



2121 41st Avenue
Suite 301
Capitola, CA 95010
PHONE 831.465.8204

www.svtdg.org
info@svtdg.org

August 24, 2023

Teisha M. Ruggiero
Senior Counsel, Office of the Associate Chief Counsel (International)
Internal Revenue Service

Moshe Dlott
Office of Associate Chief Counsel (International)
Internal Revenue Service

Re: Notice 2023-55

Dear Ms. Ruggiero and Mr. Dlott:

The Silicon Valley Tax Directors Group (“SVTDG”)¹ appreciates Treasury’s and the IRS’s recent action in Notice 2023-55 (the “Notice”) providing temporary relief from some aspects of the final foreign tax credit regulations that were released on December 28, 2021 (the “2022 FTC final regulations”).² The Notice provides both taxpayers and Treasury/IRS much-needed breathing room to assess the impact of various developments since the release of the 2022 FTC final regulations, including the application of the single-country license exception set forth in the November 2022 proposed regulations (the “2022 FTC proposed regulations”),³ changes to Brazil’s transfer pricing legislation, and the imminent implementation by many countries of the Global Anti-Base Erosion Model Rules (Pillar Two) starting as soon as 2024.

The SVTDG is grateful for the relief afforded by the Notice. We note the Notice states that “[t]he Treasury Department and the IRS are considering whether, and under what conditions, to provide additional temporary relief beyond the relief period.” We respectfully request that Treasury and the IRS extend the temporary relief now. Indeed, Treasury and the IRS may even wish to consider simply withdrawing the regulations in their entirety and to repropose a new set of regulations that addresses the various interconnected, unresolved issues with the 2022 FTC final regulations.

Sound tax administration and taxpayer certainty warrant Treasury and the IRS granting taxpayers additional relief in the near future. Taxpayers continue to have questions regarding the application of the 2022 FTC final regulations—particularly the attribution and cost recovery requirements—to a whole host of foreign taxes, both corporate income taxes as well as withholding taxes. Such analysis requires

¹ The SVTDG represents U.S. high technology companies with a significant presence in Silicon Valley that are dependent on R&D and worldwide sales to remain competitive. The SVTDG promotes sound, long-term tax policies that allow the U.S. high tech technology industry to continue to be innovative and successful in the global marketplace. A list of the SVTDG members is included in the Appendix to this letter.

² T.D. 9959, 87 Fed. Reg. 276 (Jan. 4, 2022).

³ 87 Fed. Reg. 71,271 (Nov. 22, 2022).

an in-depth understanding of the applicable foreign tax laws of every country imposing an income tax. The application of the 2022 FTC final regulations to such foreign tax laws is in many cases far from clear. In addition, to the extent that Treasury and the IRS release further amendments to the 2022 FTC final regulations, including the changes anticipated by the 2022 FTC proposed regulations, taxpayers will require more time to consider the impact of such changes.

Due to the stated end date of the Notice relief, many fiscal year taxpayers are now subject to the 2022 FTC final regulations with respect to their 2024 fiscal year. As Treasury and the IRS undoubtedly are aware, taxpayers are required to make quarterly financial statement filings that, among other things, take into account the creditability of foreign taxes. Thus, those taxpayers are already applying the 2022 FTC final regulations to prepare their public financial statements and communicate expectations to shareholders.

We respectfully suggest that extending additional relief now would be an appropriate exercise of sound tax administration.

Sincerely,

/s/ Robert F. Johnson
Co-Chair, Silicon Valley Tax Directors Group

cc: Michael Plowgian, Deputy Assistant Secretary for International Tax Affairs, Department of the Treasury
Lindsay M. Kitzinger, International Tax Counsel, Department of the Treasury
Isaac Wood, Attorney-Advisor, Department of the Treasury (Office of Tax Policy)
Peter H. Blessing, Associate Chief Counsel (International), Internal Revenue Service
Thomas West, Deputy Assistant Secretary, Department of the Treasury

Appendix -- SVTDG Members

10x Genomics, Inc.
Accenture
Activision Blizzard, Inc.
Adobe Inc.
Agilent Technologies, Inc.
Airbnb, Inc.
Align Technology, Inc.
Alphabet Inc.
Amazon.com, Inc.
Ancestry.com
Apple Inc.
Applied Materials
Aptiv PLC
Arista Networks
Asana, Inc.
Atlassian
Autodesk, Inc.
Blackhawk Network, Inc.
BMC Software, Inc.
Broadcom Inc.
Cadence Design Systems, Inc.
Chegg, Inc.
Cisco Systems, Inc.
Citrix
Confluent, Inc.
CooperCompanies
CrowdStrike Holdings, Inc.
Dell Technologies
Dolby Laboratories, Inc.
DoorDash
Dropbox, Inc.
Dynatrace
eBay Inc.
Elastic N.V.
Electronic Arts
Expedia Group, Inc.
Faire Wholesale Inc
Flex Ltd.
Forte Labs, Inc.
Gen Digital, Inc.
Genentech Inc.
Genesys Cloud Services
Getaround
Gigamon Inc.
Gilead Sciences, Inc.
GitLab Inc.
GlobalLogic
GoPro, Inc.
Hewlett Packard Enterprise
HP Inc.
Indeed
Informatica
Ingram Micro, Inc.
Instacart
Intel Corporation
Intercom, Inc.
Intuit Inc.
Intuitive Surgical
Jazz Pharmaceuticals
Keysight Technologies, Inc.
KLA Corporation
Lam Research Corporation
Lattice Semiconductor Corporation
Liftoff Mobile, Inc.
LiveRamp, Inc.
Marvell Technology, Inc.
Match Group
Meta Platforms, Inc.
Microsoft Corporation
Momentive.ai
Netflix, Inc.
Netskope
Nutanix Inc.
NVIDIA Corporation
Okta
onsemi
Oracle Corporation
Ouster
Palo Alto Networks
PayPal Holdings Inc
Pinterest
Protocol Labs
Pure Storage, Inc.
Reddit Inc.
Ring Central, Inc.
Robinhood
Rubrik Inc.
salesforce.com
Seagate Technology
Semtech Corporation
SentinelOne
ServiceNow
Snap Inc.
Snowflake Inc.
Sophos
Splunk, Inc.
Synopsys, Inc.
Tesla, Inc.
The Walt Disney Company
Trimble
Twilio Inc.
Uber Technologies
UiPath
Unity Technologies
Verifone
Veritas Technologies
Visa Inc.
VMware, Inc.
Western Digital
WideOrbit
Workday Inc
Yahoo, Inc.
Yelp Inc.
Zillow Group, Inc
Zoom Video Communications, Inc.
Zoominfo Technologies Inc.
Zscaler, Inc