CHIPS Act of 2022

Cross References

- H.R. 4346
- IRC §48D

On August 9, 2022, the President signed into law the "CHIPS Act of 2022" (Creating Helpful Incentives to Produce Semiconductors for America). The law is designed to boost American semiconductor research, development, and production. According to the White House, the law will ensure U.S. leadership in the technology that forms the foundation of everything from automobiles to household appliances to defense systems.

The new law contains one new tax provision—a 25% investment tax credit under IRC section 48D for the manufacture of semiconductors and the manufacture of the tools to make semiconductors.

Qualified investment property for purposes of the 25% credit is the basis of any qualified property placed in service by the taxpayer during the year which is part of an advanced manufacturing facility. Qualified property means property:

i) Which is tangible property,
ii) With respect to which depreciation (or amortization in lieu of depreciation) is allowable,
iii) Which is—
    I) Constructed, reconstructed, or erected by the taxpayer, or
    II) Acquired by the taxpayer if the original use of such property commences with the taxpayer, and
iv) Which is integral to the operation of the advanced manufacturing facility.

Qualified property includes (but is not limited to) any building or its structural components which otherwise satisfies the above requirements. Qualified property does not include a building used for offices, administrative services, or other functions unrelated to manufacturing.

An advanced manufacturing facility means a facility for which the primary purpose is the manufacturing of semiconductors or semiconductor manufacturing equipment.

There is a 10-year recapture of the credit period that applies if the taxpayer's semiconductor manufacturing expands to the People's Republic of China (or any other foreign country of concern).

The credit allowed under IRC section 48D applies to property placed in service after December 31, 2022 and expires with respect to any property the construction of which begins after December 31, 2026.

For details and exceptions, see new IRC section 48D, which is found under section 107 of Division A of H.R. 4346.