 50 percent of the interests in the
20 other (or, in the case of a corporation, at least 50
21 percent of the aggregate vote and value of the cor-
22 poration’s shares) or another person owns, directly
23 or indirectly, at least 50 percent of the interests (or,
24 in the case of a corporation, at least 50 percent of
25 the aggregate vote and value of the corporation’s

1 shares) in each person. In any case, a person shall
2 be connected to another if, based on all the relevant
3 facts and circumstances, one has control of the other
4 or both are under the control of the same person or
5 persons.

6 “(5) FOREIGN COUNTRY OF CONCERN.—The
7 term ‘foreign country of concern’ has the meaning
8 given such term under paragraph (7) of section
9 9901 of the William M. (Mac) Thornberry National
10 Defense Authorization Act for Fiscal Year 2021 (15
11 U.S.C. 4651(7)), as added by section 103(a)(4) of
12 the CHIPS Act of 2022).

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

15 “(A) a qualified resident of Taiwan which
16 is a partner of a partnership which carries on
17 a trade or business within the United States
18 through a United States permanent establish-
19 ment shall be treated as carrying on such trade
20 or business through such permanent establish-
21 ment, and

22 “(B) a qualified resident of Taiwan which
23 is a beneficiary of an estate or trust which car-
24 ries on a trade or business within the United
25 States through a United States permanent es-

1 tablishment shall be treated as carrying on such
2 trade or business through such permanent es-
3 tablishment.

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

8 “(e) APPLICATION.—

9 “(1) IN GENERAL.—This section shall not apply
10 to any period unless the Secretary has determined
11 that Taiwan has provided benefits to United States
12 persons for such period that are reciprocal to the
13 benefits provided to qualified residents of Taiwan
14 under this section.

15 “(2) PROVISION OF RECIPROCITY.—The Presi-
16 dent or his designee is authorized to exchange let-
17 ters, enter into an agreement, or take other nec-
18 essary and appropriate steps relative to Taiwan for
19 the reciprocal provision of the benefits described in
20 this section.

21 “(f) REGULATIONS OR OTHER GUIDANCE.—

22 “(1) IN GENERAL.—The Secretary shall issue
23 such regulations or other guidance as may be nec-
24 essary or appropriate to carry out the provisions of

1 this section, including such regulations or guidance
2 for—

3 “(A) determining—

4 “(i) what constitutes a United States
5 permanent establishment of a qualified
6 resident of Taiwan, and

7 “(ii) income that is effectively con-
8 nected with such a permanent establish-
9 ment,

10 “(B) preventing the abuse of the provisions
11 of this section by persons who are not (or who
12 should not be treated as) qualified residents of
13 Taiwan,

14 “(C) requirements for record keeping and
15 reporting,

16 “(D) rules to assist withholding agents or
17 employers in determining whether a foreign per-
18 son is a qualified resident of Taiwan for pur-
19 poses of determining whether withholding or re-
20 porting is required for a payment (and, if with-
21 holding is required, whether it should be applied
22 at a reduced rate),

23 “(E) the application of subsection
24 (a)(1)(D)(i) to stock held by predecessor own-
25 ers,

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

4 “(G) determining the amounts to which
5 subsection (a)(3) applies,

6 “(H) defining established securities market
7 for purposes of subsection (c),

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

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

12 “(K) determining ownership interests held
13 by residents of a foreign country of concern,
14 and

15 “(L) determining the starting and ending
16 dates for periods with respect to the application
17 of this section under subsection (e), which may
18 be separate dates for taxes withheld at the
19 source and other taxes.

20 “(2) REGULATIONS TO BE CONSISTENT WITH
21 MODEL TREATY.—Any regulations or other guidance
22 issued under this section shall, to the extent prac-
23 tical, be consistent with the provisions of the United
24 States model income tax convention dated February
25 7, 2016.”.

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

5 **“SEC. 1447. WITHHOLDING FOR QUALIFIED RESIDENTS OF**
 6 **TAIWAN.**

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

9 (c) CLERICAL AMENDMENTS.—

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

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

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

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

17 **TITLE II—UNITED STATES-TAI-**
 18 **WAN TAX AGREEMENT AU-**
 19 **THORIZATION ACT**

20 **SEC. 201. SHORT TITLE.**

21 This title may be cited as the “United States-Taiwan
 22 Tax Agreement Authorization Act”.

23 **SEC. 202. DEFINITIONS.**

24 In this title:

1 (1) AGREEMENT.—The term “Agreement”
2 means the tax agreement authorized by section
3 203(a).

4 (2) APPROPRIATE CONGRESSIONAL COMMIT-
5 TEES.—The term “appropriate congressional com-
6 mittees” means—

7 (A) the Committee on Foreign Relations
8 and the Committee on Finance of the Senate;
9 and

10 (B) the Committee on Ways and Means of
11 the House of Representatives.

12 (3) APPROVAL LEGISLATION.—The term “ap-
13 proval legislation” means legislation that approves
14 the Agreement.

15 (4) IMPLEMENTING LEGISLATION.—The term
16 “implementing legislation” means legislation that
17 makes any changes to the Internal Revenue Code of
18 1986 necessary to implement the Agreement.

19 **SEC. 203. AUTHORIZATION TO NEGOTIATE AND ENTER**
20 **INTO AGREEMENT.**

21 (a) IN GENERAL.—Subsequent to a determination
22 under section 894A(e)(1) of the Internal Revenue Code
23 of 1986 (as added by the United States-Taiwan Expedited
24 Double-Tax Relief Act), the President is authorized to ne-
25 gotiate and enter into a tax agreement relative to Taiwan.

1 (b) ELEMENTS OF AGREEMENT.—

2 (1) CONFORMITY WITH BILATERAL INCOME TAX
3 CONVENTIONS.—The President shall ensure that—

4 (A) any provisions included in the Agree-
5 ment conform with provisions customarily con-
6 tained in United States bilateral income tax
7 conventions, as exemplified by the 2016 United
8 States Model Income Tax Convention; and

9 (B) the Agreement does not include ele-
10 ments outside the scope of the 2016 United
11 States Model Income Tax Convention.

12 (2) INCORPORATION OF TAX AGREEMENTS AND
13 LAWS.—Notwithstanding paragraph (1), the Agree-
14 ment may incorporate and restate provisions of any
15 agreement, or existing United States law, addressing
16 double taxation for residents of the United States
17 and Taiwan.

18 (3) AUTHORITY.—The Agreement shall include
19 the following statement: “The Agreement is entered
20 into pursuant to the United States-Taiwan Tax
21 Agreement Authorization Act.”

22 (4) ENTRY INTO FORCE.—The Agreement shall
23 include a provision conditioning entry into force
24 upon—

1 (A) enactment of approval legislation and
2 implementing legislation pursuant to section
3 207; and

4 (B) confirmation by the Secretary of the
5 Treasury that the relevant authority in Taiwan
6 has approved and taken appropriate steps re-
7 quired to implement the Agreement.

8 **SEC. 204. CONSULTATIONS WITH CONGRESS.**

9 (a) NOTIFICATION UPON COMMENCEMENT OF NEGO-
10 TIATIONS.—The President shall provide written notifica-
11 tion to the appropriate congressional committees of the
12 commencement of negotiations between the United States
13 and Taiwan on the Agreement at least 15 calendar days
14 before commencing such negotiations.

15 (b) CONSULTATIONS DURING NEGOTIATIONS.—

16 (1) BRIEFINGS.—Not later than 90 days after
17 commencement of negotiations with respect to the
18 Agreement, and every 180 days thereafter until the
19 President enters into the Agreement, the President
20 shall provide a briefing to the appropriate congress-
21 sional committees on the status of the negotiations,
22 including a description of elements under negotia-
23 tion.

24 (2) MEETINGS AND OTHER CONSULTATIONS.—

1 (A) IN GENERAL.—In the course of nego-
2 tiations with respect to the Agreement, the Sec-
3 retary of the Treasury, in coordination with the
4 Secretary of State, shall—

5 (i) meet, upon request, with the chair-
6 man or ranking member of any of the ap-
7 propriate congressional committees regard-
8 ing negotiating objectives and the status of
9 negotiations in progress; and

10 (ii) consult closely and on a timely
11 basis with, and keep fully apprised of the
12 negotiations, the appropriate congressional
13 committees.

14 (B) ELEMENTS OF CONSULTATIONS.—The
15 consultations described in subparagraph (A)
16 shall include consultations with respect to—

17 (i) the nature of the contemplated
18 Agreement;

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

22 (iii) the implementation of the con-
23 templated Agreement, including—

24 (I) the general effect of the con-
25 templated Agreement on existing laws;

1 (II) proposed changes to any ex-
2 isting laws to implement the con-
3 templated Agreement; and

4 (III) proposed administrative ac-
5 tions to implement the contemplated
6 Agreement.

7 **SEC. 205. APPROVAL AND IMPLEMENTATION OF AGREE-**
8 **MENT.**

9 (a) IN GENERAL.—The Agreement may not enter
10 into force unless—

11 (1) the President, at least 60 days before the
12 day on which the President enters into the Agree-
13 ment, publishes the text of the contemplated Agree-
14 ment on a publicly available website of the Depart-
15 ment of the Treasury; and

16 (2) there is enacted into law, with respect to
17 the Agreement, approval legislation and imple-
18 menting legislation pursuant to section 207.

19 (b) ENTRY INTO FORCE.—The President may pro-
20 vide for the Agreement to enter into force upon—

21 (1) enactment of approval legislation and imple-
22 menting legislation pursuant to section 207; and

23 (2) confirmation by the Secretary of the Treas-
24 ury that the relevant authority in Taiwan has ap-

1 proved and taken appropriate steps required to im-
2 plement the Agreement.

3 **SEC. 206. SUBMISSION TO CONGRESS OF AGREEMENT AND**
4 **IMPLEMENTATION POLICY.**

5 (a) SUBMISSION OF AGREEMENT.—Not later than
6 270 days after the President enters into the Agreement,
7 the President or the President’s designee shall submit to
8 Congress—

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

10 (2) a technical explanation of the Agreement.

11 (b) SUBMISSION OF IMPLEMENTATION POLICY.—Not
12 later than 270 days after the President enters into the
13 Agreement, the Secretary of the Treasury shall submit to
14 Congress—

15 (1) a description of those changes to existing
16 laws that the President considers would be required
17 in order to ensure that the United States acts in a
18 manner consistent with the Agreement; and

19 (2) a statement of anticipated administrative
20 action proposed to implement the Agreement.

21 **SEC. 207. CONSIDERATION OF APPROVAL LEGISLATION**
22 **AND IMPLEMENTING LEGISLATION.**

23 (a) IN GENERAL.—The approval legislation with re-
24 spect to the Agreement shall include the following: “Con-
25 gress approves the Agreement submitted to Congress pur-

1 suant to section 206 of the United States-Taiwan Tax
2 Agreement Authorization Act on _____.”, with the
3 blank space being filled with the appropriate date.

4 (b) APPROVAL LEGISLATION COMMITTEE REFER-
5 RAL.—The approval legislation shall—

6 (1) in the Senate, be referred to the Committee
7 on Foreign Relations; and

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

10 (c) IMPLEMENTING LEGISLATION COMMITTEE RE-
11 FERRAL.—The implementing legislation shall—

12 (1) in the Senate, be referred to the Committee
13 on Finance; and

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

16 **SEC. 208. RELATIONSHIP OF AGREEMENT TO INTERNAL**
17 **REVENUE CODE OF 1986.**

18 (a) INTERNAL REVENUE CODE OF 1986 TO CON-
19 TROL.—No provision of the Agreement or approval legisla-
20 tion, nor the application of any such provision to any per-
21 son or circumstance, which is inconsistent with any provi-
22 sion of the Internal Revenue Code of 1986, shall have ef-
23 fect.

24 (b) CONSTRUCTION.—Nothing in this title shall be
25 construed—

1 (1) to amend or modify any law of the United
2 States; or

3 (2) to limit any authority conferred under any
4 law of the United States,
5 unless specifically provided for in this title.

6 **SEC. 209. AUTHORIZATION OF SUBSEQUENT TAX AGREE-**
7 **MENTS RELATIVE TO TAIWAN.**

8 (a) IN GENERAL.—Subsequent to the enactment of
9 approval legislation and implementing legislation pursuant
10 to section 207—

11 (1) the term “tax agreement” in section 203(a)
12 shall be treated as including any tax agreement re-
13 lative to Taiwan which supplements or supersedes
14 the Agreement to which such approval legislation
15 and implementing legislation relates, and

16 (2) the term “Agreement” shall be treated as
17 including such tax agreement.

18 (b) REQUIREMENTS, ETC., TO APPLY SEPA-
19 RATELY.—The provisions of this title (including section
20 204) shall be applied separately with respect to each tax
21 agreement referred to in subsection (a).

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

24 (a) FINDINGS.—Congress makes the following find-
25 ings:

1 (1) The United States addresses issues with re-
2 spect to double taxation with foreign countries by
3 entering into bilateral income tax conventions
4 (known as tax treaties) with such countries, subject
5 to the advice and consent of the Senate to ratifica-
6 tion pursuant to article II of the Constitution.

7 (2) The United States has entered into more
8 than sixty such tax treaties, which facilitate eco-
9 nomic activity, strengthen bilateral cooperation, and
10 benefit United States workers, businesses, and other
11 United States taxpayers.

12 (3) Due to Taiwan's unique status, the United
13 States is unable to enter into an article II tax treaty
14 with Taiwan, necessitating an agreement to address
15 issues with respect to double taxation.

16 (b) STATEMENT OF POLICY.—It is the policy of the
17 United States to—

18 (1) provide for additional bilateral tax relief
19 with respect to Taiwan, beyond that provided for in
20 section 894A of the Internal Revenue Code of 1986
21 (as added by the United States-Taiwan Expedited
22 Double-Tax Relief Act), only after entry into force
23 of an Agreement, as provided for in section 205, and
24 only in a manner consistent with such Agreement;
25 and

1 (2) continue to provide for bilateral tax relief
2 with sovereign states to address double taxation and
3 other related matters through entering into bilateral
4 income tax conventions, subject to the Senate's ad-
5 vice and consent to ratification pursuant to article II
6 of the Constitution.

 Passed the House of Representatives January 15,
2025.

Attest:

Clerk.

119TH CONGRESS
1ST SESSION

H. R. 33

AN ACT

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.