Policy Alert

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House GOP Policy Priorities Going Forward: Tax Policies to Support Domestic Research, Development, and Manufacturing of Treatment and Cures

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On Monday, April 18, 2022, Reps. Vern Buchanan (R-FL), Mike Kelly (R-PA) and Brad Wenstrup (R-OH)—all Republican Members of the House Committee on Ways & Means—reintroduced several pieces of legislation meant to secure medical supply chains and spur future treatment and cures. These bills are a legislative marker indicating House Republican priorities in anticipation of the 2022 mid-term elections and the possibility that they will be in the majority next year. The introduction of these bills is also part of the House Republicans' Healthy Future Task Force (HFTF) initiative. Led by Reps. Brett Guthrie (R-KY) and Buchanan, the HFTF is charged with crafting legislative proposals that Republicans can advance if the GOP retakes the majority. Researchers, developers and manufacturers of medical products have an opportunity to use the remainder of 2022 to weigh in with the bill sponsors, as well as other Members of the HFTF, the Ways & Means Committee and the House Energy and Commerce Committee, to provide input on these policies. The legislation is summarized below.

The American Innovation Act

Rep. Buchanan, Ranking Member of the Ways and Means Subcommittee on Health, reintroduced the American Innovation Act. Cosponsored by Reps. Kelly and Wenstrup, the bill revises the tax treatment of start-up businesses—specifically drug manufacturers—to remove barriers to entry. The bill allows such organizations to elect to deduct organizational expenditures in an amount equal to the lesser of the aggregate amount of such expenditures incurred by an active trade of business, or $20,000, reduced by the amount by which such aggregate amount exceeds $120,000. The remaining amount of such expenditures shall be amortized over the 180-month period after the trade or business begins. The bill also revises the tax treatment of partnership syndication fees and start-up net operating losses and tax credits after an ownership change. The American Innovation Act of 2018 (H.R. 6756), also led by Rep. Buchanan, passed the House on a bipartisan basis in the 115th Congress.

In addition to the American Innovation Act, Rep. Buchanan also reintroduced the Start-ups for Cures Act and the More Cures Act, both of which are cosponsored by Rep. Kelly. The Start-ups for Cures Act, led in the 116th Congress by former Representative Devin Nunes (R-CA), creates a refundable research and development (R&D) credit for small biotech companies developing drugs to fight infectious disease. The More Cures Act also expands the R&D tax credit—to 14 percent—for specified medical research expenditures. In the legislation, specified medical research expenditures is defined as amounts incurred in developing a drug, biological product, or device determined to be a priority in protecting against harm from a biological agent or adverse health condition.

The Infectious Disease Therapies Research and Innovation Act

Rep. Kelly's Infectious Disease Therapies Research and Innovation Act is designed to incentivize early investment in certain drug development. To achieve this, it amends the passive loss rules currently in the tax code. These rules generally prevent investors from using investment (passive) losses to offset ordinary income. Specifically, this bill exempts from the definition of passive activity, for purposes of the passive loss tax rules, any qualified medical research activity of a specified medical research small business pass-thru entity. The bill defines specified medical research small business pass-through entity as any domestic pass-through entity if more than 80 percent of such entity's expenditures on research are paid or incurred in connection with qualified medical research activities and the gross receipts of such entity for the taxable year are less than $1 million.

The American-Made Medicine Act

The American-Made Medicine Act, sponsored by Rep. Wenstrup, would seek to incentivize investments in U.S.-based medical supply chains by creating three new tax credits:

I. **Domestic medical and drug manufacturing tax credit**—Would lower the tax rate on income of domestic manufacturers of medical items including active pharmaceutical ingredients.

II. **Advanced medical manufacturing equipment credit**—Would create a 30 percent tax credit, phasing out over 10 years, to incentivize investments in domestically made equipment and machinery used manufacture drugs, biological products and devices.

III. **Medical manufacturing EPA compliance credit**—Would create a 30 percent investment tax credit, phasing out over 10 years, to incentivize investments in equipment that may be used to meet emissions standards under the Clean Air Act or Clean Water Act.

Legislative Outlook

While it is unlikely that these bills advance in the 117th Congress, they are a good indicator of House Republican priorities in the event that they assume the majority in 2023. Should Republicans retake control of the House in the 118th Congress, we should assume that these bills will be on the committee's agenda.

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