May 9, 2023

The Honorable Maggie Hassan              The Honorable Todd Young
United States Senate                United States Senate
324 Hart Senate Office Building              185 Dirksen Senate Office Building
Washington, DC  20510               Washington, DC 20510

The Honorable Ron Estes    The Honorable John Larson
United States House of Representatives  United States House of Representatives
2411 Rayburn House Office Building  1501 Longworth House Office Building
Washington, DC  20510               Washington, DC 20510

RE:   Repealing Section 174 amortization requirement - S. 866, American Innovation and Jobs Act and H.R. 2673 - American Innovation and R&D Competitiveness Act of 2023

Dear Senator Hassan, Senator Young, Representative Estes, and Representative Larson:

The AICPA greatly appreciates your continued leadership on legislative efforts to repeal the Internal Revenue Code section 174 amortization requirement of the research and experimental expenditures (R&E) provision. We have previously supported efforts to either defer the capitalization requirement until 2026 or permanently extend the deductibility of R&E costs, and now also support S. 866 and H.R. 2673 which fully reverse the change that was signed into law as part of the Tax Cuts and Jobs Act (TCJA).

The TCJA required, for tax years starting January 1, 2022, amounts defined as specified research and experimental expenditures, including any software development costs, to be capitalized and amortized ratably over a five-year period rather than immediate expensing. For tax years starting January 1, 2022, those expenditures that are attributable to research that is conducted outside of the United States (U.S.) are required to be capitalized and amortized ratably over a period of 15 years. Confusion related to identifying relevant costs that should be capitalized versus expensed and hope that Congress will act this year prior to the extended filing due dates of September 15, 2023, and October 16, 2023, likely contributed to an increase in filing extension requests ahead of the original return due date. Allowing businesses to continue expensing research and development costs would improve simplicity in tax compliance. We urge Congress to act prior to the extended filing due dates to significantly reduce the burden of filing amended returns and refund claims, specifically for pass-through entities subject to the Bipartisan Budget Act (BBA) Centralized Partnership Audit regime who are not be able to amend their tax returns to allow tax refunds for the 2023 tax year unless Congressional or administrative relief is provided.

We appreciate your leadership on this issue and look forward to helping you advance this legislation.

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We appreciate your consideration of our recommendations and welcome the opportunity to further discuss our comments. If you have any questions, please contact Reema Patel, Senior Manager, Tax Policy & Advocacy, at (202) 434-9217, or Reema.Patel@aicpa-cima.com; Lauren Pfingstag, Director – AICPA Congressional and Political Affairs, at (407) 257-0607, or lauren.pfingstag@aicpa-cima.com; or me at (601) 326-7119, or JanLewis@HaddoxReid.com.

Sincerely,

Jan F. Lewis, CPA
Chair, AICPA Tax Executive Committee

cc: Senator Ron Wyden, Chair, Senate Finance Committee
    Senator Mike Crapo, Ranking Member, Senate Finance Committee
    Representative Jason Smith, Chair, House Ways and Means Committee
    Representative Richard Neal, Ranking Member, House Ways and Means Committee
    The Honorable Daniel I. Werfel, Commissioner, Internal Revenue Service
    Mr. William M. Paul, Principal Deputy Chief Counsel, Internal Revenue Service
    Ms. Erin Collins, National Taxpayer Advocate
    Mr. Thomas Barthold, Chief of Staff, Joint Committee on Taxation