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118TH CONGRESS
1ST SESSION

S. 1457

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).

IN THE SENATE OF THE UNITED STATES

MAY 4, 2023

Mr. MENENDEZ (for himself, Mr. RISCH, Mr. VAN HOLLEN, Mr. ROMNEY, Mr. RICKETTS, Mr. RUBIO, Mr. GRAHAM, Ms. MURKOWSKI, Mr. SCOTT of Florida, Mr. WICKER, Mr. SULLIVAN, Mr. KAINE, Mrs. SHAHEEN, Ms. DUCKWORTH, Mr. COONS, Mr. MERKLEY, and Mr. HAGERTY) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

_____ (legislative day, _____), _____

Reported by Mr. MENENDEZ, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Taiwan Tax Agree-
3 ment Act of 2023”.

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

6 (1) The United States has entered into tax
7 treaties covering 65 jurisdictions, which facilitate
8 economic activity, strengthen bilateral cooperation,
9 and benefit United States businesses and other
10 United States taxpayers.

11 (2) Taiwan is a one of the largest trading part-
12 ners of the United States and one of the world’s
13 largest economies, and further bolstering economic
14 ties between the United States and Taiwan remains
15 critical, especially given Taiwan’s strategic impor-
16 tance and the increasing threat posed by the Peo-
17 ple’s Republic of China.

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

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

2 (a) **IN GENERAL.**—The President is authorized to ne-
3 gotiate and enter into a tax agreement relative to Taiwan
4 through the American Institute in Taiwan (AIT) (herein-
5 after the “Agreement”).

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

12 (1) Application to tax residents of the United
13 States, Taiwan, or both, exclusive of enterprises per-
14 manently established in the People’s Republic of
15 China or in third States that do not have a com-
16 prehensive income tax treaty with the United States.

17 (2) Relief from double taxation.

18 (3) Measures aimed at limiting the risk of tax
19 evasion or avoidance.

20 (4) Entry into force conditioned upon confirma-
21 tion by the President of approval by the United
22 States Congress, as described in section 4, and rel-
23 evant authority in Taiwan and necessary steps taken
24 to enable implementation.

25 (c) **LIMITATION.**—The Agreement authorized to be
26 negotiated and concluded under this section may not in-

1 elude elements outside the scope of the 2016 United
2 States Model Income Tax Convention.

3 **SEC. 4. CONSULTATION.**

4 (a) **NOTIFICATION UPON COMMENCEMENT OF NEGOTIATIONS.**—The President shall provide written notification 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) **REPORTS.**—Not later than 90 days after commencement of negotiations on the Agreement, and every
9 180 days thereafter until conclusion of the Agreement, the
10 President shall submit a report to the appropriate congressional committees providing an update on the status
11 of negotiations, including a description of elements under
12 negotiation.

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

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

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

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

5 (a) **SUBMISSION OF AGREEMENT.**—Not later than 30
6 days after the Agreement is concluded, the Secretary of
7 State shall provide the Agreement and technical expla-
8 nation to the appropriate congressional committees.

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

12 (c) **TERMS OF CONCURRENT RESOLUTION OF AP-**
13 **PROVAL.**—

14 (1) **IN GENERAL.**—For purposes of subsection
15 (b), the term “concurrent resolution of approval”
16 means only a concurrent resolution—

17 (A) which does not have a preamble;

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

1 (C) the title of which is as follows: “Con-
2 current resolution approving the Tax Agree-
3 ment concluded between the American Institute
4 in Taiwan and the Taipei Economic and Cul-
5 tural Representative Office.”.

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

13 **SEC. 6. ENTRY INTO FORCE AND LEGAL EFFECT OF THE**
14 **AGREEMENT.**

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

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

21 **SEC. 7. APPROPRIATE CONGRESSIONAL COMMITTEES DE-**
22 **FINED.**

23 In this section, the term “appropriate congressional
24 committees” means the Committee on Foreign Relations
25 and the Committee on Finance of the Senate and the

1 Committee on Foreign Affairs and the Committee on
2 Ways and Means of the House of Representatives.

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Taiwan Tax Agreement*
5 *Act of 2023”.*

6 **SEC. 2. FINDINGS.**

7 *Congress makes the following findings:*

8 *(1) The United States has entered into tax treat-*
9 *ties covering 65 jurisdictions, which facilitate eco-*
10 *nomi activity, strengthen bilateral cooperation, and*
11 *benefit United States businesses and other United*
12 *States taxpayers.*

13 *(2) Taiwan is a one of the largest trading part-*
14 *ners of the United States and one of the world’s larg-*
15 *est economies, and further bolstering economic ties be-*
16 *tween the United States and Taiwan remains critical,*
17 *especially given Taiwan’s strategic importance and*
18 *the increasing threat posed by the People’s Republic*
19 *of China.*

20 *(3) A tax agreement with Taiwan would play a*
21 *key role in facilitating and promoting increased bi-*
22 *lateral investment and trade between the United*
23 *States and Taiwan, fortifying the relationship be-*
24 *tween the two more generally, and encouraging other*

1 *nations to increase their economic linkages to Tai-*
2 *wan.*

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

4 (a) *IN GENERAL.*—*The President is authorized to ne-*
5 *gotiate and enter into a tax agreement relative to Taiwan*
6 *through the American Institute in Taiwan (AIT) (herein-*
7 *after the “Agreement”).*

8 (b) *ELEMENTS OF AGREEMENT.*—*The Agreement au-*
9 *thorized to be negotiated and concluded under this section*
10 *shall conform with the provisions customarily contained in*
11 *United States bilateral income tax conventions, as exempli-*
12 *fied by the 2016 United States Model Income Tax Conven-*
13 *tion, and shall include the following elements:*

14 (1) *Application to tax residents of the United*
15 *States, Taiwan, or both, exclusive of enterprises*
16 *headquartered in the People’s Republic of China or in*
17 *third states that do not have a comprehensive income*
18 *tax treaty with the United States.*

19 (2) *Relief from double taxation.*

20 (3) *Measures aimed at limiting the risk of tax*
21 *evasion or avoidance.*

22 (4) *Entry into force conditioned upon confirma-*
23 *tion by the President of approval by the United*
24 *States Congress, as described in section 5, and rel-*

1 *evant authority in Taiwan and necessary steps taken*
2 *to enable implementation.*

3 (c) *LIMITATION.*—*The Agreement authorized to be ne-*
4 *gotiated and concluded under this section may not include*
5 *elements outside the scope of the 2016 United States Model*
6 *Income Tax Convention.*

7 **SEC. 4. CONSULTATION.**

8 (a) *NOTIFICATION UPON COMMENCEMENT OF NEGO-*
9 *TIATIONS.*—*The President shall provide written notification*
10 *to the appropriate congressional committees of the com-*
11 *mencement of negotiations between AIT and TECRO on the*
12 *Agreement at least 15 calendar days before such commence-*
13 *ment.*

14 (b) *BRIEFINGS.*—*Not later than 90 days after com-*
15 *mencement of negotiations on the Agreement, and every 180*
16 *days thereafter until conclusion of the Agreement, the Presi-*
17 *dent shall provide a briefing to the appropriate congres-*
18 *sional committees providing an update on the status of ne-*
19 *gotiations, including a description of elements under nego-*
20 *tiation.*

21 (c) *CONSULTATIONS DURING NEGOTIATIONS.*—*In the*
22 *course of negotiations conducted under the authorities of*
23 *this Act, the Secretary of the Treasury, in coordination with*
24 *the Secretary of State, shall—*

1 (1) *meet, upon request, with the Chairman or*
2 *Ranking Member of the appropriate congressional*
3 *committees regarding negotiating objectives and the*
4 *status of negotiations in progress; and*

5 (2) *consult closely, on a timely basis, and keep*
6 *fully apprised of the negotiations, the appropriate*
7 *congressional committees.*

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

9 (a) *SUBMISSION OF AGREEMENT.*—*Not later than 180*
10 *days after the Agreement is concluded, the Secretary of*
11 *State shall provide the Agreement and technical expla-*
12 *nation to the appropriate congressional committees.*

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

16 (c) *TERMS OF CONCURRENT RESOLUTION OF AP-*
17 *PROVAL.*—

18 (1) *IN GENERAL.*—*For purposes of subsection*
19 (i), the term “concurrent resolution of approval”
20 *means only a concurrent resolution—*

21 (A) *which does not have a preamble;*

22 (B) *which includes in the matter after the*
23 *resolving clause the following: “That Congress*
24 *approves the Tax Agreement concluded between*
25 *the American Institute in Taiwan and the Tai-*

1 *pei Economic and Cultural Representative Of-*
2 *fice, as submitted by the President on*
3 *_____.*”, the blank space being filled in with
4 *the appropriate date; and*

5 *(C) the title of which is as follows: “Concur-*
6 *rent resolution approving the Tax Agreement*
7 *concluded between the American Institute in*
8 *Taiwan and the Taipei Economic and Cultural*
9 *Representative Office.”.*

10 *(2) REFERRAL.— A resolution described in this*
11 *subsection that is introduced in the Senate shall be re-*
12 *ferred to the Committee on Foreign Relations of the*
13 *Senate. A resolution described in this subsection that*
14 *is introduced in the House of Representatives shall be*
15 *referred to the Committee on Foreign Affairs of the*
16 *House of Representatives.*

17 **SEC. 6. ENTRY INTO FORCE AND LEGAL EFFECT OF THE**
18 **AGREEMENT.**

19 *(a) ENTRY INTO FORCE.—Upon passage of the concur-*
20 *rent resolution of approval, the President may bring the*
21 *Agreement into force.*

22 *(b) LEGAL EFFECT.—Upon entry into force, the Agree-*
23 *ment shall be afforded the same treatment as a treaty for*
24 *purposes of the laws of the United States.*

1 **SEC. 7. APPROPRIATE CONGRESSIONAL COMMITTEES DE-**
2 **FINED.**

3 *In this section, the term “appropriate congressional*
4 *committees” means the Committee on Foreign Relations*
5 *and the Committee on Finance of the Senate and the Com-*
6 *mittee on Foreign Affairs and the Committee on Ways and*
7 *Means of the House of Representatives.*