SUBMITTED VIA E-MAIL: Statementsfortherecord@finance.senate.gov

March 25, 2024

The Honorable Ron Wyden
Chairman
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 2051

Re: Comments on Senate Finance Committee Hearing
American Made: Growing U.S. Manufacturing Through the Tax Code

Dear Chairman Wyden and Ranking Member Crapo:

The American Chemistry Council (ACC) represents the leading companies engaged in the multibillion-dollar business of chemistry. ACC members apply the science of chemistry to make innovative products, technologies and services that make people's lives better, healthier and safer.

ACC appreciates the opportunity to submit comments in response to the Committee's hearing on March 12, 2024, on growing U.S. manufacturing through the tax code. What follows are some of the key tax provisions that matter to ACC members given their impact to U.S. manufacturing.

Tax Relief for American Families and Workers Act

U.S. economic growth requires sound tax policies that incentivize capital investment, job creation and global competitiveness of U.S. businesses. Immediate R&D expensing, the pre-2022 Section 163(j) interest expense deduction limitation, and full expensing of capital equipment purchases are all tax policies that allow U.S. businesses to thrive, create jobs and strengthen the U.S. economy.

As we have been advocating for years, ACC urges Congress to take action now to restore immediate R&D expensing, revert to pre-2022 Section 163(j) interest deduction limitation based on EBIDTA and extend the full expensing provision. Taking such action through passage of the Tax Relief for American Families and Workers Act has bipartisan support and has the support of U.S. manufacturers including ACC members.

Similarly, the proposals outlined by the Administration as part of the FY 2025 budget have ACC members very concerned. Raising the corporate tax rate, increasing the CAMT rate and many other proposals that raise taxes indiscriminately (e.g., the repeal of foreign derived intangible income and changes to the interest limitation rules) choke U.S. manufacturers, diverting dollars for investment and workers.

Superfund Tax

Th Infrastructure Investment and Jobs Act reinstated the Superfund Tax, imposing an excise tax on the sale or use of taxable chemicals and taxable substances. The U.S. chemical industry supports a vast supply chain, and with $639 billion worth of shipments in 2022, accounts for 11% of the worlds chemical production.

The U.S. chemical industry, which is already facing supply chain challenges, foreign competition and slim margins, opposed the reinstatement of the Superfund Tax given its negative impact. The Superfund Tax increases the costs of U.S. chemical manufacturers and their customers that will, in turn, lead to a decline in U.S. manufacturing activities. For these reasons we urge repeal of this tax.

Inflation Reduction Act Incentives

ACC is seeing increased interest in establishing and expanding U.S. manufacturing as a result of the tax credits included in the Inflation Reduction Act (IRA), in particular manufacturing to support the production of clean hydrogen (Section 45V), clean vehicles (Section 30D), and to domestically produce critical minerals and electrode active material (Section 45X). Unfortunately, while the statute was designed to onshore U.S. manufacturing and end reliance on foreign sourcing, the guidance implementing the IRA has created barriers to this goal.

For example, recently the U.S. Department of Treasury (Treasury) and the Internal Revenue Service (IRS) issued proposed regulations under Section 45X, the Advanced Manufacturing Production Tax Credit. The statute provides the tax credit shall be “10 percent of the costs incurred by the taxpayer with respect to production.” Notwithstanding this unambiguous statutory language, the proposed regulations excluded from the calculation direct and indirect material costs and any costs related to the extraction, production, or acquisition of raw materials. Such a limited interpretation significantly impacts the value of the anticipated tax credit.

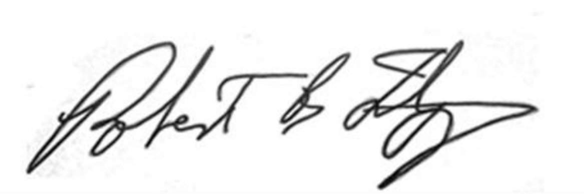
Unfortunately, this narrow reading has already caused some companies to change course and pause their investment activities in the U.S. It is likely that this “pause” will transition to a termination of investments if materials costs (including raw materials) remain excluded from the calculation of the credit. ACC will continue to work with the Treasury and the IRS in an effort to revise the guidance, but urges Congress to continue to monitor implementation to ensure congressional intent is being met.

In addition ACC is very concerned over the proposed regulations issued under Section 45V, the Clean Production Tax Credit. Similar to the Section 45X proposed regulations, and as outlined in our comment letter to the U.S. Department Treasury, the Section 45V proposed regulations have created impossible barriers for the nascent hydrogen industry. Further stifling the hydrogen industry is the narrow proposed guidance under Section 48, the Production Tax Credit, under which hydrogen storage only qualifies if used as fuel. Like the previous examples, such a requirement is not contained in statute. In addition, we have provided comments under Section 30D, the Clean Vehicle Tax Credit regarding the foreign entity of concern rules and the non-traceability proposals. Section 30D, as proposed, would allow for the domestic battery supply chain to be vulnerable to foreign producers, especially from foreign entities of concern. Unless the loopholes are closed in the final rule, U.S. investment in the domestic battery supply chain will be at significant risk. Under all of these examples, Congress has provided the framework to encourage U.S. manufacturing, but implementation has had negative impacts on such manufacturing.

Finally although part of the CHIPS Act rather than the IRA, ACC waits in anticipation of the final regulations under Section 48D, and has urged that the final regulations harmonize the tax credit with the U.S. Department of Commerce interpretation such that it includes facilities whose primary purpose is producing materials integral and essential to manufacturing of semiconductors.

We thank you for conducting a hearing on such an important topic and appreciate the opportunity to provide these comments.

Very truly yours,



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