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March 2, 2022

The Honorable Charles Schumer
Senate Majority Leader
United States Senate
S-221 U.S. Capitol
Washington, D.C. 20515

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-232 U.S. Capitol
Washington, D.C. 20515

The Honorable Mitch McConnell
Senate Minority Leader
United States Senate
S-230 U.S. Capitol
Washington, D.C. 20515

The Honorable Kevin McCarthy
House Minority Leader
U.S. House of Representatives
H-204 U.S. Capitol
Washington, D.C. 20515

The Honorable Ron Wyden
Chairman
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Mike Crapo
Ranking Member
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Richard Neal
Chairman
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

The Honorable Kevin Brady
Ranking Member
House Committee on Ways and Means
1139 Longworth House Office Building
Washington, D.C. 20515

Re: Required capitalization and amortization of research and experimental expenditures

Dear Leader Schumer, Speaker Pelosi, Leader McConnell, Leader McCarthy, Chairman Wyden, Chairman Neal, Ranking Member Crapo, and Ranking Member Brady:

Despite the many challenges currently facing our nation, with the beginning of a new year comes fresh optimism about prospects for a brighter future. However, for research-oriented U.S. companies, concerns remain about a new law that took effect on Jan. 1, 2022, eliminating the long-rooted ability to immediately expense research and experimental expenditures, including software development costs. Instead, such costs must be capitalized and amortized over a period of five years or 15 years, depending on where the expense is incurred. It is our belief that this new requirement, as set forth in section 174(a) of the Internal Revenue Code, as amended by the 2017 Tax Cuts and Jobs Act, creates a disincentive to engage in research and, as such, would significantly reduce U.S. competitiveness.

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At a time when Congress is close to agreement on bipartisan legislation that will boost U.S. competitiveness in manufacturing, technology, and other areas crucial to our economic success, it is distressing that U.S. companies engaging in these efforts through research and experimentation would be made less competitive globally through the U.S. tax code. Rather than focusing time on conducting innovation and research, U.S. companies are instead trying to determine the impact of the new law on current operations, as well as associated compliance related obligations. This is clearly not consistent with the intent of the provision when it was enacted in 1954 and runs counter to the overall notion of further incentivizing the U.S. research and development environment.

Congress may not be able to fully influence macroeconomic concerns around issues such as high inflation and the tightness of the labor market, but it can immediately act to reinstate full expensing of research and experimental expenditures. Recognizing the well-grounded basis tax policy and intent underlying the treatment accorded these costs under prior law, Congress should make research costs deductible again as soon as possible.

As you are no doubt aware through formal commentary and other previous efforts to address this issue, full expensing of research and experimental cost enjoys broad bipartisan support. Those of us now confronting the implications of the current law certainly share this view and strongly support the inclusion of section 174 legislation in any upcoming legislative vehicle to which it can be attached. While there is a cost to reinstating full deductibility, the cost of not doing so would surely be greater.

We appreciate the opportunity to once again submit our comments on this matter and would welcome any questions or comments you may have.

Sincerely,

RSM US LLP

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Christian Wood, Principal, Washington National Tax, **RSM US LLP**

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