



BritishAmericanBusiness

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The Honorable Mike Crapo
Chairman
The Honorable Ron Wyden
Ranking Member
United States Senate Committee on Finance
19 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Wyden:

On behalf of the members of BritishAmerican Business (BAB), we write to share our views on the recently passed *One, Big, Beautiful Bill* following its approval by the United States House of Representatives. We also raise concerns regarding the practical use and implementation of *Section 891* as written.

BritishAmerican Business (BAB) is the leading U.S.-U.K. transatlantic trade association, incorporating the British-American Chamber of Commerce in the United States and the American Chamber of Commerce in the United Kingdom. We are committed to strengthening the economic corridor between the U.S. and the U.K, and support decisions and policies that enhance the environment for transatlantic trade and investment on behalf of our 450+ industry leaders.

As a pro-business, pro-growth trade association, BAB champions the economic advantages the U.S.-UK corridor provides. The UK is one of the largest foreign investors into the U.S., ranging from large multinational investments to small SME investments across all 50 states. BAB supports an approach that encourages international investment while strengthening domestic manufacturing capabilities and job creation, aligned with national economic and security priorities. We recognize the need for tax reforms that support a strong and secure U.S. business environment; however, we encourage further scrutiny of proposed measures to ensure they do not unintentionally disincentivize foreign investment into the U.S.

As the leading trade and business association representing transatlantic companies with investment in and operations across the U.S., we welcome the opportunity to comment on two matters:

1. The tax enforcement provisions within the recently passed One, Big, Beautiful Bill.
2. The practical application of the previously enacted, but never used, Section 891.

Enforcement of Remedies Against Unfair Foreign Taxes

1.1. H.R. 591, introduced in January 2025, has been formally integrated into Title XI of the One, Big, Beautiful Bill. The legislation aims to counteract discriminatory and extraterritorial foreign tax measures on U.S. businesses, such as digital services taxes, diverted profits tax and elements of the OECD Under Taxed Profits Rule (UTPR) under Pillar Two.

The proposal introduced a new section of the tax code (Section 899), which would allow the U.S. Treasury to impose retaliatory withholding tax increases against entities from discriminatory foreign countries. These increases are structured to be implemented gradually by 5 percentage points per year until the tax reaches the applicable statutory rate plus 20 percentage points. This higher rate would remain in place until the foreign tax measure in question is repealed. While there is no express tax treaty override language in the current proposal, it is currently unclear if the retaliatory withholding tax would or would not circumvent the US-UK tax treaty in place. Without lower treaty rates, statutory withholding rates could increase as follows:

- From 30% to 50% for general withholding taxes on foreign corporations and foreign individuals;
- From 21% to 41% for foreign cooperations with effectively connected income (ECI);
- From 30% to 50% for the branch profits tax;
- From 15% to 35% under the Foreign Investment in Real Property Tax Act (FIRPTA);
- From 4% to 24% for foreign organizations which operate as private foundations.

These retaliatory measures are intended to incentivize the repealing of foreign tax regimes that disproportionately target U.S.-based multinationals. However, the concern is that businesses may struggle to prepare for such a significant tax increase within such a short time frame, especially in cases where cross-border investments rely on existing treaty protections. This may lead to an unintended consequence which harms foreign investment with U.S. businesses.

The updated May bill provides improved definitions of what constitutes a “discriminatory” tax policy and includes procedural guardrails for making such determinations. These provisions add clarity for foreign governments, offering a path to amend policies to avoid designation. Yet, there remains significant uncertainty about the specific timeline and scope of application once a country is listed.

1.2. The provisions of the re-introduced H.R. 4695 bill, have also been formally incorporated into Title XI of the One, Big, Beautiful Bill. These measures seek to complement the above proposal by addressing discriminatory foreign tax regimes.

A key feature of the integrated legislation is the proposal to modify the Base Erosion and Anti-Abuse Tax (BEAT) framework. The aim is to counteract foreign tax measures perceived to be unfairly targeting U.S. businesses through extraterritorial taxation schemes, such as the UTPR, by increasing the BEAT rate from 10% points to 12.5 %.

The suggested amendment to limit the Cost of Goods Sold (COGS) as BEAT to inventory and depreciable property, rather than applying a 50% haircut as in the previous iteration of the bill, may still heavily impact U.S. businesses, especially at a time when many are already adapting to rising tariffs and reassessing supply chains. While some businesses may be transitioning COGS-related imports to U.S.-based manufacturing, the combined burden of higher tariffs and restriction of COGS to inventory and depreciable property under the new rule is likely to adversely impact profitability and cash flow for U.S.-headquartered businesses.

Additional concerns arise from the removal of the \$500m gross receipts threshold and 3% base erosion limit, which may further expand the scope of BEAT applicability to a broader range of businesses, including mid-sized multinationals.

Finally, the provisions to eliminate the services cost method exception (SCM) could have significant ramifications for U.S. customers globally. Although the primary aim is to prevent base erosion, removing the SCM exception could significantly increase the tax burden on U.S. companies engaged in routine intercompany services with foreign affiliates – many of which are commercially necessary. This provision could hinder global operations and raise compliance costs for U.S. multinationals.

Section 891

2.1. The 1934 enacted law was originally intended as a retaliatory response to discriminatory foreign tax policies, specifically France’s “double taxation” laws. Although it remains in law, Section 891 has never been invoked, with alternative, clearer tools chosen to handle global trade disputes typically through bilateral or multilateral channels.

There are significant concerns about using Section 891 whilst businesses lack clarity on how the tool would be applied in practice. Questions remain about whether it would apply to all types of U.S. tax exposure, such as withholding taxes, and how individual foreign investors would be expected to comply, especially without established enforcement or reporting mechanisms.

The rigidity of the provision also raises practical issues as a trade negotiation tool. As written, Section 891 would apply for a full tax year once triggered (potentially with retroactive effect), offering no clear process for mid-year reversals, even if the foreign jurisdiction amends its taxation policy. Unlike tariffs, there is no clear delegated authority in place to manage or adjust measures in real time once the rule is in effect.

Additional clarity regarding the scope of the application would provide businesses with greater certainty, particularly around withholding taxes, given that these are addressed in the One, Big,

Beautiful Bill. Notably, how the provision might treat citizens of designated countries who reside in a third jurisdiction, and foreign subsidiaries of US-parented multinationals.

Contrasting to the One, Big, Beautiful Bill, we recognize that Section 891 is already enacted, and thus, authority already resides at Presidential level, however, we welcome further scrutiny of the technical flaws in the law as is currently written and to offer appropriate amendments if the instrument is to be used.

As the Committee considers the implications of the proposed *One Big Beautiful Bill* and utilization of *Section 891*, we respectfully encourage a broader strategic review of their potential impacts. UK-headquartered companies have long been strong and reliable partners to the U.S. economy—investing heavily in our communities, creating high-quality American jobs, and reinforcing our transatlantic economic ties. Proposals that would significantly increase the tax burden risk on our longstanding partners may undermine this vital relationship and deter future investment to the detriment of American workers and local economies. We fully support efforts to address harmful foreign tax practices, however, we encourage the Committee to take a closer look at these proposals. As currently drafted (and even if there is no treaty override in the One Big Beautiful Bill) they risk creating significant business uncertainty, deterring cross-border investment, and straining the long-standing commercial ties that underpin the transatlantic economic relationship.

We thank the Committee for its attention to these issues and welcome further engagement.

Yours sincerely,

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