



Accounting for Income Taxes | Quarterly Hot Topics

US federal

Tax News & Views, published by the Deloitte Tax LLP Tax Policy Group in Washington, DC, provides a compact, reader-friendly perspective on the latest tax developments coming out of Congress affecting businesses and high-wealth individuals.

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Proposed regulations expand the conclusive presumption of worthlessness for regulated financial companies under section 166

On December 27, 2023, the US Department of the Treasury (Treasury) and the Internal Revenue Service (IRS) released proposed regulations ([REG-121010-17](#)) revising the circumstances in which indebtedness is conclusively presumed to be worthless to the extent of a charge-off on an applicable financial statement. The conclusive presumption of worthlessness applies for purposes of determining a taxpayer's eligibility to claim a bad debt deduction under [section 166](#). The proposed regulations apply to certain regulated financial companies and other members of certain regulated financial groups.

Eligible companies may choose to apply the proposed regulations to claim bad debt deductions in taxable years ending on or after December 28, 2023, the date of the publication of the proposed regulations in the Federal Register; however, a taxpayer must obtain IRS consent to adopt the method of accounting for bad debts provided by the proposed regulations.

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Treasury and IRS release proposed regulations regarding section 45V credit for production of clean hydrogen

On December 22, 2023, Treasury and IRS released proposed regulations ([REG-117631-23](#)) to address the [section 45V](#) credit for production of clean hydrogen (“clean hydrogen production credit”) and the energy investment credit, as established and amended by the Inflation Reduction Act of 2022, respectively.

The proposed regulations would provide rules for the following:

- Determining the property that comprises a qualified clean hydrogen production facility and what is qualified clean hydrogen;
- Coordination with the section 45Q credit for carbon oxide sequestration;
- Calculating the amount of the credit based on determining life cycle greenhouse gas emissions rates resulting from hydrogen production processes;
- Petitioning for provisional emissions rates where a life cycle greenhouse gas emissions rate has not been determined;
- Using electricity from certain renewable or zero-emissions sources to produce qualified clean hydrogen;
- Use of energy attribute certificates including certain requirements related to incrementality, temporal matching, and deliverability;
- Verification of production and sale or use of clean hydrogen, including requirements for verification reports and attestations;
- Modifying or retrofitting existing facilities to produce qualified clean hydrogen; and
- Election to treat a specified clean hydrogen production facility instead as energy property eligible for the section 48 investment tax credit.

The proposed regulations are proposed to apply to taxable years beginning after these proposed regulations are published in the Federal Register. The proposed regulations were published in the Federal Register on December 26, 2023.

Taxpayers may rely on these proposed regulations for taxable years beginning after December 31, 2022, and before

December 26, 2023, the publication date, provided the taxpayers follow the proposed regulations entirely and consistently.

Treasury and IRS release additional guidance for the treatment of section 174 research or experimental expenditures

On December 22, 2023, Treasury and IRS released [Notice 2024-12](#), which modifies Notice 2023-63 that provides the interim guidance on capitalization and amortization of specified research or experimental (SRE) expenditures under [section 174](#) (as amended by section 13206(a) of Public Law 115-97, 131 Stat. 2054 (Dec. 22, 2017), commonly referred to as the Tax Cuts and Jobs Act (TCJA)). [Rev. Proc 2024-09](#) is concurrently issued to provide procedural guidance regarding certain accounting method changes impacted by the TCJA amendments to section 174.

Notice 2024-12:

- Modifies Notice 2023-63 to clarify that if a research provider that does not bear financial risk under the terms of the contract with the research recipient obtains an “excluded SRE product right” but does not obtain any other SRE product right under the terms of such contract, then the costs paid or incurred by the research provider to perform SRE activities on behalf of the research recipient under such contract are not SRE expenditures. An “excluded SRE product right” is an SRE product right that (1) is separately bargained for (that is, an SRE product right that arose from consideration other than the cost paid or incurred by the research provider to perform SRE activities under that contract) or (2) was acquired for the limited purpose of performing SRE activities under that contract or another contract with the research recipient.
- Modifies Notice 2023-63 to permit taxpayers to apply some, but not all, provisions of Notice 2023-63. Taxpayers are not required to rely on all the rules described in sections 3 through 9 of Notice 2023-63, and taxpayers may not

rely on the rules described in section 7 of Notice 2023-63 for SRE expenditures paid or incurred with respect to property that is contributed to, distributed from, or transferred from a partnership.

- Provides that taxpayers may continue to rely on Rev. Proc. 2000-50 for software development costs paid or incurred in taxable years beginning before January 1, 2022.

Rev. Proc. 2024-09:

- Provides procedures for taxpayers to obtain automatic consent to change methods of accounting for expenditures paid or incurred in taxable years beginning after December 31, 2021, to apply the interim guidance provided in Notice 2023-63 (as modified by Notice 2024-12).
 - Waives the prior five-year change eligibility requirement, and taxpayers are permitted to make the change for their second taxable year beginning after December 31, 2021, regardless of whether the taxpayer made a change for the same item for its first taxable year beginning after December 31, 2021.
 - For changes made for a year of change later than the first taxable year beginning after December 31, 2021, the change is made with a modified section 481(a) adjustment that takes into account only expenditures paid or incurred in taxable years beginning after December 31, 2021, and a Form 3115 is required. If the change results in a modified section 481(a) adjustment that is negative, taxpayers have the option to implement on a cut-off basis.
- Clarifies that section 9.01 of Rev. Proc. 2023-24, which provides for method changes for costs of developing computer software, does not apply to costs paid or incurred in taxable years beginning after December 31, 2021.
- Modifies section 19 of Rev. Proc. 2023-24 to provide automatic consent for taxpayers to change their method of accounting for long-term contracts using the percentage of completion method under section 460 to rely on the interim guidance provided in Notice 2023-63.

JCT releases 'Blue Book' for tax legislation enacted in 117th Congress

On December 21, 2023, the US Joint Committee on Taxation (JCT) staff released a "Blue Book" providing a general explanation of provisions in the eight tax bills that became law in the 117th Congress. The Inflation Reduction Act of 2022 included a 15% corporate alternative minimum tax (CAMT) on "adjusted financial statement income" of Applicable Corporations. The CAMT is effective for taxable years beginning after December 31, 2022.

Among the more notable tax laws enacted in the previous Congress and described in the publication are:

- The Inflation Reduction Act of 2022 ([P.L. 117-169](#), the "IRA"), a roughly US\$740 billion budget reconciliation package that included a minimum tax on certain large corporations, an excise tax on stock buybacks, a significant infusion (over 10 years) of mandatory funding for the Internal Revenue Service, incentives to promote climate change mitigation and clean energy, and provisions to promote health care affordability.
- The American Rescue Plan Act of 2021 ([P.L. 117-2](#)), which provided an array of emergency tax relief provisions to help businesses and individuals absorb the economic impact of the COVID-19 pandemic.
- The Consolidated Appropriations Act, 2023 ([P.L. 117-328](#)), an omnibus government funding measure (for fiscal year 2023) that provided a host of retirement security provisions intended to make it easier for businesses to offer tax-qualified retirement savings plans to their employees, encourage individuals to participate in retirement plans and grow their tax-preferred savings, and expand after-tax "Roth" treatment for certain retirement accounts and retirement account contributions.

The publication also includes revenue estimates for the provisions in each enacted law.

For additional details, please refer to the Deloitte [tax@hand](#) article dated December 21, 2023.

Treasury and IRS release additional corporate AMT guidance (Notice 2024-10)

The IRA included a 15% corporate alternative minimum tax (CAMT) on "adjusted financial statement income" (AFSI) of Applicable Corporations. The CAMT is effective for taxable years beginning after December 31, 2022.

Treasury and IRS released interim CAMT guidance in four previous notices, [Notice 2023-7](#), [Notice 2023-20](#), [Notice 2023-42](#), and [Notice 2023-64](#) (collectively, the "CAMT notices"). For background on the CAMT notices, review prior Deloitte tax alerts dated [December 30, 2022](#), [February 20, 2023](#), [June 8, 2023](#), and [September 19, 2023](#), respectively.

On December 15, 2023, Treasury and the IRS released [Notice 2024-10](#), which provides additional interim guidance to clarify the application of the corporate alternative minimum tax (CAMT). Generally, Notice 2024-10 provides:

- Additional interim guidance for determining the AFSI of a US shareholder when a controlled foreign corporation (CFC) pays a dividend (within the meaning of [section 316](#) but without taking into account [section 959\(d\)](#)) to the US shareholder or another CFC ("Covered CFC Distribution").
- Modifications and clarifications to prior guidance provided in Notice 2023-64 regarding the applicable financial statement of members of a tax consolidated group.

Applicability dates and reliance:

- Taxpayers may rely on the interim guidance described in section 3 of Notice 2024-10 for Covered CFC Distributions received on or before the date of the forthcoming proposed regulations are published in the Federal Register. Regardless of when the forthcoming proposed regulations are published in the Federal Register, a taxpayer may rely on section 3 of Notice 2024-10 for Covered CFC Distributions received before January 1, 2024.

- Taxpayers may rely on the interim guidance described in sections 4.02(5)(b) and 6.02 of Notice 2023-64 (as modified by section 4 of Notice 2024-10), and section 4.04 of Notice 2024-10 for taxable years ending before the date forthcoming proposed regulations are published in the Federal Register. Regardless of when the forthcoming proposed regulations are published in the Federal Register, a taxpayer may rely on the interim guidance described in sections 4.02(5)(b) and 6.02 of Notice 2023-64 (as modified by section 4 of Notice 2024-10) and section 4.04 of Notice 2024-10 for any taxable year beginning before January 1, 2024. A taxpayer may not rely on the unmodified text of sections 4.02(5)(b)(i) or 6.02 of Notice 2023-64 for any tax return filed on or after December 15, 2023.

For additional details, please refer to the Deloitte [tax@hand](#) article dated December 22, 2023.



Treasury and IRS release proposed regulations regarding the advanced manufacturing production credit established in the Inflation Reduction Act of 2022

On December 14, 2023, Treasury and IRS released [proposed regulations](#) to implement the advanced manufacturing production credit established by the IRA to incentivize the production of eligible components within the United States. Eligible components include certain solar energy components, wind energy components, inverters, qualifying battery components, and applicable critical minerals. The proposed regulations would affect eligible taxpayers who produce and sell eligible components and intend to claim the benefit of an advanced manufacturing production credit, including by making elective payment or credit transfer elections. The proposed regulations also provide notice of a public hearing on the proposed regulations.

Each of proposed Treasury Reg. §§ 1.45X-1 through 1.45X-4 is proposed to apply to eligible components for which production is completed and sales occur after December 31, 2022, and during taxable years ending on or after the date of publication of the final regulations in the Federal Register.

Notice 2023-80 lays out interaction of Pillar Two and foreign tax credits

On December 11, 2023, the Treasury and IRS issued [Notice 2023-80](#) announcing their intention to issue proposed regulations to address the application of the foreign tax credit (FTC) rules to certain top-up taxes, including income inclusion rules (IIRs), qualified domestic minimum top-up taxes (QDMTTs), and undertaxed profits rules (UTPRs) described in Pillar Two of the [global anti-base erosion model rules](#) (the “GloBE model rules”), as well as guidance that taxpayers may rely on until proposed regulations are issued.

In addition, the notice announces that proposed regulations will address the interaction of the GloBE model rules and the dual consolidated loss rules and

extends and modifies the temporary relief granted by Notice 2023-55 for determining whether a foreign tax is creditable under [sections 901 and 903](#). These sections of the notice were addressed in a [July 26, 2023, International Tax Alert](#) from Deloitte Tax LLP.

Taxpayers generally can rely on the foreign tax credit guidance in section 2 of the notice for taxable years ending after December 11, 2023, and on or before the date proposed regulations are published in the Federal Register, provided that they apply the guidance consistently for all years. Taxpayers can rely on the proposed changes to the section 903 regulations for taxable years beginning on or after December 28, 2021.

For a high-level summary of the notice, please refer to the Deloitte [tax@hand](#) article dated December 22, 2023.

Correction to proposed regulations under section 987 and related rules released

On November 9, 2023, the Treasury and IRS released proposed currency regulations under [section 987](#) and related rules (the “2023 proposed regulations”). Section 987 applies to taxpayers with a qualified business unit (QBU) in the form of a disregarded entity, branch, partnership, trust, or estate if the QBU has a functional currency that is different from the functional currency of its tax owner(s) (a “section 987 QBU”). Section 987 addresses foreign currency translation related to operations, assets, and liabilities of section 987 QBUs and provides rules for (i) computing taxable income (and associated earnings and profits) of the section 987 QBU, (ii) recognizing currency gain or loss, and (iii) translating basis in property that is transferred to or from a section 987 QBU.

The 2023 proposed regulations are based on the final section 987 regulations issued in 2016 and 2019 (together, the “final regulations”) but contain significant changes that include modifying, removing, or adding rules under sections 985 through 989, as well as under sections 861 and 1502. The 2023 proposed regulations would apply to a broader group of taxpayers than the final regulations. The

2023 proposed regulations would (as would the final regulations) significantly change the way most taxpayers currently make computations for section 987 QBUs.

On December 6, 2023, the Treasury and IRS issued a [correction](#) to the preamble of the 2023 proposed regulations, allowing taxpayers to rely on only the applicability date provisions in proposed sections 1.861-9(g)(2)(v), 1.985-5(g), 1.987-14(a), (c), and (d), 1.988-1(i), 1.988-4(b)(2)(ii), and 1.989(a)-1(b)(4) and (d)(4), provided that certain conditions are met.

For a summary of the highlights of the 2023 proposed regulations, please refer to the Deloitte [tax@hand](#) article dated December 20, 2023.

Proposed regulations released for the energy credit under section 48

On November 17, 2023, Treasury and IRS released a notice of proposed rulemaking relating to the investment tax credit under [section 48](#) ([REG-132569-17](#), the “Proposed Regulations”). This highly anticipated guidance reflects legislative modifications made by the IRA and would:

1. Amend and update the definition of energy property under [Treas. Reg. § 1.48-9](#), including new types of energy property based on concepts of the unit of property, functional interdependence, integral part, ownership, direct use, and intended function;
2. Repropose Prop. Reg. § 1.48-13 relating to the increased credit amount for satisfying prevailing wage and apprenticeship (PWA) requirements originally contained within a separate NPRM ([REG-100908-23](#)) published on August 30, 2023;
3. Provide a definition of the term *energy project* under Prop. Reg. § 1.48-13(d) for purposes of determining the increased credit amount attributed to satisfying PWA requirements and the domestic content or energy community adders when multiple energy properties are operated as part of a single energy project;
4. Add new Prop. Reg. § 1.48-14 relating to additional rules applicable to energy property, including the treatment of

retrofitted property, dual-use property, special recapture rules, property eligible for multiple federal income tax credits, incremental cost, special rules concerning ownership, and coordination with other Code provisions including procedures to make an ITC in lieu of renewable electricity production credit election under section 48(a)(5)(C); and

5. Add new Prop. Reg. § 1.6418-5(f) establishing rules with respect to the notification requirements and impact of recapture caused by a failure to satisfy the PWA requirements with respect to an alteration or repair during the five-year recapture period after energy property has been placed in service where a transfer election has been made under [section 6418](#).

The Proposed Regulations provide extensive and impactful guidance covering an array of ITC issues long sought by the renewable energy industry, including clarification on the types of energy property eligible for the ITC, application of the 80/20 Rule, changes to the dual use property rules (i.e., the “75% cliff”), treatment with respect to multiple owners of energy property, and interplay with other federal credits. The Proposed Regulations primarily provide welcome clarifications and taxpayer-friendly provisions, however, there are some limiting provisions that may require stakeholders to plan and reassess the ITC eligibility of their energy projects.



Update on 2023 IRS Large Foreign-Owned Corporations Transfer Pricing Initiative

On October 20, 2023, the IRS issued [IR-2023-194](#) announcing several tax enforcement initiatives, including a Large Foreign-Owned Corporations Transfer Pricing Initiative described as follows:

“The IRS is increasing compliance efforts on the U.S. subsidiaries of foreign companies that distribute goods in the U.S. and do not pay their fair share of tax on the profit they earn of [sic] their U.S. activity. These foreign companies report losses or exceedingly low margins year after year through the improper use of transfer pricing to avoid reporting an appropriate amount of U.S. profits. To crack down on this strategy, the IRS is sending compliance alerts to approximately 150 subsidiaries of large foreign corporations to reiterate their U.S. tax obligations and incentivize self-correction.”

This initiative is similar to an IRS audit enforcement initiative for inbound distributors in 2017.

IRS compliance alerts

Taxpayers have begun receiving the described compliance alerts in the form of Letter 6608 (11-2023). The letters indicate that the IRS has reviewed the recipient inbound taxpayer’s tax returns for tax years 2017–2021, which indicated that the recipient is engaged in distribution of tangible goods from a foreign related party and reported losses or low profit margins on its tax returns for 2017–2021. The IRS letters also note that the recipient should review its transfer pricing for the 2017–2021 tax years to confirm compliance with the US transfer pricing rules described in section 482 and the regulations promulgated thereunder. If the recipient believes that it is not in compliance, the letter advises the recipient to file amended returns.

The letter also notes that taxpayers may be eligible to file a Mutual Agreement Procedure request to relieve double taxation under Revenue Procedure 2015-40 if the amended return position creates double taxation.

The letter indicates that although recipients are not required to respond to the letter, the IRS intends to monitor recipients’ tax returns going forward. Continued reporting of losses or low margins in subsequent tax years may result in a referral for a transfer pricing examination.

SECURE 2.0 – Potential opportunity for matching contributions on student loan payments

On December 29, 2022, President Biden signed into law the Consolidated Appropriations Act of 2023. Included in the legislation was a division consisting of comprehensive changes to employer-sponsored retirement plans and IRAs referred to as “SECURE 2.0 Act of 2022” (the “Act”). The Act includes a special provision to allow employers to make contributions to tax-favored retirement plans on behalf of employees making student loan payments. At the time it was passed, there was a moratorium on the obligation to repay student loans. The current moratorium on the obligation to repay student loans has expired, effective October 1, 2023, leading to a resumption of student loan payments. The resumption of the student loan payments may cause some individual plan participants to reduce, or even eliminate, retirement plan contributions as a way of obtaining funds necessary to make payments, leading to a loss of future retirement savings accumulations. An employer’s decision to offer a student loan match program in their retirement plan, now possible as a result of the Act, will mitigate this implication and help employees continue to accumulate retirement savings while they repay their loans.

US multistate

California: California FTB asks superior court to narrow recent judgment declaring its P.L. 86-272 guidance invalid

In a lawsuit challenging the validity of the California Franchise Tax Board's (FTB) Technical Advice Memorandum (TAM) 2022-01 and related FTB publication (Publication 1050) addressing the application of P.L. 86-272 to activities conducted via the internet, the FTB filed a motion for the California superior court to vacate and modify its recent judgment, which overall had concluded that TAM 2022-01 and Publication 1050 were void.

For additional details, please refer to the January 5, 2024, edition of [State Tax Matters](#) and below article for the superior court's ruling.

California court declares Franchise Tax Board P.L. 86-272 guidance invalid

The San Francisco Superior Court granted the American Catalog Mailers Association's motion for summary judgment, concluding that TAM 2022-01 and Publication 1050 were void because they constituted regulations that were required to be adopted.

For a summary of the court's decision and some taxpayer considerations, please refer to the [Multistate Tax Alert](#) dated December 20, 2023.

California FTB reminds of state nonconformity to IRC section 174 R&D deduction changes under TCJA

The California FTB reminds taxpayers that California law generally conforms to the Internal Revenue Code (IRC) as of January 1, 2015, and that while California has partially conformed to the federal changes made by the TCJA, "California has not conformed to the changes regarding the deduction of research expenses under [IRC section 174](#) effective for tax years beginning after December 31, 2021."

For additional details, please refer to the January 5, 2024, edition of [State Tax Matters](#).

Limited time resolution for some eligible transactions subject to NEST penalty is extended

The Franchise Tax Board has extended its new limited time resolution process that will allow eligible taxpayers to resolve abusive micro-captive insurance and/or syndicated conservation easement transactions that may be subject to California's non-economic substance transaction (NEST) understatement penalty by providing reduced penalties.

For additional details, please refer to the November 17, 2023, edition of [State Tax Matters](#).

Colorado: DOR adopts rule changes on federal conformity and QBI deduction addback

The Colorado Department of Revenue (DOR) repealed a rule to reflect 2022 caselaw involving state conformity to federal law changes and adopted another rule addressing the IRC [section 199A](#) qualified business income (QBI) deduction and required addback in calculating Colorado taxable income of the amount that an electing pass-through entity owner may deduct under IRC section 199A.

For additional details, please refer to the November 17, 2023, edition of [State Tax Matters](#).

Illinois: DOR proposes rule amendments reflecting new law pertaining to investment partnerships

The Illinois DOR proposed a new and an amended rule reflecting new law modifying the definition of investment partnerships and requiring withholding Illinois income and replacement taxes from certain nonresident partners.

For additional details, please refer to the December 22, 2023, edition of [State Tax Matters](#).

Indiana: Updated bulletin clarifies DOR's positions on apportionment and business versus nonbusiness income

An updated Indiana DOR bulletin clarifies that receipts from the provision of services and most intangible personal property are apportioned based on the extent the market for those sales were in Indiana; and all income earned by a business is presumed apportionable business income unless it clearly does not relate to the operation of the taxpayer's unitary business.

For additional details, please refer to the October 27, 2023, edition of [State Tax Matters](#).

Maine: High court holds sourcing is determined using market member method rather than market client method

In a market-based sourcing case involving a pharmacy benefit management company, the Maine Supreme Judicial Court held that the taxpayer's claims-processing services were received by members at retail pharmacies in Maine.

For additional details, please refer to the November 10, 2023, edition of [State Tax Matters](#).

Massachusetts: Massachusetts enacts significant tax legislation, including adoption of single sales factor in 2025

H.B. 4104 was enacted into law, providing an estimated \$1 billion of overall tax relief, including the adoption of single sales factor apportionment, a reduction in the short-term capital gains rate, doubling the estate tax threshold, and expanding credits and deductions intended to aid lower-income individuals.

For additional details, please refer to the [Multistate Tax Alert](#) dated October 4, 2023.

Massachusetts Life Sciences Center Tax Incentive Program expected to open in December 2023

The Massachusetts Life Sciences Center is anticipated to officially announce the opening of the 2024 MLSC Tax Incentive Program.

For additional details, please refer to the [Multistate Tax Alert](#) dated November 6, 2023.

Michigan: Michigan Department of Treasury comments on US Supreme Court's recent decision to not review apportionment case

Commenting on the US Supreme Court's decision to not review the Michigan Supreme Court's 2023 ruling that the business income of an out-of-state taxpayer is apportionable even if the sale of a business occurred in another state so long as the tax is assessed in a proportionate manner, the Michigan Department of Treasury explains this concludes the case and preserves the court's precedential opinion.

For additional details, please refer to the December 8, 2023, edition of [State Tax Matters](#).

Michigan Court of Appeals affirms that audit did not extend statute of limitations on late unitary filing

The Michigan Court of Appeals affirmed that a Michigan Business Tax audit of tax returns of single-entity taxpayers that were later included in an untimely unitary business group (UBG) return filing did not extend the statute of limitations for the UBG to request a refund. Accordingly, the UBG's 2008 and 2009 MBT returns filed in October 2014 were deemed untimely, and the underlying refund claims were denied.

For additional details, please refer to the December 8, 2023, edition of [State Tax Matters](#).



US Supreme Court denies reviewing case on apportionment formula validity as applied to gain from deemed asset sale

The US Supreme Court denied the taxpayer's petition for review in a case involving the gain on sale of an out-of-state business pursuant to an IRC [section 338\(h\)\(10\)](#) election and application of the statutory standard apportionment formula under the Michigan business tax, which had sought review of the Michigan Supreme Court's ruling that applying this formula did not run afoul of the US Constitution's Due Process and Commerce Clauses.

For additional details, please refer to the December 1, 2023, edition of [State Tax Matters](#).

Michigan Tax Tribunal holds in taxpayer's favor that subsidiary was not unitary with parent

In a case involving whether a subsidiary may be excluded from its parent's Michigan UBG for purposes of filing the UBG's Michigan combined corporate income tax returns for the tax years at issue, the Michigan Tax Tribunal held in the taxpayer's favor that because neither the flow of value nor the contribution/dependency tests was satisfied under the facts at hand, the subsidiary was not part of the parent's

UBG and thus could be excluded from the returns.

For additional details, please refer to the November 3, 2023, edition of [State Tax Matters](#).

Mississippi: DOR explains new law on depreciation and expensing for some qualifying expenditures and property

Mississippi DOR guidance reflects new law that revises methods of Mississippi corporate and individual income tax depreciation and expensing that may be used for certain qualifying expenditures and property, including some elective options for 100% full and immediate expensing, bonus depreciation, and adherence to provisions under IRC [sections 174, 168, and 179](#).

For additional details, please refer to the October 27, 2023, edition of [State Tax Matters](#).

Nebraska: Taxpayer seeks state high court ruling on whether section 965 income under one-time repatriation tax is deductible

After a lower court denied a taxpayer's claimed Nebraska corporate income tax deduction for income of its foreign subsidiaries that was deemed repatriated and included in the company's 2017 federal taxable income under IRC [section 965](#), the

taxpayer is now petitioning the Nebraska Court of Appeals for a bypass, requesting instead that the Nebraska Supreme Court resolve this issue on appeal.

For additional details, please refer to the October 20, 2023, edition of [State Tax Matters](#).

New Hampshire: Summary reminds of recent decoupling from IRC section 163(j) business interest expense deduction

A New Hampshire DOR Administration legislative summary reminds that new law permits a New Hampshire business profits tax taxpayer to fully deduct its business interest expense in the year it is incurred, thereby decoupling from the limitations on the deduction of business interest expense under IRC [section 163\(j\)](#).

For additional details, please refer to the October 6, 2023, editions of [State Tax Matters](#).

New Jersey: New Jersey tax court says P.L. 86-272 protections don't apply to out-of-state service provider

In a case involving a national freight forwarder and whether it was subject to New Jersey's corporation business tax (CBT), the New Jersey Tax Court denied the company's motion for summary judgment that P.L. 86-272 conferred it with immunity from CBT taxation – explaining, among other reasons, that it is a service provider that does not solicit orders for the sale of tangible personal property as such phrase is construed under and mandated by P.L. 86-272.

For additional details, please refer to the January 5, 2024, edition of [State Tax Matters](#).

New bulletin addresses conformity with IRC section 174 and recent R&D credit law changes

A new administrative bulletin reflects 2023 law changes to the state CBT, including how

while New Jersey generally conforms to the current version of the IRC and follows the federal TCJA changes to IRC [section 174\(a\)\(2\)\(B\)](#) for privilege periods beginning on or after January 1, 2022, taxpayers that claim the CBT tax credit for New Jersey qualified research expenditures can also deduct those expenditures on their tax return in the same year.

For additional details, please refer to the January 5, 2024, edition of [State Tax Matters](#).

New and updated bulletins reflect CBT law changes involving gross income tax, NOLs, and combined groups and banks

New and updated New Jersey Division of Taxation bulletins reflect new state law that made significant changes to New Jersey's CBT and combined groups, including provisions involving captive investment companies, real estate investment trusts, and regulated investment companies, as well as banking corporations and financial business corporations. The new CBT also covers topics like net operating losses (NOLs), combined groups, and how New Jersey gross (individual) income tax taxpayers must follow the same sourcing rules required for CBT purposes on business receipts.

For additional details, please refer to the [November 10, 2023](#), and [October 20, 2023](#), editions of [State Tax Matters](#).

New York: New York corporate income tax regulations published December 27, 2023

Final regulations implementing New York's sweeping corporate income tax reforms, originally enacted in 2014 with related amendments enacted in 2015 and 2016, have now been filed with the New York Secretary of State's Office. Notice of Adoption of these Regulations was [published](#) in the State Register on December 27, 2023. The final text of the regulations has been posted on the New York Department of Taxation and Finance [website](#).

Although not contained in the Notice of Adoption nor in the final regulations themselves, the Department has also posted on its website an "Assessment of Public Comment," which includes language regarding the retroactive application of the final regulations.

For additional details, please refer to the [Multistate Tax Alert](#) dated December 28, 2023.

North Carolina: DOR's failure to meet procedural deadline voids tax assessment involving intercompany transactions

In a case involving a state corporate income tax audit, an administrative law judge with the North Carolina Office of Administrative Hearings held that the North Carolina DOR did not timely explain in writing the facts, circumstances, and reasons it objected to the taxpayer's intercompany transactions and the method it proposed to determine the correct net income, and therefore, its subsequent notice of final determination years later was invalidated.

For additional details, please refer to the November 17, 2023, edition of [State Tax Matters](#).

Oklahoma: Proposed rule amendments incorporate new legislation regarding election to expense qualified improvement property

Proposed administrative rule amendments incorporate new legislation providing that when an Oklahoma taxpayer elects to immediately and fully expense a qualified business expense on eligible "qualified property" or "qualified improvement property" under state law, any depreciation claimed for state tax purposes may not duplicate the same amount reported on the taxpayer's federal income tax return. A related public hearing is scheduled for January 16, 2024, and comments are due by January 17, 2024.

For additional details, please refer to December 8, 2023, edition of [State Tax Matters](#).

Oregon: Adopted changes to CAT rules address cost inputs or labor cost subtraction and farming

Adopted changes to the Oregon DOR's corporate activity tax (CAT) rules add guidance on the 35% CAT subtraction for certain unitary groups with farming operations that elect to subtract cost inputs in their return, as well as generally for taxpayers with farming operations.

For additional details, please refer to the October 27, 2023, edition of [State Tax Matters](#).

Pennsylvania: Updated bulletin addresses how IRC section 163(j) limitations are treated for state corporate net income tax purposes

The Pennsylvania DOR issued an updated state corporate net income tax (CNIT) bulletin addressing how the federal income tax limitations imposed by the amendments to IRC Sec. 163(j) contained in the federal Tax Cuts and Jobs Act of 2017 are treated for Pennsylvania CNIT purposes.



For additional details, please refer to the October 20, 2023, edition of [State Tax Matters](#).

Updated bulletin on net loss deduction limitations under IRC sections 381 and 382 addresses IRC section 163(j)

An updated Pennsylvania DOR state CNIT bulletin on the application of IRC [sections 381](#) and [382](#) addresses IRC section 163(j) and the impact on the amount of net loss deductible for CNIT purposes in tax periods commencing after the initial period affected by the amendments to IRC section 163(j) contained in the federal Tax Cuts and Jobs Act of 2017.

For additional details, please refer to the October 13, 2023, edition of [State Tax Matters](#).

South Carolina: Amended ALJ ruling still says taxpayer must file a combined return

Granting a motion for reconsideration, an administrative law judge with the South Carolina Administrative Law Court issued an amended opinion still holding that, based on the facts, separate entity reporting did not fairly reflect a company's in-state business activity due, in part, to the transfer pricing of intercompany transactions, and combined reporting with its affiliates provided a reasonable and equitable result.

For additional details, please refer to the December 8, 2023, edition of [State Tax Matters](#).

Tennessee: Updated Tax Manual reflects recent law changes including single sales factor adoption

The Tennessee DOR updated some of its tax manuals to incorporate recent significant state tax law changes, including phasing in single sales factor apportionment for Tennessee franchise and excise tax purposes.

For additional details, please refer to the December 22, 2023, edition of [State Tax Matters](#).

Letter Ruling says corporate member may utilize SMLLC's credits following merger

In a ruling involving a single member limited liability company (SMLLC) that had generated certain Tennessee franchise and excise tax (FET) credits and subsequently merged into its corporate single member, the Tennessee DOR held that because the SMLLC was disregarded for both federal income tax and FET purposes when it applied for and earned the credits, the corporate parent may continue to utilize the credits post-merger.

For additional details, please refer to the December 22, 2023, edition of [State Tax Matters](#).

Texas: Texas Court of Appeals upholds personal property apportionment regulation

In a case challenging the sourcing of sales from certain types of fuel delivered to foreign vessels at a Texas port, the Texas Third Court of Appeals (Austin) affirmed the Texas Comptroller of Public Account's "place of transfer" or "location of delivery" regulation is valid and consistent with the corresponding statutory guidance.

For additional details, please refer to the January 5, 2024, edition of [State Tax Matters](#).

Texas Supreme Court denies petitions for review in multiple cases involving the sales factor treatment for sales of securities

The Texas Supreme Court denied two petitions for review where, in both cases, the Texas Court of Appeals previously held that only the net proceeds from the sale of securities were includable in each respective taxpayer's sales factor denominator for Texas franchise tax purposes.

For additional details, please refer to the November 17, 2023, edition of [State Tax Matters](#).

Texas Comptroller addresses new law increasing no-tax-due total revenue threshold and eliminating filing of certain franchise tax returns

A recent Tax Policy Newsletter as issued by the Texas Comptroller addresses new legislation that increases the no-tax-due revenue threshold and eliminates the “No Tax Due” report, as well as explains how the Texas Comptroller intends to implement these law changes.

For additional details, please refer to the November 10, 2023, edition of [State Tax Matters](#).

Settlement payment deemed for tort damages and thus not deductible as COGS for franchise tax purposes

The Texas Thirteenth Court of Appeals (Corpus Christi – Edinburg) affirmed that an oil and gas company could not deduct a settlement payment made to a third party as costs of goods sold (COGS) for Texas franchise tax purposes because the payment was deemed to be “a cost of committing a tort” and therefore did not constitute a direct cost of acquiring or producing goods.

For additional details, please refer to the October 27, 2023, edition of [State Tax Matters](#).

Guidance addresses costs included as benefits for compensation deduction for franchise tax purposes

In a publication issued by Tax Policy explaining the types of costs allowed when determining the compensation deduction, the Texas Comptroller of Public Accounts explains the criteria for costs that may be included along with providing a non-exhaustive list of items that may or may not be eligible.

For additional details, please refer to the October 27, 2023, edition of [State Tax Matters](#).

Utah: State Tax Commission updates nexus publication for businesses, including varying standards by tax type

The Utah State Tax Commission updated its publication that defines nexus and provides guidelines for determining whether a business entity’s activities create nexus with Utah for state corporate income/franchise and sales tax purposes. The guidance also explains how to request an agreement to resolve any prior business tax liabilities from the Utah Special Services Division’s Voluntary Disclosure Program.

For additional details, please refer to the November 3, 2023, edition of [State Tax Matters](#).

Wisconsin: New law updates state conformity to many federal income tax changes

New law adopts for Wisconsin income and franchise tax purposes federal income tax provisions adopted through federal legislation in 2021 and 2022 with some exceptions. Subsequently issued Wisconsin DOR guidance explains the various federal tax coupling and decoupling provisions in more detail.

For additional details, please refer to the November 3, 2023, edition of [State Tax Matters](#).



International

This compilation is intended to be an overview of major international tax developments during the quarter that may have ASC 740 implications. For more summaries of other current international income tax news and developments for the current quarter please refer to the additional publications listed at the end of this section.

Multiple Jurisdictions

Pillar Two OECD Pillar Two: Further guidance

On December 18, 2023, the [OECD/G20 Inclusive Framework on BEPS](#) (“OECD inclusive framework”) [published](#) a third set of [administrative guidance](#) on the implementation of the Pillar Two global minimum tax rules (“Pillar Two”).

The third set of administrative guidance has been released to further clarify the interpretation and operation of the model rules on the following:

- Transitional country-by-country (CbC) reporting safe harbor
- Purchase price accounting adjustments
- Consolidated revenue threshold
- Mismatches between financial reporting years
- Allocation of blended controlled foreign company (CFC) taxes
- Administrative relief for groups with short reporting years
- Simplified calculation safe harbor for non-material constituent entities

For additional details, please refer to the Deloitte [tax@hand](#) article dated December 18, 2023.

Minimum tax implementation handbook published

On October 11, 2023, the OECD [announced](#) the publication of the [Minimum Tax Implementation Handbook \(Pillar Two\)](#) as part of the ongoing work of the [OECD/G20 Inclusive Framework on BEPS](#) on a two-pillar solution to address the tax challenges arising from the digitalization and globalization of the economy. The implementation handbook provides an

overview of key provisions of the Pillar Two global minimum tax model rules that jurisdictions may implement into their domestic law, as well as considerations for tax policy and administration officials and other stakeholders to take into account in assessing implementation options.

For additional details, please refer to the Deloitte [tax@hand](#) article dated October 12, 2023.

Multilateral convention for implementation of subject to tax rule

On October 3, 2023, the OECD/G20 Inclusive Framework on BEPS (inclusive framework) [published](#) a [multilateral convention](#) to facilitate the implementation of the subject to tax rule as part of the Pillar Two global minimum tax rules, together with an accompanying explanatory statement. This follows draft model treaty articles and commentary published on July 17, 2023, and builds on the commitments in the “outcome statement” published on July 12, 2023, which was agreed to by 138 of the 143 members of the inclusive framework.

For additional details, please refer to the Deloitte [tax@hand](#) article dated October 4, 2023.

Australia

Franked distributions funded by capital raisings measure receives royal assent

On November 15, 2023, the Australian Senate passed government amendments to schedule 5, Franked distributions funded by capital raisings measure in Treasury Laws Amendment (2023 Measures No. 1) Bill 2003. (Schedule 4 of the bill deals with off market share buy backs which are not addressed in this article). On November 27, 2023, the bill, as modified by the Senate amendments, received royal assent.

The effect of the government’s Senate amendments is that:

- Given royal assent on November 27, 2023, the measure will apply to distributions made on or after the following day, being November 28, 2023;
- A distribution is relevantly funded by a capital raising if that capital raising

funds at least a substantial part of the distribution (rather than any part of the distribution); however, note Deloitte Australia’s comments below on the relevant drafting on this matter;

- Only the part of the distribution that is substantially funded by the capital raising will be unfrankable; and
- Where a capital raising is in response to a regulatory requirement, direction, or recommendation from the Australian Prudential Regulation Authority (APRA) or the Australian Securities and Investments Commission (ASIC), the measure will not apply.

For additional details, please refer to the Deloitte [tax@hand](#) article dated November 27, 2023.

New law changes Victoria tax law

On October 4, 2023, the government of the Australian state of Victoria introduced the State Taxation Acts and Other Acts Amendment Bill 2023 into parliament to amend a range of Victorian tax and other laws. A number of key changes to Victorian tax law and land valuation/fixtures law proposed by the bill will potentially affect business taxpayers.

The State Taxation Acts and Other Acts Amendment Act 2023 passed the Legislative Council on November 30, 2023 and received Royal Assent on December 12, 2023.

For additional details, please refer to the Deloitte [tax@hand](#) article dated October 5, 2023.

Bermuda

Corporate income tax legislation enacted

On December 27, 2023, the Bermuda Corporate Income Tax Act 2023 (the Act) received the governor’s assent and was enacted, and a notice on the enactment was posted to the government of Bermuda’s [official gazette](#). The enacted law is generally consistent with the draft legislation included with the [third public consultation paper](#) and introduces a 15% corporate income tax (CIT) on Bermuda businesses that are part of multinational

enterprise (MNE) groups with annual revenue of EUR 750 million or more. The effective date for the tax is January 1, 2025 (i.e., it is effective for tax years beginning on or after January 1, 2025). The government also has released “version 2.0” of a set of frequently asked questions (FAQs) providing additional guidance with respect to the Act, and a form that allows certain elections to be made in advance of filing a Bermuda CIT return.

As summarized in previous Bermuda government consultation papers, the Bermuda CIT rules incorporate key foundational definitions from the OECD global anti-base erosion (GloBE) model rules, to remain aligned as far as practicable with the GloBE rules.

For additional details, please refer to the Deloitte [tax@hand](#) article dated January 3, 2024.



France

2024 finance bill adopted by Parliament

On December 21, 2023, France’s 2024 finance bill was adopted by Parliament. The 2024 finance law includes the draft legislation for the implementation of Council directive (EU) 2022/2523 of December 14, 2022 on ensuring a global minimum level of taxation (15%) for MNE groups and large-scale domestic groups within the EU (“Pillar Two directive”). As expected, the legislation reflects the provisions of the Pillar Two directive with the additional guidance issued by the OECD, such as the transitional safe harbor rules. The scope of the rules is in line with the Pillar Two directive and the rules apply to companies located in France that are part of a multinational group whose consolidated turnover is EUR 750 million or more over at least two of the four preceding fiscal years. The 15% global minimum level of taxation is achieved in France through the introduction of IIR, UTPR, as well as QDMTT, the latter being an election left to the member states by the Pillar Two directive.

The IIR and QDMTT are applicable as from January 1, 2024, and the UTPR is applicable as from January 1, 2025.

For additional details, please refer to the Deloitte [tax@hand](#) article dated December 23, 2023.

Germany

Upper house of parliament approves legislation to implement EU Pillar Two directive

On December 15, 2023, the German upper house of parliament approved legislation on the domestic implementation of EU 2022/2523 on ensuring a global minimum level of taxation for MNE groups and large-scale domestic groups (the “Pillar Two directive”). The lower house of parliament approved the legislation on November 10, 2023. The law will enter into force for fiscal years that start after December 30, 2023. In addition to the domestic implementation

of the Pillar Two directive, the final law includes certain changes to the German GAAP rules due to such implementation. The law also includes a reduced threshold of 15% for the application of the royalty barrier rule and the controlled foreign company rules.

For additional details, please refer to the Deloitte [tax@hand](#) article dated December 15, 2023.

BFH rules tax consolidation requirement met even if controlling parent entity merged

In a decision dated July 11, 2023 (and published on November 23, 2023), Germany’s federal tax court (BFH) ruled in favor of the taxpayer that the “financial integration” requirement for purposes of the tax consolidation (Organschaft) rules, which requires that a controlled subsidiary is held by the controlling parent entity for the subsidiary’s entire fiscal year (FY), was met even though the controlling parent entity was merged into another entity during the subsidiary’s FY.

One of the requirements for a tax consolidated group for corporate income and trade tax purposes is that the controlling parent entity must hold a majority of the voting rights in the controlled subsidiary for the entire FY of the subsidiary (“financial integration”). In certain reorganizations involving the controlling parent entity of a tax consolidated group (e.g., a merger where the controlling parent entity is merged into another entity), it was debated whether such a restructuring during the FY of the controlled subsidiary could be seen as an impediment to meeting the financial integration requirement.

For additional details, please refer to the Deloitte [tax@hand](#) article dated November 30, 2023.

Lower tax court clarifies application of double deduction rule for partnerships

In a decision dated August 31, 2023 and published in the beginning of November 2023, Germany's lower tax court of Muenster ruled that there was no double deduction for purposes of the double deduction rule for partnerships where interest expense incurred by a Dutch resident BV partner was deductible at the level of the German limited liability partnership (KG) but no deduction was available for Dutch tax purposes at the level of the BV due to the Dutch tax consolidation regime.

The double deduction rule for partnerships was introduced into German tax law in 2016 as a result of the OECD BEPS initiative. The rule targets "double dip" structures where expenses (in particular, interest expenses) incurred at the level of a foreign partner in a German partnership are deducted for both German and foreign tax purposes at the same time (an exception to the rule exists to the extent "dual inclusion income" is available). Prior to the double deduction rule, if the foreign jurisdiction where the partner was resident also granted a tax deduction for such an expense, a "double dip" would arise. The double deduction rule for partnerships in section 4i of the Income Tax Code (ITC) is a rule separate from the general anti-hybrid rules in section 4k ITC, which have been in force since 2020 and are based on the EU anti-tax avoidance directive.

Based on the tax accounting rules for partnerships, expenses incurred at the partner level that are closely connected to a partner's interest in the partnership are treated as "special business expenses" and are deductible for tax purposes at the level of the partnership. This concept is, in particular, of relevance for interest expense related to a debt financed acquisition of an interest in a partnership by a partner.

For additional details, please refer to the Deloitte [tax@hand](#) article dated November 7, 2023.

Ireland

Finance (No. 2) Bill 2023 published

Ireland's Finance (No. 2) Bill 2023 ("the Bill"), which was published on October 19, 2023, and signed into law on December 18, 2023, provides the legislative basis for the tax measures announced by the finance minister in Budget 2024, as well as further details on many of the measures. It also contains tax measures and proposed amendments to the tax code that were not previously announced, including a proposal that the taxation of a gain realized on the exercise, assignment, or release of a right to acquire shares or other assets would be moved from self-assessment to the pay as you earn (PAYE) system, changes to the charitable tax exemption, and several administrative changes to the tax code.

In terms of global tax reform, the Bill provides for the transposition of the EU minimum tax directive, which would introduce the OECD Pillar Two rules into Irish tax law as from December 31, 2023. Also, somewhat expected, legislation providing for new tax measures applying to certain outbound payments of interest, royalties, and distributions are included in the Bill.

For additional details, please refer to the Deloitte [tax@hand](#) article dated October 23, 2023.

Italy

Government approves legislative decree implementing Pillar Two rules

On December 19, 2023, the Italian Council of Ministers approved the final version of the legislative decree providing—among other things—for the transposition in Italy of [EU 2022/2523](#), which aims to ensure a global minimum level of taxation for multinational groups and large-scale domestic groups in the EU ("EU Pillar Two directive"). The legislative decree was published in the Italian official gazette on 28 December 2023 and its provisions generally are effective as from 1 January 2024.

The final version of the legislative decree reflects very few amendments to the draft version issued for public consultation, and is generally in line with the EU Pillar Two directive.

For additional details, please refer to the Deloitte [tax@hand](#) article dated January 3, 2024.

Luxembourg

Pillar Two law: Positive vote in parliament marks a key milestone

On December 20, 2023, the Luxembourg parliament adopted the law implementing [EU 2022/2523](#) of December 14, 2022, which establishes a global minimum taxation level (15%) for MNE groups and large-scale domestic groups within the EU ("the Pillar Two law"). The law will be applicable for fiscal years commencing on or after December 31, 2023.

As highlighted by the Ministry of Finance immediately following the vote, the adoption of the Pillar Two law demonstrates Luxembourg's ongoing dedication to adhering to internationally- and European-agreed tax standards. It also reaffirms the government's commitment to enhancing the competitiveness of the Luxembourg economy and aligning corporate tax rates more closely with the OECD country average in the medium term.

The IIR and QDMTT will come into effect for fiscal years starting on or after December 31, 2023, whereas the UTPR should become effective for fiscal years commencing on or after December 31, 2024.

For additional details, please refer to the Deloitte [tax@hand](#) article dated December 21, 2023.

New Luxembourg-UK treaty: Key changes for financial investors

The new [Luxembourg-UK tax treaty and protocol](#) signed on June 7, 2022 entered into force on November 22, 2023 following the completion of both contracting states' ratification and notification processes. Article 29 of the treaty sets out the dates on which

the various core provisions of the treaty and protocol enter into effect including:

- In the UK:
 - Withholding taxes—as from January 1, 2024 (for income derived on or after January 1, 2024);
 - Corporation tax (including corporation tax on chargeable gains)—as from April 1, 2024; and
 - Income tax and capital gains tax—as from April 6, 2024.
- In Luxembourg:
 - Waives Withholding taxes—as from January 1, 2024 (for income derived on or after January 1, 2024); and
 - Waives Other taxes on income and capital—as from January 1, 2024.

For additional details, please refer to the Deloitte [tax@hand](#) article dated December 15, 2023.

Mexico

Tax incentives for taxpayers in zones affected by Hurricane Otis

The Mexican government issued a decree, effective as from October 31, 2023, providing tax incentives for taxpayers that have their fiscal domicile, agency, branch, or any other establishment located in a zone affected by Hurricane Otis (“affected taxpayers”).

The incentive allows an immediate 100% deduction for investments in new or used fixed assets in the municipalities of Guerrero state that are located in the zones indicated in the Natural Disaster Declaration to be issued by the competent authority. This benefit is available from October through December 2023 when reporting for the year in which these goods were acquired. The 100% rate applies to the original investment amount. However, the fixed assets must be exclusively and permanently utilized in these zones for replacement, reconstruction, or rehabilitation purposes, except when involving automobiles, automobile armoring equipment, or any other fixed asset that is not individually identifiable, together with aircraft other than those involved in crop dusting.

For additional details, please refer to the Deloitte [tax@hand](#) article dated December 1, 2023.

Decree provides tax incentives for key sectors of export industry

A decree published in Mexico’s official gazette on October 11, 2023 provides tax incentives to taxpayers in key sectors of the export industry and aims to encourage such taxpayers to relocate part of their productive activities to areas near the markets in which they operate, a strategy known as “nearshoring.” The incentives are also available to taxpayers in key sectors of the cinematographic and audiovisual industry, to promote “creative exports.” The incentives include an immediate deduction for a percentage of qualifying investments in new fixed assets, and an additional deduction for certain training expenses. The decree is effective as from October 12, 2023 and the immediate deduction is available for qualifying investments in new fixed assets acquired from October 12, 2023 through December 31, 2024.

For additional details, please refer to the Deloitte [tax@hand](#) article dated October 13, 2023.

Netherlands

Dutch Senate adopts most components of 2024 Tax Plan Package

On December 19, 2023, the Senate adopted most components of the 2024 Tax Plan Package and also passed a number of other tax bills. This tax legislation, which was published in the State Gazette on December 27, 2023, contains several measures relevant for multinational corporations including but not limited to:

- 2024 Tax Plan
 - Changes to Dutch tax qualification of open CVs, open mutual funds, and foreign incorporated entities (effective as of January 1, 2025)
 - Adjustments to the regimes for exempt investment institutions and fiscal investment institutions (effective as of January 1, 2025)
 - Measures to strengthen the approach to combat dividend stripping (effective as of January 1, 2024)

- Dutch Minimum Tax Act 2024 (‘DMTA’) implementing the OECD’s Pillar 2 Model Rules (effective as of December 31, 2023, with a one-year delay for the undertaxed profits rule)

For additional details, please refer to the Deloitte [tax article](#) dated December 22, 2023.



Memorandums of amendment to Dutch minimum tax act and Tax Plan 2024 issued

On October 13, 2023, the Dutch State Secretary of Finance issued two memorandums of amendment relating to current legislative proposals. The first memorandum regards the Dutch Minimum Tax Act 2024 ('DMTA'), which is the Dutch implementation of the OECD's Pillar 2 Model Rules. This memorandum of amendment to the DMTA mainly aims to align the DMTA to the Administrative Guidance issued by the OECD in February 2023 ('OECD February 2023 Administrative Guidance') and July 2023 ('OECD July 2023 Administrative Guidance'). The second memorandum of amendment regards the Tax Plan 2024 and comprises several adjustments to the Dutch tax regimes, some of which are linked to the Pillar 2 developments.

For additional details, please refer to the Deloitte [tax article](#) dated November 3, 2023.

Switzerland

Pillar Two to be implemented in a gradual approach

The Swiss Federal Council decided at its meeting on December 22, 2023, that Switzerland will introduce the global minimum tax ("Pillar Two") in a gradual approach. Specifically, as from January 1, 2024, Switzerland will levy a national top-up tax (QDMTT) on profits of Swiss corporations and permanent establishments of international groups. The international top-up tax (IIR and UTPR) on profits of foreign subsidiaries and permanent establishments of Swiss headquartered groups will be introduced at a later stage (potentially on January 1, 2025).

For additional details, please refer to the Deloitte [tax@hand](#) article dated December 23, 2023.

Deloitte Tax resource guides

- [Pillar Two considerations C-suite, M&A activity](#)

This resource guide provides a 5x5 resource guide identifying five insights that C-suite leaders need to know about the new Pillar Two rules and the five actions they can take now to prepare for their implementation. It also discusses what Pillar Two M&A considerations are top of mind, who the rules apply to, and what taxpayers can do today to address these rules and considerations.

- [Implications of Pillar Two for global stock-based compensation, state and local taxes](#)

This resource guide includes an overview of Pillar Two and explains some of the opportunities and challenges that the emerging rules present for in-scope companies that offer global stock-based compensation programs. It also provides a 5x5 resource guide identifying five insights taxpayers need to know about how Pillar Two interacts with state and local taxes and five actions taxpayers can take now to prepare for its implementation.

Accounting developments

FASB issues standard that enhances income tax disclosures

On December 14, 2023, the FASB has issued [Accounting Standards Update \(ASU\) No. 2023-09 \(Improvements to Income Tax Disclosures\)](#). Under the ASU, PBEs must annually "(1) disclose specific categories in the rate reconciliation and (2) provide additional information for reconciling items that meet a quantitative threshold (if the effect of those reconciling items is equal to or greater than 5 percent of the amount computed by multiplying pretax income [or loss] by the applicable statutory income tax rate)." The Board is releasing the ASU in response to stakeholder feedback indicating that "the existing income tax disclosures should be enhanced to provide information to better assess how an entity's operations and related tax risks and tax planning and operational opportunities affect its tax rate and prospects for future cash flows."



The ASU's amendments are effective for PBEs for annual periods beginning after December 15, 2024. For entities other than PBEs, the amendments are effective for annual periods beginning after December 15, 2025. Entities are permitted to early adopt the standard "for annual financial statements that have not yet been issued or made available for issuance."

For more information, see the FASB's [press release](#) and December 2023 News section of [Deloitte Accounting Research Tool](#) (DART).

Updated: Deloitte's Roadmap: Income Taxes

On December 9, 2023, we issued the 2023 edition of [Roadmap: Income Taxes](#). The 2023 edition provides Deloitte's insights into and interpretations of the income tax accounting guidance in Accounting Standards Codification (ASC) 740. In addition to including new and expanded discussions and examples, this incorporates the guidance in [Accounting Standards Update \(ASU\) 2019-12](#) (*Simplifying the Accounting for Income Taxes*), which is now effective for all entities.

Deloitte's [Roadmap series](#) is a comprehensive, easy-to-understand collection of accounting guides on selected topics of broad interest to the financial reporting community.

Up-C structure services

For Up-C structures, the Up-C Services group offers virtual webcasts from Deloitte specialists covering recent US federal income tax and ASC 740 developments relevant to these businesses organized as Up-Cs. Please visit us at [Up-C Structure Services](#) or contact Jill Wilde at jjwilde@deloitte.com (+1 904 665 1433) to be added to our virtual webcast distribution list.

Other

For upcoming webcasts that give you valuable insights on important developments affecting your business and feature practical knowledge from Deloitte specialists and offer CPE credits, please visit our [Dbriefs webcasts](#).

For other information regarding newly issued accounting standards, exposure drafts, and other key developments, refer to our [Quarterly Accounting Roundup](#).

Save the date: Deloitte Tax Accounting Conference – May 20–24, 2024 | Live @ Denver, Colorado. More details and registration coming soon!

Learn more

Additional resources you may find helpful

- [Accounting for Income Taxes—Quarterly hot topics archive](#)
- [TaxFirst Webcast](#)
- [Deloitte Tax Accounting & Provision Services Homepage](#)
- [Deloitte Tax Accounting & Provisions Dbriefs webcast series](#)
- [Deloitte Heads Up Newsletter archive](#)
- [Global Tax Developments Quarterly—Accounting for income taxes](#)
- [tax@hand](#)

As always, we are interested in your comments on our publications. Please take a moment to tell us what you think by sending us an [email](#).

Talk to us

If you have any questions or comments about the ASC 740 implications described above or other content of *Accounting for Income Taxes—Quarterly Hot Topics*, contact the Deloitte Washington National Tax Accounting for Income Taxes Group at: USNationalWNTActIncomeTaxesGrp@deloitte.com

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