

Managers Substitute Amendment

118TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To authorize negotiation and conclusion and to provide for congressional consideration of a tax agreement between the American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representative Office (TECRO).

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IN THE SENATE OF THE UNITED STATES

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Mr. MENENDEZ (for himself, Mr. RISCH, Mr. VAN HOLLEN, and Mr. ROMNEY) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To authorize negotiation and conclusion and to provide for congressional consideration of a tax agreement between the American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representative Office (TECRO).

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 “Taiwan Tax Agree-  
5 ment Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1           (1) The United States has entered into tax  
2           treaties covering 65 jurisdictions, which facilitate  
3           economic activity, strengthen bilateral cooperation,  
4           and benefit United States businesses and other  
5           United States taxpayers.

6           (2) Taiwan is a one of the largest trading part-  
7           ners of the United States and one of the world's  
8           largest economies, and further bolstering economic  
9           ties between the United States and Taiwan remains  
10          critical, especially given Taiwan's strategic impor-  
11          tance and the increasing threat posed by the Peo-  
12          ple's Republic of China.

13          (3) A tax agreement with Taiwan would play a  
14          key role in facilitating and promoting increased bi-  
15          lateral investment and trade between the United  
16          States and Taiwan, fortifying the relationship be-  
17          tween the two more generally, and encouraging other  
18          nations to increase their economic linkages to Tai-  
19          wan.

20 **SEC. 3. AUTHORIZATION TO NEGOTIATE AND CONCLUDE.**

21          (a) IN GENERAL.—The President is authorized to ne-  
22          gotiate and enter into a tax agreement relative to Taiwan  
23          through the American Institute in Taiwan (AIT) (herein-  
24          after the “Agreement”).

1 (b) ELEMENTS OF AGREEMENT.—The Agreement  
2 authorized to be negotiated and concluded under this sec-  
3 tion shall conform with the provisions customarily con-  
4 tained in United States bilateral income tax conventions,  
5 as exemplified by the 2016 United States Model Income  
6 Tax Convention, and shall include the following elements:

7 (1) Application to tax residents of the United  
8 States, Taiwan, or both, exclusive of enterprises  
9 headquartered in the People’s Republic of China or  
10 in third states that do not have a comprehensive in-  
11 come tax treaty with the United States.

12 (2) Relief from double taxation.

13 (3) Measures aimed at limiting the risk of tax  
14 evasion or avoidance.

15 (4) Entry into force conditioned upon confirma-  
16 tion by the President of approval by the United  
17 States Congress, as described in section 5, and rel-  
18 evant authority in Taiwan and necessary steps taken  
19 to enable implementation.

20 (c) LIMITATION.—The Agreement authorized to be  
21 negotiated and concluded under this section may not in-  
22 clude elements outside the scope of the 2016 United  
23 States Model Income Tax Convention.

1 **SEC. 4. CONSULTATION.**

2 (a) NOTIFICATION UPON COMMENCEMENT OF NEGO-  
3 TIATIONS.—The President shall provide written notifica-  
4 tion to the appropriate congressional committees of the  
5 commencement of negotiations between AIT and TECRO  
6 on the Agreement at least 15 calendar days before such  
7 commencement.

8 (b) BRIEFINGS.—Not later than 90 days after com-  
9 mencement of negotiations on the Agreement, and every  
10 180 days thereafter until conclusion of the Agreement, the  
11 President shall provide a briefing to the appropriate con-  
12 gressional committees providing an update on the status  
13 of negotiations, including a description of elements under  
14 negotiation.

15 (c) CONSULTATIONS DURING NEGOTIATIONS.—In  
16 the course of negotiations conducted under the authorities  
17 of this Act, the Secretary of the Treasury, in coordination  
18 with the Secretary of State, shall—

19 (1) meet, upon request, with the Chairman or  
20 Ranking Member of the appropriate congressional  
21 committees regarding negotiating objectives and the  
22 status of negotiations in progress; and

23 (2) consult closely, on a timely basis, and keep  
24 fully apprised of the negotiations, the appropriate  
25 congressional committees.

1 **SEC. 5. APPROVAL OF THE AGREEMENT.**

2 (a) SUBMISSION OF AGREEMENT.—Not later than  
3 180 days after the Agreement is concluded, the Secretary  
4 of State shall provide the Agreement and technical expla-  
5 nation to the appropriate congressional committees.

6 (b) APPROVAL.—The Agreement shall not take effect  
7 until after Congress passes a concurrent resolution of ap-  
8 proval as described in subsection (c).

9 (c) TERMS OF CONCURRENT RESOLUTION OF AP-  
10 PROVAL.—

11 (1) IN GENERAL.—For purposes of subsection  
12 (b), the term “concurrent resolution of approval”  
13 means only a concurrent resolution—

14 (A) which does not have a preamble;

15 (B) which includes in the matter after the  
16 resolving clause the following: “That Congress  
17 approves the Tax Agreement concluded between  
18 the American Institute in Taiwan and the Tai-  
19 pei Economic and Cultural Representative Of-  
20 fice, as submitted by the President on  
21 \_\_\_\_\_.”, the blank space being filled in with  
22 the appropriate date; and

23 (C) the title of which is as follows: “Con-  
24 current resolution approving the Tax Agree-  
25 ment concluded between the American Institute

1           in Taiwan and the Taipei Economic and Cul-  
2           tural Representative Office.”.

3           (2) REFERRAL.— A resolution described in this  
4           subsection that is introduced in the Senate shall be  
5           referred to the Committee on Foreign Relations of  
6           the Senate. A resolution described in this subsection  
7           that is introduced in the House of Representatives  
8           shall be referred to the Committee on Foreign Af-  
9           fairs of the House of Representatives.

10 **SEC. 6. ENTRY INTO FORCE AND LEGAL EFFECT OF THE**  
11 **AGREEMENT.**

12           (a) ENTRY INTO FORCE.—Upon passage of the con-  
13           current resolution of approval, the President may bring  
14           the Agreement into force.

15           (b) LEGAL EFFECT.—Upon entry into force, the  
16           Agreement shall be afforded the same treatment as a trea-  
17           ty for purposes of the laws of the United States.

18 **SEC. 7. APPROPRIATE CONGRESSIONAL COMMITTEES DE-**  
19 **FINED.**

20           In this section, the term “appropriate congressional  
21           committees” means the Committee on Foreign Relations  
22           and the Committee on Finance of the Senate and the  
23           Committee on Foreign Affairs and the Committee on  
24           Ways and Means of the House of Representatives.