

Advocacy Comments on IRS Proposed Rule on the Elective Payment Provisions of the CHIPS Act Advanced Manufacturing Investment Credit

On June 21, 2023, the Internal Revenue Service (IRS) proposed regulations regarding the implementation of the elective payment provisions of the advanced manufacturing investment credit. The credit was added to the Internal Revenue Code under the CHIPS Act of 2022 (Pub. L. 117-167) to incentivize semiconductor and semiconductor equipment manufacturing in the United States. On August 14, 2023, the Office of Advocacy (Advocacy) filed a comment letter related to the proposed rule.

Advocacy's comment letter:

- Asserted that the certification statement included in the proposed rule pursuant to the Regulatory Flexibility Act (RFA) lacked a factual basis and was therefore invalid.
- Questioned why IRS failed to provide necessary information about the number of small entities that may be impacted by the proposal and the estimated costs of the proposal.
- Recommended that IRS conduct a threshold economic analysis to determine whether the proposed rule will have a significant economic impact on a substantial number of small entities.
- Recommended that IRS use the information garnered from the threshold analysis to develop and publish either:
 - A supplemental RFA assessment with a valid factual basis in support of a certification.
 - An initial regulatory flexibility analysis, including a discussion of regulatory alternatives that would minimize any impact of the proposal on small entities.

A complete copy of [Advocacy's letter to IRS](#) is available. For more information please contact Megan Singer, Assistant Chief Counsel at meagan.singer@sba.gov or (202) 921-4843.

