March 22, 2022

Dear Member of Congress:

We urge you to oppose including any corporate tax breaks in the conference agreement for S. 1260, the United States Innovation and Competition Act of 2021 (USICA) and H.R. 4521, the America Creating Opportunities for Manufacturing, Pre-Eminence in Technology and Economic Strength (America COMPETES) Act—or in any other legislation that moves before the Child Tax Credit (CTC) expansion is renewed or that does not offset the costs of these tax breaks with new corporate tax increases.

At a time when Congress has allowed the CTC expansion to expire—purportedly because of cost concerns—there is no excuse for moving forward with these expensive corporate tax breaks now.

The 2017 Tax Cuts and Jobs Act (TCJA) included a number of budget gimmicks intended to mask its impact on revenues and deficits, such as new expensing rules for firms' research and development (R&D) costs and a sunset for its own newly created, generous business interest deduction cap. If those revenue-raising provisions are delayed or repealed without responsible corporate tax increases like the ones included in the Build Back Better Act (BBBA) as offsets, Congress will add billions of dollars to the deficit in its rush to help corporations while leaving working families behind.

Efforts to extend full R&D expensing outside of a revamped BBBA package are especially problematic. The media has reported that the tax break possibly under consideration would allow firms to immediately deduct their full R&D costs from their taxable income rather than write them off over five years starting in 2022, as called for in current law. The shift to five-year amortization of R&D costs, which allows a corporation to deduct 20% of its R&D costs each year for five years, was one of the rare tax hikes on businesses in the TCJA, and was designed to offset the costs of a 40% cut in the corporate tax rate and other tax giveaways to corporate America.

The House-passed BBBA would reverse this TCJA pay-for for four years as part of a fully paid-for compromise package that would lower the cost of essential services to American families and require corporations and the rich to pay closer to their fair share of taxes. In contrast, making the R&D tax break permanent through other legislation, as some have proposed, would be considerably costlier than the BBBA's temporary provision. The Joint Committee on Taxation (JCT) estimates that the BBBA's provision would cost only $4 billion over 10 years (p. 6, Item 13). The reported plan to permanently allow companies to expense their R&D costs would reverse a tax increase that was expected to raise $120 billion over 10 years, according to a 2017 JCT estimate (p. 3, Item IID9).

Some of the most prominent firms lobbying for special treatment for corporate R&D costs are also among the nation's most prominent tax dodgers. Two corporations on the Leadership Committee of the R&D Coalition paid only a fraction of the 21% corporate tax rate in place from 2018 through 2020: Northrop Grumman paid only half (10.5%) on its $12.4 billion in profits and Amazon paid just 4.3% on its $43.4 billion in profits. (Based on its new financial statement, Amazon paid just a 6% tax rate on $35 billion in profits last year.) Another committee member, Boeing, paid a tax rate of just 5.4% from 2008 to 2015 when the statutory rate was 35%, completely zeroing out its tax liability in five of those years.

Maddeningly, this corporate tax avoidance is occurring as corporations make more money than ever. In the 3rd quarter of 2021, corporate profits were the highest in history, both in dollar terms and as a share of the economy. Expectations are that those earnings jumped even more in the last three months of the year and that for the full year, profits were up by a startling half. Rushing through a big tax cut for wildly profitable corporations when working families are struggling to pay for groceries and gas is not only bad policy, but bad politics. If corporate lobbyists want this deduction, they should join the effort to pass the full BBBA bill in which it's currently contained.

Allowing full expensing of R&D costs is one of several accelerated depreciation tax breaks that mainly reward corporations for making investments they would have made even in the absence of any tax break. Even if Congress deems these breaks worth extending, this is not the right way to do so.

As in 2015, the R&D expensing tax break—or any other corporate tax breaks—should not move ahead of relief for families like the CTC expansion. Instead of being pulled from the Build Back Better Act, expanded, and handed to big business as a gift, the R&D tax break should remain in the next iteration of the BBBA, where it will be responsibly paid for in a package that offers vital relief for working families and takes initial steps towards a fairer tax code.

For more information contact Sarah Christopherson (ATF) at sarah@americansfortaxfairness.org or Steve Wamhoff (ITEP) at steve@itep.org.

Sincerely,

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