

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “_____ Act of
3 _____”.

4 **SEC. 2. SPECIAL RULES FOR TAXATION OF CERTAIN RESI-**
5 **DENTS OF TAIWAN.**

6 (a) IN GENERAL.—Subpart D of part II of sub-
7 chapter N of chapter 1 of the Internal Revenue Code of
8 1986 is amended by inserting after section 894 the fol-
9 lowing new section:

10 **“SEC. 894A. SPECIAL RULES FOR QUALIFIED RESIDENTS OF**
11 **TAIWAN.**

12 “(a) CERTAIN INCOME FROM UNITED STATES
13 SOURCES.—

14 “(1) INTEREST, DIVIDENDS, AND ROYALTIES,
15 ETC.—

16 “(A) IN GENERAL.—In the case of interest
17 (other than original issue discount), dividends,
18 royalties, amounts described in section
19 871(a)(1)(C), and gains described in section
20 871(a)(1)(D) received by or paid to a qualified
21 resident of Taiwan—

22 “(i) sections 871(a), 881(a), 1441(a),
23 1441(c)(5), and 1442(a) shall each be ap-
24 plied by substituting “the applicable per-

1 centage (as defined in section
2 894A(a)(1)(C))’ for ‘30 percent’ each place
3 it appears, and

4 “(ii) sections 871(a), 881(a), and
5 1441(c)(1) shall each be applied by sub-
6 stituting ‘a United States permanent es-
7 tablishment of a qualified resident of Tai-
8 wan’ for ‘a trade or business within the
9 United States’ each place it appears.

10 “(B) EXCEPTIONS.—Subparagraph (A)
11 shall not apply to—

12 “(i) any dividend received from or
13 paid by a real estate investment trust,

14 “(ii) any amount subject to section
15 897,

16 “(iii) any amount received from or
17 paid by an expatriated entity (as defined in
18 section 7874(a)(2)) to a foreign related
19 person (as defined in section 7874(d)(3)),
20 and

21 “(iv) any amount which is included in
22 income under section 860C to the extent
23 that such amount does not exceed an ex-
24 cess inclusion with respect to a REMIC.

1 “(C) APPLICABLE PERCENTAGE.—For
2 purposes of applying subparagraph (A)(i) and
3 subsection (b)(3)—

4 “(i) IN GENERAL.—Except as pro-
5 vided in clause (ii), the term ‘applicable
6 percentage’ means 10 percent.

7 “(ii) SPECIAL RULES FOR DIVI-
8 DENDS.— In the case of any dividend in
9 respect of stock received by or paid to a
10 qualified resident of Taiwan, the applicable
11 percentage shall be 15 percent (10 percent
12 in the case of a dividend meeting the re-
13 quirements of subparagraph (D)).

14 “(D) REQUIREMENTS FOR LOWER DIVI-
15 DEND RATE.—

16 “(i) IN GENERAL.—The requirements
17 of this subparagraph are met with respect
18 to any dividend in respect of stock in a
19 corporation if, at all times during the 12-
20 month period ending on the date such
21 stock becomes ex-dividend with respect to
22 such dividend—

23 “(I) the person receiving the divi-
24 dend was a qualified resident of Tai-
25 wan, and

1 “(II) such person has held di-
2 rectly at least 10 percent (by vote and
3 value) of the total outstanding shares
4 of stock in such corporation.

5 For purposes of subclause (II), a person
6 shall be treated as directly holding a share
7 of stock during any period described in the
8 preceding sentence in which a connected
9 person who was a qualified resident of Tai-
10 wan held such share.

11 “(ii) EXCEPTION FOR RICS.—Notwith-
12 standing clause (i), the requirements of
13 this subparagraph shall not be treated as
14 met with respect to any dividend paid by
15 a regulated investment company.

16 “(2) QUALIFIED WAGES.—

17 “(A) IN GENERAL.—No tax shall be im-
18 posed under this chapter (and no amount shall
19 be withheld under section 1441(a) or chapter
20 24) with respect to qualified wages paid to a
21 qualified resident of Taiwan who—

22 “(i) is not a resident of the United
23 States (determined without regard to sub-
24 section (c)(3)(E)), or

1 “(ii) is employed as a member of the
2 regular component of a ship or aircraft op-
3 erated in international traffic.

4 “(B) QUALIFIED WAGES.—

5 “(i) IN GENERAL.—The term ‘quali-
6 fied wages’ means wages, salaries, or simi-
7 lar remunerations with respect to employ-
8 ment involving the performance of personal
9 services within the United States which—

10 “(I) are paid by (or on behalf of)
11 any person other than a United States
12 person, and

13 “(II) are not borne by a United
14 States permanent establishment of
15 any person other than a United States
16 person.

17 “(ii) EXCEPTION.—Such term shall
18 not include directors’ fees, income derived
19 as an entertainer or sportsman, income de-
20 rived as a student or trainee, pensions,
21 amounts paid with respect to employment
22 with the United States, any State (or polit-
23 ical subdivision thereof), or any possession
24 of the United States (or any political sub-
25 division thereof), or other amounts speci-

1 fied in regulations or guidance under sub-
2 section (f)(1)(F).

3 “(b) INCOME CONNECTED WITH A UNITED STATES
4 PERMANENT ESTABLISHMENT OF A QUALIFIED RESI-
5 DENT OF TAIWAN.—

6 “(1) IN GENERAL.—

7 “(A) IN GENERAL.—In lieu of applying
8 sections 871(b) and 882, a qualified resident of
9 Taiwan that carries on a trade or business
10 within the United States through a United
11 States permanent establishment shall be taxable
12 as provided in section 1, 11, 55, or 59A, on its
13 taxable income which is effectively connected
14 with such permanent establishment.

15 “(B) DETERMINATION OF TAXABLE IN-
16 COME.—In determining taxable income for pur-
17 poses of paragraph (1), gross income includes
18 only gross income which is effectively connected
19 with the permanent establishment.

20 “(2) TREATMENT OF DISPOSITIONS OF UNITED
21 STATES REAL PROPERTY.—In the case of a qualified
22 resident of Taiwan, section 897(a) shall be applied—

23 “(A) by substituting ‘carried on a trade or
24 business within the United States through a
25 United States permanent establishment’ for

1 ‘were engaged in a trade or business within the
2 United States’, and

3 “(B) by substituting ‘such United States
4 permanent establishment’ for ‘such trade or
5 business’.

6 “(3) TREATMENT OF BRANCH PROFITS
7 TAXES.—In the case of any corporation which is a
8 qualified resident of Taiwan, section 884 shall be ap-
9 plied—

10 “(A) by substituting ‘the applicable per-
11 centage (as defined in section 894A(a)(1)(C))’
12 for ‘30 percent ’ in subsection (a) thereof, and

13 “(B) by substituting ‘a United States per-
14 manent establishment of a qualified resident of
15 Taiwan’ for ‘the conduct of a trade or business
16 within the United States’ in subsection (d)(1)
17 thereof.

18 “(c) QUALIFIED RESIDENT OF TAIWAN.—For pur-
19 poses of this section—

20 “(1) IN GENERAL.—The term ‘qualified resi-
21 dent of Taiwan’ means any person who—

22 “(A) is liable for tax to Taiwan by reason
23 of such person’s domicile, residence, place of
24 management, place of incorporation, or any
25 similar criterion,

1 “(B) is not a United States person (deter-
2 mined without regard to paragraph (3)(E)),
3 and

4 “(C) in the case of a corporation, meets
5 the requirements of paragraph (2).

6 “(2) LIMITATION ON BENEFITS FOR CORPORA-
7 TIONS.—

8 “(A) IN GENERAL.—Subject to paragraph
9 (4), a corporation meets the requirements of
10 this paragraph only if it—

11 “(i) meets the ownership and income
12 requirements of subparagraph (B), or

13 “(ii) meets the publicly traded and in-
14 come requirements of subparagraph (C).

15 “(B) OWNERSHIP AND INCOME REQUIRE-
16 MENTS.—The requirements of this subpara-
17 graph are met for a corporation if—

18 “(i) at least 50 percent (by vote and
19 value) of the total outstanding shares of
20 stock in such corporation are owned di-
21 rectly or indirectly by qualified residents of
22 Taiwan, and

23 “(ii) less than 50 percent of such cor-
24 poration’s gross income, (and in the case
25 of a corporation that is a member of a

1 tested group, less than 50 percent of the
2 tested group's gross income) is paid or ac-
3 crued, directly or indirectly, in the form of
4 payments that are deductible for purposes
5 of the income taxes imposed by Taiwan,
6 to—

7 “(I) persons who are not quali-
8 fied residents of Taiwan,

9 “(II) persons who are connected
10 persons with respect to the corpora-
11 tion and that benefit from a special
12 tax regime with respect to the deduct-
13 ible payment, or

14 “(III) with respect to a payment
15 of interest, persons who are connected
16 persons with respect to the corpora-
17 tion and that benefit from notional
18 deductions with respect to amounts
19 treated as equity.

20 “(C) PUBLICLY TRADED AND INCOME RE-
21 QUIREMENTS.— A corporation meets the re-
22 quirements of this subparagraph if—

23 “(i)(I) such corporation is primarily
24 and regularly traded on an established se-
25 curities market in Taiwan, or

1 “(II) at least 50 percent (by vote and
2 value) of the total outstanding shares of
3 the stock of such corporation are owned di-
4 rectly or indirectly by 5 or fewer corpora-
5 tions which are organized in Taiwan and
6 the stock of which is so traded, and

7 “(ii) the corporation meets the re-
8 quirements of clause (ii) of subparagraph
9 (B).

10 “(3) DUAL RESIDENTS.—

11 “(A) RULES FOR DETERMINATION OF STA-
12 TUS.—

13 “(i) IN GENERAL.—An individual who
14 is an applicable dual resident and who is
15 described in subparagraph (B), (C), or (D)
16 shall be treated as a qualified resident of
17 Taiwan.

18 “(ii) APPLICABLE DUAL RESIDENT.—
19 For purposes of this paragraph, the term
20 ‘applicable dual resident’ means an indi-
21 vidual who—

22 “(I) is not a United States cit-
23 izen,

1 “(II) is a resident of the United
2 States (determined without regard to
3 subparagraph (E)), and

4 “(III) would be a qualified resi-
5 dent of Taiwan but for paragraph
6 (1)(B).

7 “(B) PERMANENT HOME.—An individual
8 is described in this subparagraph if such indi-
9 vidual—

10 “(i) has a permanent home available
11 to such individual in Taiwan, and

12 “(ii) does not have a permanent home
13 available to such individual in the United
14 States.

15 “(C) CENTER OF VITAL INTERESTS.—An
16 individual is described in this subparagraph if—

17 “(i) such individual has a permanent
18 home available to such individual in both
19 Taiwan and the United States, and

20 “(ii) such individual’s personal and
21 economic relations are closer (center of
22 vital interests) to Taiwan than to the
23 United States.

24 “(D) HABITUAL ABODE.—An individual is
25 described in this subparagraph if—

1 “(i) such individual—

2 “(I) does not have a permanent
3 home available to such individual in
4 either Taiwan or the United States, or

5 “(II) has a permanent home
6 available to such individual in both
7 Taiwan and the United States but
8 such individual’s center of vital inter-
9 ests under subparagraph (C)(ii) can-
10 not be determined, and

11 “(ii) such individual has a habitual
12 abode in Taiwan and not the United
13 States.

14 “(E) UNITED STATES TAX TREATMENT OF
15 QUALIFIED RESIDENT OF TAIWAN.—Notwith-
16 standing section 7701, an individual who is
17 treated as a qualified resident of Taiwan by
18 reason of this paragraph for all or any portion
19 of a taxable year shall not be treated as a resi-
20 dent of the United States for purposes of com-
21 puting such individual’s United States income
22 tax liability for such taxable year or portion
23 thereof.

24 “(4) RULES AND DEFINITIONS RELATING TO
25 CORPORATIONS.—For purposes of paragraph (2)—

1 “(A) ONLY INDIRECT OWNERSHIP
2 THROUGH QUALIFYING INTERMEDIARIES
3 COUNTED.—

4 “(i) IN GENERAL.—Stock owned indi-
5 rectly by a corporation through 1 or more
6 persons shall not be treated as owned by
7 the corporation in determining whether the
8 corporation meets the requirements of sub-
9 paragraph (B)(i) or (C)(i)(II) of paragraph
10 (2) unless all of such persons are quali-
11 fying intermediate owners.

12 “(ii) QUALIFYING INTERMEDIATE
13 OWNERS.—The term ‘qualifying inter-
14 mediate owner’ means a person that is—

15 “(I) a qualified resident of Tai-
16 wan, or

17 “(II) a resident of any other for-
18 eign country that has in effect a com-
19 prehensive convention with the United
20 States for the avoidance of double tax-
21 ation and which includes provisions
22 addressing special tax regimes and no-
23 tional deductions.

24 Such term shall not include a foreign coun-
25 try that is a foreign country of concern (as

1 defined in paragraph (7) of section 9901 of
2 the William M. (Mac) Thornberry National
3 Defense Authorization Act for Fiscal Year
4 2021 (15 U.S.C. 4651(7)), as added by
5 section 103(a)(4) of the CHIPS Act of
6 2022).

7 “(B) CERTAIN PAYMENTS NOT IN-
8 CLUDED.—In determining whether the require-
9 ments of subparagraph (B)(ii) or (C)(ii) of
10 paragraph (2) are met with respect to a cor-
11 poration, the following payments shall not be
12 taken into account:

13 “(i) Arm’s-length payments by the
14 corporation in the ordinary course of busi-
15 ness for services or tangible property.

16 “(ii) In the case of a tested group,
17 intra-group transactions.

18 “(d) OTHER DEFINITIONS AND SPECIAL RULES.—
19 For purposes of this section—

20 “(1) UNITED STATES PERMANENT ESTABLISH-
21 MENT.—

22 “(A) IN GENERAL.—The term ‘United
23 States permanent establishment’ means, with
24 respect to a qualified resident of Taiwan, a per-

1 manent establishment of such resident which is
2 within the United States.

3 “(B) SPECIAL RULE.—The determination
4 of whether there is a permanent establishment
5 of a qualified resident of Taiwan within the
6 United States shall be made without regard to
7 whether the qualified resident of Taiwan con-
8 trols or is controlled by—

9 “(i) a United States person (other
10 than a resident of the United States that
11 is not a citizen of the United States), or

12 “(ii) any other person that carries on
13 business in the United States (whether
14 through a permanent establishment or oth-
15 erwise).

16 “(2) PERMANENT ESTABLISHMENT.—

17 “(A) IN GENERAL.—The term ‘permanent
18 establishment’ means a fixed place of business
19 through which a trade or business is wholly or
20 partly carried on. Such term shall include—

21 “(i) a place of management,

22 “(ii) a branch,

23 “(iii) an office,

24 “(iv) a factory,

25 “(v) a workshop, and

1 “(vi) a mine, an oil or gas well, a
2 quarry, or any other place of extraction of
3 natural resources.

4 “(B) SPECIAL RULES FOR CERTAIN TEM-
5 PORARY PROJECTS.—

6 “(i) IN GENERAL.—A building site or
7 construction or installation project, or an
8 installation or drilling rig or ship used for
9 the exploration or exploitation of the sea
10 bed and its subsoil and their natural re-
11 sources, constitutes a permanent establish-
12 ment only if it lasts, or the activities of the
13 rig or ship lasts, for more than 12 months.

14 “(ii) DETERMINATION OF 12-MONTH
15 PERIOD.—For purposes of clause (i), the
16 period over which a building site or con-
17 struction or installation project of a person
18 lasts shall include any period of more than
19 30 days during which such person does not
20 carry on activities at such building site or
21 construction or installation project but
22 connected activities are carried on at such
23 building site or construction or installation
24 project by one or more connected persons.

1 “(C) HABITUAL EXERCISE OF CONTRACT
2 AUTHORITY TREATED AS PERMANENT ESTAB-
3 LISHMENT.—Notwithstanding subparagraphs
4 (A) and (B), where a person (other than an
5 agent of an independent status to whom sub-
6 paragraph (D)(ii) applies) is acting on behalf of
7 a trade or business of a qualified resident of
8 Taiwan and has and habitually exercises an au-
9 thority to conclude contracts that are binding
10 on the trade or business, that trade or business
11 shall be deemed to have a permanent establish-
12 ment in the country in which such authority is
13 exercised in respect of any activities that the
14 person undertakes for the trade or business, un-
15 less the activities of such person are limited to
16 those described in subparagraph (D)(i) that, if
17 exercised through a fixed place of business,
18 would not make this fixed place of business a
19 permanent establishment under the provisions
20 of that subparagraph.

21 “(D) EXCLUSIONS.—

22 “(i) IN GENERAL.—Notwithstanding
23 subparagraphs (A) and (B), the term ‘per-
24 manent establishment’ shall not include—

1 “(I) the use of facilities solely for
2 the purpose of storage, display, or de-
3 livery of goods or merchandise belong-
4 ing to the trade or business,

5 “(II) the maintenance of a stock
6 of goods or merchandise belonging to
7 the trade or business solely for the
8 purpose of storage, display, or deliv-
9 ery,

10 “(III) the maintenance of a stock
11 of goods or merchandise belonging to
12 the trade or business solely for the
13 purpose of processing by another
14 trade or business,

15 “(IV) the maintenance of a fixed
16 place of business solely for the pur-
17 pose of purchasing goods or merchan-
18 dise, or of collecting information, for
19 the trade or business,

20 “(V) the maintenance of a fixed
21 place of business solely for the pur-
22 pose of carrying on, for the trade or
23 business, any other activity of a pre-
24 paratory or auxiliary character, or

1 “(VI) the maintenance of a fixed
2 place of business solely for any com-
3 bination of the activities mentioned in
4 subclauses (I) through (V), provided
5 that the overall activity of the fixed
6 place of business resulting from this
7 combination is of a preparatory or
8 auxiliary character.

9 “(ii) **BROKERS AND OTHER INDE-**
10 **PENDENT AGENTS.**—A trade or business
11 shall not be considered to have a perma-
12 nent establishment in a country merely be-
13 cause it carries on business in such coun-
14 try through a broker, general commission
15 agent, or any other agent of an inde-
16 pendent status, provided that such persons
17 are acting in the ordinary course of their
18 business as independent agents.

19 “(3) **TESTED GROUP.**—The term ‘tested group’
20 includes, with respect to any corporation, such cor-
21 poration and any other corporation that—

22 “(A) participates as a member with such
23 corporation in a tax consolidation, fiscal unity,
24 or similar regime that requires members of the
25 group to share profits or losses, or

1 “(B) shares losses with such corporation
2 pursuant to a group relief or other loss sharing
3 regime.

4 “(4) CONNECTED PERSON.—Two persons shall
5 be ‘connected persons’ if one owns, directly or indi-
6 rectly, at least 50 percent of the beneficial interest
7 in the other (or, in the case of a corporation, at least
8 50 percent of the aggregate vote and value of the
9 corporation’s shares) or another person owns, di-
10 rectly or indirectly, at least 50 percent of the bene-
11 ficial interest (or, in the case of a corporation, at
12 least 50 percent of the aggregate vote and value of
13 the corporation’s shares) in each person. In any
14 case, a person shall be connected to another if,
15 based on all the relevant facts and circumstances,
16 one has control of the other or both are under the
17 control of the same person or persons.

18 “(5) PARTNERSHIPS; BENEFICIARIES OF ES-
19 TATES AND TRUSTS.—For purposes of this section—

20 “(A) a qualified resident of Taiwan shall
21 be considered as carrying on a trade or business
22 within the United States through a United
23 States permanent establishment if the partner-
24 ship of which such qualified resident of Taiwan
25 is a partner carries on such trade or business

1 through a United States permanent establish-
2 ment, and

3 “(B) a qualified resident of Taiwan which
4 is a beneficiary of an estate or trust which car-
5 ries on a trade or business within the United
6 States through a United States permanent es-
7 tablishment shall be treated as carrying on such
8 trade or business through such permanent es-
9 tablishment.

10 “(6) DENIAL OF BENEFITS FOR CERTAIN PAY-
11 MENTS THROUGH HYBRID ENTITIES.—For purposes
12 of this section, rules similar to the rules of section
13 894(c) shall apply.

14 “(e) APPLICATION.—This section shall not apply to
15 any period unless the Secretary, in consultation with the
16 American Institute in Taiwan and the Taipei Economic
17 and Cultural Representative Office in the United States,
18 has determined that Taiwan has granted benefits to
19 United States persons for such period that are reciprocal
20 to the benefits provided to qualified residents of Taiwan
21 under this section.

22 “(f) REGULATIONS OR OTHER GUIDANCE.—

23 “(1) IN GENERAL.—The Secretary shall issue
24 such regulations or other guidance as may be nec-
25 essary or appropriate to carry out the provisions of

1 this section, including such regulations or guidance
2 for—

3 “(A) determining what constitutes a
4 United States permanent establishment of a
5 qualified resident of Taiwan,

6 “(B) preventing the abuse of the provisions
7 of this section by persons who are not (or who
8 should not be treated as) qualified residents of
9 Taiwan,

10 “(C) requirements for record keeping and
11 reporting,

12 “(D) rules to assist withholding agents or
13 employers in determining whether a foreign per-
14 son is a qualified resident of Taiwan for pur-
15 poses of determining whether withholding is re-
16 quired,

17 “(E) the application of subsection
18 (a)(1)(D)(i) to beneficial owners and stock held
19 by predecessor owners,

20 “(F) determining what amounts are to be
21 treated as qualified wages for purposes of sub-
22 section (a)(2),

23 “(G) defining established securities market
24 for purposes of subsection (c), and

1 (2) The table of sections for subchapter A of
2 chapter 3 of such Code is amended by adding at the
3 end the following new item:

 “Sec. 1447. Withholding for qualified residents of Taiwan.”.

4 (d) **EFFECTIVE DATE.**—The amendments made by
5 this section shall apply to amounts paid after the date of
6 the enactment of this Act during periods to which section
7 894A of the Internal Revenue Code of 1986 (as added
8 by this Act) applies.