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S.2697 (116th Congress) - Tariff Tax Credit Act of 2019

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On October 24, 2019, Senator Rick Scott (R-FL) introduced the Tariff Tax Credit Act (S.2697, 116th Congress) in the Senate and referred it to the Committee on Finance. Per Senator Scott, the purpose of this proposal is to “establish a refundable tax credit to return revenue raised from tariffs against Chinese imports to American families.”[1] According to S.2697 only “eligible individuals'' would qualify for this refundable tax credit, which would be calculated based on the amount of collected duties and tariffs levied on imports of goods from China. The U.S. government has significantly increased tariffs against China for not abiding by the World Trade Organization (WTO) rules and intellectual property laws.

To receive a refundable credit as a qualified individual, a taxpayer must file a federal income tax return for any tax year ending with or within a calendar year before October 15 of the succeeding calendar year. Some taxpayers are not qualified for this credit, such as estate or trust, nonresident alien individuals or any alien who is not authorized for employment in the U.S. Also, an individual who is claimed as a dependent by someone else is not eligible for this credit.

The amount of the credit is determined by dividing the total amount of collected duties imposed on imported goods from China during the preceding calendar year by the estimated number of eligible individuals. This applicable amount shall be determined every year no later than March 1. For any taxable year beginning after December 31, 2018 and ending before January 1, 2020, the amount of collected duties and tariffs shall be equal to the sum for 2018 and 2019 calendar years. Based on the figures from the IRS, the estimated amount of a tax rebate for the 2019 tax year is $180 or more for every eligible individual.[2]

The following section is analyzing the proposed S.2697, Tariff Tax Credit Act of 2019, by using the Guiding Principles of Good Tax Policy outlined in the AICPA Tax Policy Concept Statement No. 1.[3]

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[1] Press release of Senator Scott, October 24, 2019; https://www.rickscott.senate.gov/sen-rick-scott-introduces-tariff-tax-credit-act.

[2] *Id*.

[3] American Institute of Certified Public Accountants (AICPA) Tax Division. (January 2017). *Tax Policy Concept Statement No.1-Guiding Principles of Good Tax Policy: A Framework for Evaluation of Tax Proposals; available at* https://www.aicpa.org/content/dam/aicpa/advocacy/tax/downloadabledocuments/tax-policy-concept-statement-no-1-global.pdf.

Application of the Principles of Good Tax Policy

Criteria	Does the proposal satisfy the criteria? (explain)	+/-
Equity and Fairness – Are similarly situated taxpayers taxed similarly? Also consider any different effects based on an individual's income level and where they live.	There are two types of equity that should be analyzed. Horizontal equity: Horizontal equity requires similarly situated taxpayers to be taxed similarly. This principle is met in the proposal. For two eligible individuals with the same level of income, the benefit of the credit will be the same. The amount of collected tariffs is divided equally among every eligible individual. Therefore, this tax policy meets the principle of horizontal equity. Vertical equity: The vertical equity principle is satisfied when taxpayers with higher income pay more tax than taxpayers with lower income. There is no phase out for higher earning taxpayers. The taxpayers with higher income could claim the same amount of credit as taxpayers with a lower income. However, assuming that high-income taxpayers spend more on tariffs, there are no greater benefits for this type of taxpayers that reduce the progressivity of the income tax. The fixed credit amount reflects the purpose of the bill to allocate the tariff amounts collected from Chinese goods equally among all eligible individuals regardless of their income level. Therefore, vertical equity is not met. This bill meets the principle of horizontal equity but fails to meet the principle of vertical equity.	+/-
Certainty – Does the rule clearly specify when the tax is to be paid, how it is to be paid, and how the amount to be paid is to be determined?	Overall, the fact patterns covered in the proposal are clear. The proposed bill includes a detailed description of how and when the amount of the credit is determined. The credit is allowable only for individuals. However, the proposal does not specify when and how the rebate will be paid and claimed by the taxpayers. For example, the proposal does not specify whether there will be changes in an individual income tax return form due to this credit. It is not clear if taxpayers will be required to claim the credit while filing a tax return or the IRS will distribute the amount of the credit once the return is filed. Also, the bill has "October 15" as the due date to file a return to qualify for the credit. This due date covers a broader group of taxpayers and makes the rule easier to administer. The overall level of confidence is high for this proposal as the calculation of the credit described in the bill is easy to follow, and it will use data from reliable sources.	+ / -
Convenience of payment – is the tax due at a time that is	This bill does not add any extra burden on taxpayers to pay their taxes because it only involves the additional credit which does not affect the due date or methods to pay taxes. The benefit of the credit will not be received	+

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convenient for the payor?	until the taxpayers file their tax return. The language of the bill does not specify information about how eligible individuals can apply for the credit if they decide to file their federal income tax return before March 1, the due date for calculating and announcing the credit amount by the Secretary. In this case, they need to file an additional form, such as an amended tax return, to get the credit, which could decrease the level of convenience for this group of taxpayers. In general, the credit can make it easier for taxpayers to pay their taxes as it decreases the amount owed. Overall, the bill satisfies the convenience of payment principle.	
Effective Tax Administration – Are the costs to collect the tax at a minimum level for both the government and taxpayers? Also consider the time needed to implement this tax or change.	Overall, the cost to comply with this proposal will be reasonable for both the government and taxpayers. The calculation is straightforward as it utilizes only two factors that are available through the government records. To calculate the rebate amount, the U.S. Treasury will have to estimate in advance the number of eligible individuals and also to determine the total amount of money collected by the United States from tariffs on Chinese goods. The tax on imports collection data comes from the U.S. Customs and Border Protection (CBP). The duties usually must be paid within 10 days of the shipments clearing customs. "Every item imported into the United States legally has a customs code. Importers are expected to check the tariffs and other taxes and duties due on the goods they bring in, calculate what they owe, and pay it. U.S. Customs reviews payments and sends importers a fresh bill if it detects underpayment".[2] The effectiveness of tax administration would depend on how soon the data related to tariffs collection can be available. The second factor for the rebate calculation is an estimate of the number of eligible individuals that will file federal income tax returns. The bill does not provide the details of how this number should be estimated, but the IRS has collected a significant amount of data over the years that can be used to come up with a reasonable estimation. It might be more time consuming for the government to calculate and issue the rebate to the taxpayers, but no additional action is required of taxpayers in order to claim the credit. They only need to file their federal individual income tax returns on time. Also, the effective tax administration of the IRS depends on how taxpayers receive this credit. For example, if the credit will be available for claiming through the income tax return, the cost to administer will be not significant. However, if the IRS is supposed to distribute the credit amount to every eligible individual, it would be costly and more time consuming. Overall, the Effective Tax Administration principle is met.	+
Information Security – Will taxpayer information be	There are no specific reporting requirements to disclose additional personal information for taxpayers to receive this credit. All personal information, such as a taxpayers' residency and whether someone can claim a taxpayer as	+

protected from both unintended and improper disclosure?	a dependent, must be already reported and reflected on their tax returns. It is unlikely that this information will be misused due to unintended and improper disclosure. Therefore, the bill meets the principle of information security.	
Simplicity - can taxpayers understand the rules and comply with them correctly and in a cost-efficient manner?	The taxpayer can understand the idea of the proposal and its purpose to return money collected in tariffs back to American families. There are no additional forms or calculations that the taxpayer has to perform. The fixed amount will be determined by the government and will be the same for all taxpayers. No additional effort is required of taxpayers to claim the credit. They just need to file their federal individual income tax returns on time. Overall, the simplicity principle is met.	+
Neutrality - The effect of the tax law on a taxpayer's decisions as to how to carry out a particular transaction or whether to engage in a transaction should be kept to a minimum.	The purpose of this principle is to minimize situations in which taxpayers' decisions are affected by a tax rule. In general, the bill will not influence a taxpayer's decisions in terms of whether to engage in a particular transaction and how to carry it out. This bill establishes a credit that will be allowable for all eligible individuals regardless whether they buy Chinese goods or not. There are no restrictions and limitations about how the credit amount can be spent. However, due to some positive aspects of the tax credit, some taxpayers might be influenced to buy more Chinese products as they will then be compensated. Overall, the principle of neutrality is met.	+
Economic growth and efficiency – will the tax unduly impede or reduce the productive capacity of the economy?	This bill aims to compensate for the economic damage caused by the significant tariffs increase. According to the Organization for Economic Cooperation and Development study, U.S.-China tariff hikes could reduce U.S. GDP by 0.9% by 2021- 2022 (relative to its baseline).[4] The proposal partially meets the economic growth and efficiency principle as it helps to improve the economic situation by compensating taxpayers in the amount of the tariffs and, therefore, reducing the cost of tariffs passed on to consumers. "A growing number of U.S. companies has warned about the negative impact of the tariffs on U.S. consumers. Nike Inc. and 172 other footwear companies have urged Trump to remove footwear from a list of imports facing a proposed extra 25% tariff, warning the move could cost consumers an additional $7 billion a year".[5] At the same time this principle is partially violated as the bill relates only to the goods imported from China and not	+/-

[4] Enforcing U.S. Trade Laws: Section 301 and China, Wayne M. Morrison, Congressional Research Service (2019), available at www.fas.org.

[5] Who pays Trump's tariffs, China or U.S. customers and companies? Thomson Reuters, Business News (2019), available at www.reuters.com.

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	from other countries. As such, it favors one product category over others and can affect international competitiveness.	
Transparency and Visibility – Will taxpayers know that the tax exists and how and when it is imposed upon them and others?	A tax rule should be visible to taxpayers so they can figure out their tax liability in advance. Eligible taxpayers should know that this credit exists and how they can claim it. All general information, such as how the amount of the credit is determined, who can qualify, and when it must be calculated, is presented in the bill. Taxpayers will likely get the information about the bill from tax professionals or tax software. However, there is no guarantee that taxpayers will know about this new credit if they do not use the services of tax preparers or software. Therefore, it is important to communicate all the necessary information about this credit through the IRS website and the Form 1040 instructions before the filing season begins. This would allow taxpayers to evaluate their tax liability in advance. As it stands, the bill partially meets the transparency principle.	**+/-**
Minimum tax gap – is the likelihood of intentional and unintentional non-compliance likely to be low? Is there any way people may intentionally or unintentionally avoid or evade this tax or rule?	This proposal does not carry a risk of intentional or unintentional non-compliance as it only provides an additional incentive for the taxpayer to file the tax return on time to receive a refundable credit. There is also no way to abuse this rule by under- or overreporting as the amount of the credit will be fixed and will not correlate with the income or tax amount. The proposal meets this principle because it will help decrease the tax gap by stimulating individuals to file the return on time.	**+**
Accountability to taxpayers – Do taxpayers have access to information on tax laws and their development, modification and purpose; is the information visible?	Taxpayers should readily have access to information for understanding sources and uses of tax revenues. Senator Scott clearly states that the purpose of this bill is to give the tariff money back to the taxpayers in the form of a refundable tax credit. However, such administrative items as the amount of the credit applicable to the particular tax year and the references where taxpayers can find this information are not indicated in the bill. Therefore, the accountability to taxpayer's principle is partially met.	**+/-**
Appropriate government revenues – will the government be able to determine how	The Tariff Tax Credit Act has a negative effect on government revenue. The main purpose of taxation is to raise government revenue. The bill would not impair the predictability of the tax system, as the data for the credit calculation will be available and reliable, but it will decrease the stability and reliability of the tax system. According to this proposal the amount of the	**–**

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much tax revenue will likely be collected and when?	credit is determined by dividing the total amount of collected duties imposed on imported goods from China during the preceding calendar year by the estimated number of eligible individuals. As a result of this proposal the government will lose not only the funds raised due to the recent increase in tariffs but also the funds that were generated from those tariffs prior to the Section 301 Investigation.[6] Appropriate government revenues principle is not met: the government revenues will decrease as all the taxes collected on imports from China will be refunded to the individuals.	

To summarize, according to the above analysis, the Tariff Tax Credit Act does not pass the test of all twelve principles of Good Tax Policy. Overall, this proposal has more strengths than weaknesses. The main goal of this bill is to compensate Americans for the economic damage caused by the significant increase of tariffs imposed on imported goods from China. One of the strengths of the proposal is that it meets the principle of horizontal equity and does not discriminate against taxpayers based on their income level. Another strong aspect of the bill is that it would reduce the tax gap by providing a refundable credit incentive to file the income tax returns on time. This policy does not add an extra burden for individuals who are qualified for this credit. One of the weaknesses of the proposal is that it does not take into account the income level of the taxpayer as it does not suggest a phase out for higher earning taxpayers.

Part of the reason is that the purpose of the bill is to allocate the tariff amounts equally among all eligible individuals regardless of their income level. Also, the nature of the involved transactions is closer to the consumption tax category than the earned income tax category. It is usually difficult for consumption tax to meet the vertical equity principle as it will trigger a violation of the simplicity principle. Another weakness of this bill is that it does not completely meet the economic growth and efficiency principle as the proposal favors goods imported from China over imports from other countries. This bill also violates the principle of appropriate government revenues. It would spend not only funds raised from the recently increased tariffs by the Trump administration, but also the amount that the government had generated in prior years from tariffs.

We have already suggested a few improvements in the analysis above, such as:

- provide clearer instructions on how the eligible individuals can receive this credit if they must file a federal income tax return before March 1 (or on whichever date the credit amount is finalized for that year)

- communicate all the necessary information about the credit through the IRS website and the Form 1040 instructions before the filing season begins.

[6] Enforcing U.S. Trade Laws: Section 301 and China, Wayne M. Morrison, Congressional Research Service (2019), www.fas.org

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A significant improvement can also be made to the calculation of the credit to make the proposal better meet the following two principles of Good Tax Policy: appropriate government revenues, and economic growth and efficiency. The determination of the credit can be rectified by using only the difference between the original tariffs amount and the increased amount, instead of the full amount collected. Tariffs can be an important revenue source for the U.S. government as a mix of taxes reduces financial risk and provides more stability for the government. For example, it can play a significant role to support the government during economic downturns when the revenue from income tax decreases. “Through May 1, Washington has assessed $23.7 billion in tariffs since early 2018, according to data from the CBP. total tariff revenue - including levies that pre-dated Trump - shot up by 89% in the first half of the current fiscal year starting Oct. 1, to a total of $34.7 billion, according to U.S. Treasury data”.[7] Accordingly, if the calculation is adjusted so the government can keep about $23.7 billion in tariffs collected in prior years, the individuals will still receive a large portion of the collected amount. In this case, the policy would be more reliable and stable for the government. This improvement will also solve an international competitiveness issue by not favoring imports from China as tariffs on imports from other countries will be excluded from this credit. As a result, the credit calculated only based on the recent tariff hikes will directly target the issue caused by those large increases of the tariffs on imports of goods from China, which is a main purpose of The Tariff Tax Credit Act of 2019.

To conclude, the Tariff Tax Credit Act is a good idea to bring money back to American families, but this goal can be achieved in a more effective way if the amount collected will be allocated between the government and individuals.

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[7] Who pays Trump's tariffs, China or U.S. customers and companies? Thomson Reuters, Business News (2019), available at www.reuters.com.