



September 22, 2023

Internal Revenue Service
Office of Associate Chief Counsel (International)
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Re: National Foreign Trade Council Comments on Notice 23-55

The National Foreign Trade Council (the “NFTC”) is writing to provide comments on Notice 23-55, “Temporary Relief Under Sections 901 and 903 of the Internal Revenue Code” (the “Notice”) released by the Department of the Treasury (“Treasury”) and the Internal Revenue Service (“IRS”) on July 21, 2023.

The NFTC, organized in 1914, is an association of U.S. business enterprises engaged in all aspects of international trade and investment. Our membership covers the full spectrum of industrial, commercial, financial, and service activities. Our members support establishing and maintaining international tax norms that provide certainty to enterprises conducting cross-border operations.

We welcome the temporary relief provided with respect to § 1.901-2(a) and (b) (the definition of a foreign income tax and the net gain requirement) and to § 1.903-1(c)(1)(iv) (jurisdiction to tax excluded income) and § 1.903-1(c)(2)(iii) (source-based attribution requirement) of the 2022 foreign tax credit regulations as requested in our previous comments including those in March 2022, September 2022, and January 2023. This relief provides needed certainty to taxpayers at a time of change for the international tax framework, as the OECD Inclusive Framework finalizes its work on Pillar Two and as foreign jurisdictions begin to implement new Pillar Two taxes.

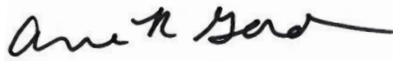
Notice 23-55 provides temporary relief for tax periods ending on or before December 31, 2023, and notes that the Treasury Department and the IRS are considering whether to provide additional temporary relief beyond this additional relief period as they continue to analyze issues related to the 2022 FTC regulations. We respectfully request that this relief be extended at a minimum to tax years ending on or before December 31, 2024, and preferably that the relief be extended until new regulations are repropounded and taken through the notice and comment process. Absent an extension, the temporary relief period has already expired for some fiscal year taxpayers and will expire shortly for others. Supplemental guidance extending the relief period should be issued as soon as feasible. Some fiscal year taxpayers are preparing regulatory filings for periods after the relief period, which requires them to apply the 2022 FTC regulations that Treasury and the IRS are in the process of analyzing. Thus, even guidance received at the end of December 2023 or in the first quarter of 2024 may be too late for all companies to apply this relief for financial reporting.

Notice 23-55 also provides that the Treasury Department and the IRS continue to analyze issues related to the 2022 FTC regulations and are considering proposing amendments to those regulations. We welcome a review of the entire package, particularly in relation to cost recovery, the asset-based remittance rule, the source-based attribution rules for withholding taxes on services, and the single-country license rule before

the regulations come back into effect. Attached is our comment letter from January 2023, which more fully details these concerns. We endorse the intent for any amendments to be issued in the proposed form to ensure an adequate notice and comment process, and that the temporary relief provided by Notice 23-55 be extended at least until the notice and comment period has run its course. This will ensure that the unmodified 2022 FTC regulations do not spring back into effect until Treasury and the IRS have completed their analysis and have addressed input from commentators.

We thank you for your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Anne Gordon", written over a light gray rectangular background.

Anne Gordon
Vice President for International Tax Policy