ACT | The App Association

Federal Tax Policy for App Makers

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Small business like ACT | The App Association members need the tax code to work for them, not against them. They need the right incentives to compete, grow, and create jobs around the country and in your district. Congress must undo recent provisions that punish or slow the growth of innovative small companies.

Policymakers must improve the investment environment for small app and connected device companies through three specific changes to tax policy:

Reviving Section 174, the research and development (R&D) deduction. Until 2022, this federal tax deduction, in place for almost 70 years, enabled companies to expense 100 percent of their R&D expenditures the year those expenditures are made. Unfortunately, Congress failed to renew the deduction in 2022, leaving businesses with no option but to amortize the full expense over the course of five years, thus increasing their tax bill by up to five times what it was in the first year of the expenditure. One of our member companies, Rotational Labs, came to Washington, DC, in 2024 because they saw a 400 percent increase in their tax bill year-over-year, which forced them to let go of several employees and part ways with at least one contractor. Each year that the provision has been expired, many small businesses persistently have seen much higher tax bills. This system is unsustainable for small technology businesses and the American economy as a whole. R&D is an important aspect of many of our members' investment plans and is a powerful job creator in the United States. For example, every $1 billion in R&D spending supports about 17,000 jobs domestically. This is why Congress has long prioritized R&D investments in the U.S. tax code, which helps American companies compete against foreign rivals. Many of those foreign companies benefit from additional 100 percent "super deductions" from their own governments. **We urge Congress to pass legislation to reinstate the Section 174 R&D deduction provision immediately.**

Enacting the WEAR IT Act (H.R. 6279, 117th). Nearly half of Americans have a device that helps them monitor and control their health. Unfortunately, the Internal Revenue Service (IRS) is still citing tax cases from 1974 and refuses to recognize multi-function devices as eligible for tax-exempt flex spending accounts and health savings accounts (FSAs/HSAs). In 2020, workers lost as much as $4.2 billion that was left unspent in their FSAs—money workers could have used better. Although the IRS routinely includes items with a single purpose, such as electrocardiogram and pulse oximetry monitors, it generally declines to include multi-function devices that may perform functions otherwise eligible for FSA/HSA coverage (with rare exceptions, such as the Oura Ring). Last Congress, Representatives Michelle Steel and Ami Bera introduced H.R. 6729, the Wearable Equipment Adoption and Reinforcement and Investment in Technology (WEAR IT) Act to address this issue. As wearable devices and remote patient monitoring software continue to improve and become vital components of virtual and in-person care, federal tax treatment must stop prioritizing lower-tech solutions. **We urge Congress to pass the WEAR IT Act and update the statute to include powerful digital health tools and wearable devices meeting certain thresholds as eligible for FSA and HSA expenditures.**

Opposing digital services taxes (DSTs) from other nations. Nearly every business in your district is an online business, whether they know it or not. An auto shop that uses online bookkeeping or a software developer who helps build better websites for that car company to use are both using digital services. Other countries around the world are now trying to impose taxes on businesses that provide these digital services. DSTs can take different forms, but any version would undermine American leadership in digital markets. Many app makers, digital device developers, and brick-and-mortar businesses find their customers and provide their services online. For small digital businesses, DSTs can be catastrophic, but no matter what the business is, DSTs will increase prices for everyone. Canada recently finalized their own DST, and it is imperative that other countries not follow their lead. **We urge Congress to support American business and oppose digital services taxes.**