



February 14, 2023

The Honorable Ron Wyden, Chairman
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Jason Smith, Chairman
House Committee on Ways & Means
1139 Longworth House Office Building
Washington, DC 20515

The Honorable Mike Crapo, Ranking Member
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard Neal, Ranking Member
House Committee on Ways & Means
1102 Longworth House Office Building
Washington, DC 20515

RE: Request for Legislation Extending Expired Tax Provisions

Dear Chairmen Wyden and Smith, and Ranking Members Crapo and Neal:

As Congress considers tax legislation this year, the AICPA urges Congress to immediately defer the Internal Revenue Code section¹ 174 amortization requirement of the research and experimental expenditures provision.² In addition, AICPA suggests Congress consider extending other remaining provisions that expired in 2021 and 2022, and will expire in 2023³ (hereinafter referred to collectively as “tax extenders”) that Congress deems appropriate.

The AICPA appreciates your efforts in examining various perspectives on tax extenders, which in the last several years have repeatedly created uncertainty and confusion. While some measures, such as those designed for economic stimulus, are appropriate for temporary and sporadic use, longstanding, continually renewed, temporary tax provisions, including many incentive provisions, have become far too common.

These ever-changing, often expiring, short-term changes to the tax laws make it increasingly difficult for taxpayers to comply with the tax law. These constant last minute changes result in significant cost to retroactively modify accounting and tax software, tax forms and instructions on the part of the taxpayers, tax professionals, IRS, and tax software vendors. These costs are much higher when the changes must be made in a short time frame, and the solutions created during this time may not be the best solutions. In addition, it makes it increasingly difficult for businesses and

¹ Unless otherwise indicated, references to a “section” are to a section of the Internal Revenue Code of 1986, as amended (IRC or the “Code”), and references to a “Treas. Reg. §” are to the Treasury regulations promulgated under the Code.

² See similar position in prior AICPA comments to Congress, “[Tax Provisions in House Reconciliation Legislation or Being Considered](#),” October 1, 2021.

³ See the Jan. 13, 2022, Joint Committee on Taxation report, [JCX-1-22](#), for the list of remaining tax provisions that expired at the end of 2021. See the Jan. 18, 2023, Joint Committee on Taxation report, [JCX-1-23](#), for the list of tax provisions that expired at the end of 2022 and other provisions expiring in the future.

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their owners to do any long-term tax, cash-flow or financial planning. These planning challenges are further compounded when tax laws are changed after the year has already begun but are slated to take effect that same tax year. When tax laws are enacted after the tax provision has expired or at the last minute, taxpayers try their best to comply with no ability to plan for such last-minute provisions, no matter how well-intentioned.

As AICPA has stated previously, uncertainty also breeds complexity.⁴ The need to extend expiring provisions (e.g., expensing of research and experimental expenditures) adds confusion and, in many cases, undermines the policy reasons behind these incentives. The on-again-off-again nature of several of these provisions, coupled with retroactive tax law changes, make long-term planning difficult, result in the filing of amended returns, and significantly increase the overall complexity.

Future tax changes should be enacted with a presumption of permanency, except in rare situations in which there is an overriding and explicit policy reason for making provisions temporary, such as short-term stimulus provisions or when a new provision requires evaluation after a trial period.

IRC Section 174 Research and Experimental Expenditures Amortization Deferral

In particular, as stated above, the AICPA supports deferral of the Internal Revenue Code section 174 amortization requirement of the research and experimental expenditures provision. Congress should retroactively extend the effective date of amended IRC section 174 research and experimental expenditures amortization⁵ to amounts paid or incurred until tax years beginning after December 31, 2025. The Tax Cuts and Jobs Act (TCJA) required, for tax years starting January 1, 2022, amounts defined as specified research and experimental expenditures, including any software development costs, to be capitalized and amortized ratably over a five-year period rather than immediate expensing. Under the TCJA, for tax years starting January 1, 2022, those expenditures that are attributable to research that is conducted outside of the United States (U.S.) are required to be capitalized and amortized ratably over a period of 15 years. The retroactive extension of the section 174 research and experimental expenditures amortization requirement effective date from January 1, 2022 to January 1, 2026 for this will allow businesses to continue expensing research and development costs for an additional four years, thus allowing for simplicity in tax compliance and the minimization of confusion related to identifying costs that should be capitalized versus expensed.

⁴ See AICPA letter to Congress, [Request for Legislation Extending Expired Tax Provisions](#), September 15, 2014, and AICPA written testimony before the U.S. House of Representatives Committee on Small Business Subcommittee on Economic Growth, Tax and Capital Access Public Hearing on [Adding to Uncertainty: Small Businesses' Perspectives on the Tax Cliff](#), September 13, 2012.

⁵ See [P.L. 115-97](#) (commonly referred to as the Tax Cuts and Jobs Act (TCJA)), Subtitle C - Business Related Provisions, Part I - Corporate Provisions, Section 13206 - Amortization of Research and Experimental Expenditures.

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We further recommend permanent extension of deductions for section 174 expenditures in furtherance of simplicity and to avoid conflict and litigation. Requiring capitalization will decrease the administrability of the Code.

In conclusion, we urge Congress to address the expired and expiring provisions as soon as possible, albeit perhaps on a temporary basis, especially the section 174 research and experimental expenditures expensing treatment, to avoid the needless uncertainty. Taxpayers need certainty to perform long-term tax, cash-flow or financial planning and reporting.

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The AICPA is the world's largest member association representing the accounting profession, with more than 421,000 members in 128 countries and a history of serving the public interest since 1877. Our members advise clients on federal, state and international tax matters, and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized business, as well as America's largest businesses.

We thank you for the opportunity to present our views on this issue. Please feel free to contact Reema Patel, Senior Manager – AICPA Tax Policy & Advocacy, at (202) 434-9217 or Reema.Patel@aicpa-cima.com; Rachel Dresen, Director – AICPA Congressional and Political Affairs, at (202) 434-9279 or Rachel.Dresen@aicpa-cima.com; or me at (601) 326-7119 or JanLewis@HaddoxReid.com.

Sincerely,



Jan F. Lewis, CPA
Chair, AICPA Tax Executive Committee

cc: Members of the Senate Committee on Finance
Members of the House Committee on Ways and Means
Mr. Thomas Barthold, Chief of Staff, Joint Committee on Taxation
The Honorable Janet Yellen, Secretary, Department of the Treasury
The Honorable Lily Batchelder, Assistant Secretary for Tax Policy, Department of the Treasury
Mr. Tom West, Deputy Assistant Secretary for Tax Policy, Department of the Treasury
Ms. Aruna Kalyanam, Deputy Assistant Secretary for Legislative Affairs, Tax and Budget, Department of the Treasury
Mr. Douglas W. O'Donnell, Acting Commissioner, Internal Revenue Service
Mr. William M. Paul, Principal Deputy Chief Counsel, Internal Revenue Service