



December 5, 2023

The Honorable Mike Johnson
Speaker
U.S. House of Representatives
H-232 The Capitol
Washington, DC 20515

Speaker Johnson,

On behalf of Associated Builders and Contractors, a national construction industry trade association with 68 chapters representing more than 22,000 member companies, I write today to urge the extension of several key provisions of the ABC-supported Tax Cuts and Jobs Act that would provide much-needed certainty to the construction industry, including the deduction for research and development and the extension of the 100% bonus depreciation. These critical policies will support our nation's construction industry and encourage economic growth throughout the country.

ABC also appreciates Chairman Jason Smith, R-Mo., and the members of the House Ways and Means Committee who have worked to support passage of the Build It in America Act (H.R. 3938), and the [146 members of the U.S. House of Representatives](#) who have called for the inclusion of these tax initiatives in year-end legislation.

Beginning in 1954, American companies were given the option to deduct costs associated with research and experimentation under Section 174(a). This immediate cost recovery allowed innovation to thrive for more than half a century, buoyed further by the tax credit for qualified research expenditures. This traditional treatment of R&D expenditures was prospectively curbed, beginning in 2022, as part of the Tax Cuts and Jobs Act, though the provision was never expected nor intended to go into effect. As a result, small business owners in construction and a host of other industries have been blindsided with higher tax bills this year.

The construction industry benefits both directly and indirectly from the tax code's robust historical preference for R&D. The combination of immediate cost recovery and incentives has allowed contractors to embrace innovative new tools, technologies and materials that continue to improve the efficiency, safety and sustainability of the construction process. From building information modeling and 3D printing to robotics, drones and AI, the construction industry is continually investing in and adopting cutting-edge practices that help contractors attain the highest standards of performance. In addition to innovations in project delivery, the tax treatment of R&D is also a driver of new construction, as new technologies spur investments in everything from advanced manufacturing facilities and energy generation to storage and more efficient buildings.

Not only does the loss of R&D expensing lead to higher tax bills, it adds a significant paperwork and compliance burden to contractors, owing to the complexities of construction accounting methods. Because many construction firms are required to use the percentage of completion method of accounting, R&D amortization rules could force contractors to file additional “lookback” returns for years, even after a given project is completed. Given the five-year capitalization period, a job with R&D expenses that finished within two calendar years would still have to file these time-consuming and confusing forms for three additional years.

Contractors have benefited from and come to count on the tax code’s reliable treatment of R&D expenses for more than half a century. The inadvertent application of a policy that was never meant to go into effect has stuck business owners with unanticipated tax bills that will hinder cash flow as interest rates rise and credit tightens.

Further, failing to extend the 100% bonus depreciation would have a significant impact on the construction industry at a fraught time for the U.S. economy. For the past five years, under the Tax Cuts and Jobs Act, construction businesses have been able to expense or write off the purchase of tools, equipment and machinery the same year in which they were purchased. Preserving this provision will be essential to guaranteeing the success of key construction projects funded by bipartisan congressional legislation, including the Infrastructure Investment and Jobs Act and the CHIPS Science Act.

ABC urges the House to include these tax proposals in any year-end package considered by Congress. ABC appreciates your leadership on this important issue and consideration of our concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Swearingen". The signature is written in a cursive, flowing style.

Kristen Swearingen
Vice President, Legislative & Political Affairs