



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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Updated regulations on corporate stock buyback excise tax released

The Inflation Reduction Act of 2022 ([P.L. 117-169](#)) included new [section 4501](#), which imposes an excise tax of 1% on repurchases of stock by certain publicly traded corporations beginning after December 31, 2022. On December 27, 2022, Department of Treasury (Treasury) and the Internal Revenue Service (IRS) released [Notice 2023-2](#), which announced that Treasury and the IRS intended to issue proposed Treasury regulations addressing the application of the excise tax, and to provide taxpayers with interim guidance until the publication of such proposed regulations.

On April 12, 2024, Treasury and the IRS published proposed Treasury regulations ([REG-118499-23](#)) that would provide rules on procedure and administration applicable to the reporting and payment of the excise tax ("proposed procedural regulations"). Proposed Treasury regulations ([REG-115710-22](#)) that would provide operating rules relating to the

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computation of the excise tax were also published on April 12 2024 (“proposed computational regulations”).

On June 28, 2024, Treasury and the IRS released final Treasury regulations ([T.D. 10002](#), the “final procedural regulations”) that provide guidance on how to report and pay the excise tax, and finalize, with certain modifications, the proposed procedural regulations. This Treasury decision did not finalize the proposed computational regulations.

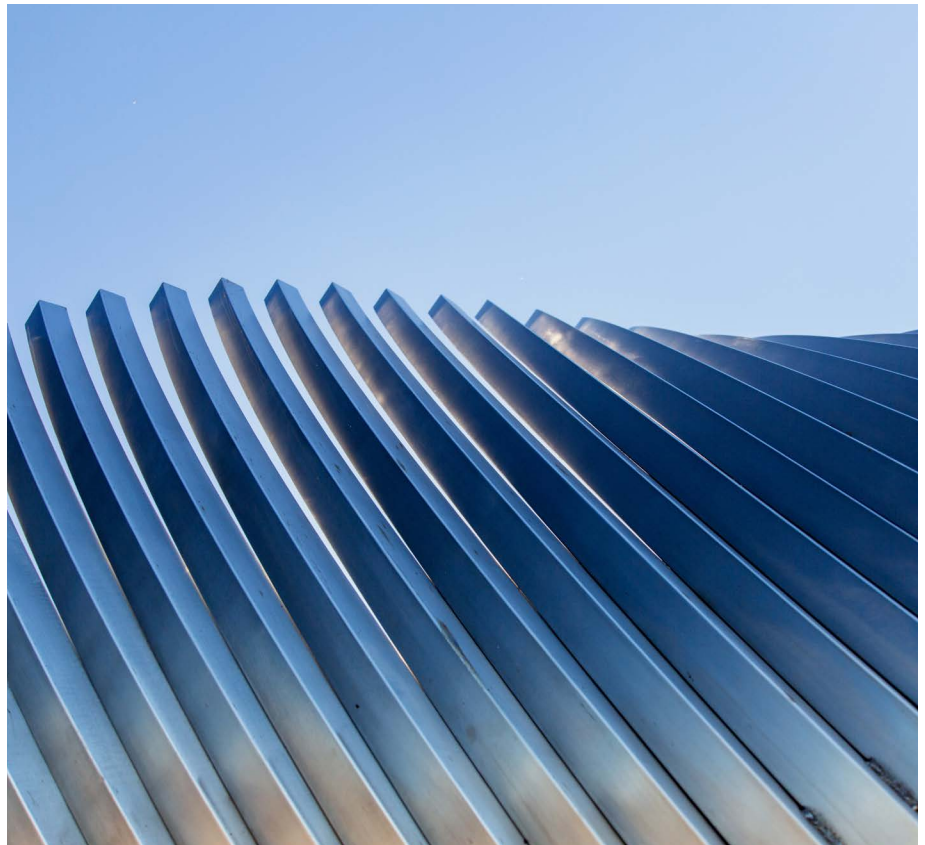
For additional details, please refer to the Deloitte [tax@hand article](#) dated July 2, 2024.

Supreme Court overrules *Chevron* deference to government agency regulations

On June 28, 2024, the Supreme Court issued its opinion in [Loper Bright Enterprises v. Raimondo](#), which overruled *Chevron* deference to government agency regulations. The Supreme Court held that the Administrative Procedure Act requires courts to exercise their independent judgment in deciding whether an agency has acted within its statutory authority, and courts may not defer to an agency’s interpretation of the law simply because a statute is ambiguous.

Supreme Court upholds section 965 transition tax

On June 20, 2024, the Supreme Court, in [Moore vs. United States](#), ruled that [section 965](#) transition tax is constitutional. Last year, taxpayers and practitioners were surprised when the Supreme Court agreed to hear a challenge to the section 965 transition tax on the grounds that it was an unconstitutional, unapportioned direct tax. The tax community wondered whether the Supreme Court would invalidate section 965 and, if so, if its ruling would implicate other areas of tax law (for example, partnership taxation) or other international tax regimes (for example, the subpart F and global intangible low-taxed income regimes).



Treasury and IRS release new guidance on partnership related-party transactions

On June 17, 2024, Treasury and the IRS issued a Notice of Proposed Rulemaking ([REG-124593-23](#)), a Revenue Ruling ([Rev. Rul. 2024-14](#)), and a Notice ([Notice 2024-54](#)) announcing an intent to publish proposed regulations, all addressing certain basis-shifting transactions involving partnerships and related parties. In [Fact Sheet 2024-21](#), the IRS described the guidance as focusing on “the inappropriate use of partnership rules to inflate the basis of the underlying assets without causing any meaningful change to the economics of their business.” See also the [IRS press release](#).

Notice extends relief for underpayment of estimated income tax attributable to CAMT

On June 13, 2024, the IRS issued [Notice 2024-47](#) extending the limited waiver of addition to tax for any underpayment of estimated tax attributable to a

corporation’s corporate alternative minimum tax (CAMT) that is due on or before August 15, 2024 with respect to a taxable year that began in 2024.

For additional details, please refer to the Deloitte [tax@hand](#) article dated June 14, 2024.

Treasury, IRS provide new safe harbor for domestic content bonus credit requirements

On May 16, 2024, Treasury and the IRS released [Notice 2024-41](#) (a corrected version on May 24, 2024), which modifies section 3.03(2)(b) and (c) and section 3.04 of [Notice 2023-38](#) relating to a safe harbor classification of certain components in representative types of qualified facilities, energy projects, or energy storage technologies for purposes of qualifying for the domestic content bonus credit amounts under [sections 45, 45Y, 48, and 48E](#).

For additional details, please refer to the Deloitte [tax@hand article](#) dated June 7, 2024 and [Tax Alert](#) dated June 6, 2024.



IRS issues updated list of automatic changes

On April 30, 2024, the IRS released [Revenue Procedure \(Rev. Proc.\) 2024-23](#), which modifies and supersedes [Rev. Proc. 2023-24](#), and provides an updated list of changes to which the automatic change procedures in [Rev. Proc. 2015-13](#) apply.

Rev. Proc. 2024-23 is generally effective for a [Form 3115, Application for Change in Accounting Method](#), filed on or after April 30, 2024 for a tax year of change ending on or after September 30, 2023. Rev. Proc. 2024-23 provides transition rules for a Form 3115 filed with the IRS before April 30, 2024 that may require action before May 30, 2024.

For additional details, please refer to the Deloitte [tax@hand article](#) dated May 11, 2024.

Transferability of credits: Final regulations published

[Section 6418](#) provides that “eligible taxpayers” may elect to transfer (i.e., sell) certain credits to unrelated taxpayers rather than use the credits against their federal income tax liabilities. On April 30, 2024, Treasury and the IRS published in the Federal Register final regulations under section 6418 ([T.D. 9993](#)). The final regulations finalize, with limited modifications, regulations proposed under section 6418 ([REG-101610-23](#)) and remove the temporary regulations ([T.D. 9975](#)) setting forth mandatory information and registration requirements for transfer elections that were released on June 14, 2023.

The final regulations are effective on July 1, 2024. Specifically, the final regulations would apply to taxable years ending on or after April 30, 2024, and except for [Treas. Reg. § 1.6418-4](#) (rules regarding pre-filing registrations and elections), taxpayers may choose to apply the final regulations to taxable years ending before April 30, 2024, provided the taxpayers apply the rules in their entirety and consistently.

For additional details, please refer to the Deloitte [tax@hand article](#) dated May 1, 2024.

Final FIRPTA regulations on domestically controlled QIEs released

On April 24, 2024, Treasury released final regulations ([T.D. 9992](#)) under [section 897](#) (the Foreign Investment in Real Property Tax Act (FIRPTA)) addressing whether a qualified investment entity (a QIE, which is defined as a real estate investment trust (REIT) and certain regulated investment companies (RICs)) is “domestically controlled” under [section 897\(h\)\(4\)](#), and related final regulations under [section 1445](#). The final regulations adopt the 2022 proposed regulations ([REG-100442-22](#)) with limited modifications, but add additional rules. The final regulations generally are effective as from April 25, 2024 (the date of their publication in the Federal Register).

For additional details, please refer to the Deloitte [tax@hand article](#) dated April 27, 2024.

IRS releases 2023 Advance Pricing and Mutual Agreement report

On March 29, 2024, the IRS released [Announcement 2024-16](#), the Advance Pricing and Mutual Agreement (APMA) annual report dated March 26, 2024, covering the activities of the APMA program during calendar year 2023. The annual report provides a summary of recent advance pricing agreement (APA) developments in the APMA program and a statistical snapshot of the program’s APA activities during 2023.

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

US multistate

Alabama:

Parent, intermediate holding company, and lower-tier bank cannot file consolidated FIET returns

The Alabama Tax Tribunal held that three affiliates (a parent financial institution, its wholly owned holding company subsidiary, and the holding company's wholly owned bank) failed to meet the Alabama statutory requirements in place at the relevant times for the prior tax years at issue to file Alabama consolidated financial institution excise tax (FIET) returns.

For additional details, please refer to the May 17, 2024 edition of [State Tax Matters](#).

Arkansas:

New law provides another corporate income tax rate reduction by lowering top rate to 4.3%

Recently signed legislation lowers the top state corporate income tax rate (on net income exceeding \$11,000) for both domestic and foreign corporations from 4.8% to 4.3%.

For additional details, please refer to the June 28, 2024 edition of [State Tax Matters](#).

Utilization of credits treated similarly to NOLs on state returns filed after federal adjustments

The Arkansas Tax Appeals Commission ruled in favor of a taxpayer, holding that its state corporate income tax liability for certain open years at issue must be redetermined in a manner similar to Arkansas' net operating loss (NOL) utilization rules by using corrected credits utilization information after considering the downstream effects of underlying federal tax adjustments from closed years.

For additional details, please refer to the June 28, 2024 edition of [State Tax Matters](#).

California:

California new law suspends NOLs, limits some credits, clarifies apportionment, creates refundable credits

S.B. 167, signed into law on June 27, 2024, provides for a three-year suspension of NOLs, a three-year cap on the use of business incentive tax credits, and retroactive application of the Franchise Tax Board's Legal Ruling 2006-1 with respect to the treatment of apportionment factors attributable to income exempt from California Corporation Tax Law. Companion S.B. 175, signed into law on June 29, 2024, allows taxpayers to claim refunds for a range of state income tax credits, including the research and development credit, for the first time.

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

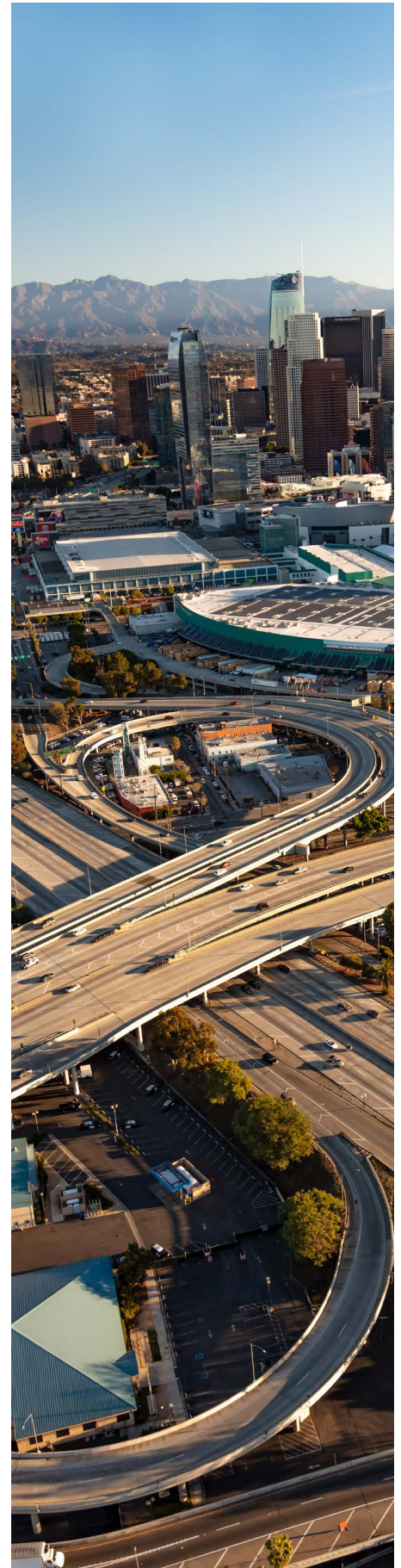
IRS closing agreement deemed a final federal determination that reorganization was not tax-free

In a case involving a corporate acquisition in 1999 that under Texas law qualified as a tax-free statutory merger, a recently posted California Office of Tax Appeals ruling held that the taxpayer's 2007 closing agreement with the IRS constituted a final federal determination that the transaction was a taxable sale resulting in added corresponding California corporate income tax liability.

For additional details, please refer to the June 7, 2024 edition of [State Tax Matters](#).

Receipts from sale of subsidiary assets must be excluded from sales factor as substantial and occasional sale

A recently posted California Office of Tax Appeals ruling held that a corporate taxpayer's gross receipts from the sale of assets (largely comprised of goodwill) of its subsidiaries to an unrelated third-party must be excluded from its California sales factor denominator pursuant to California



Code of Regulations, title 18, section 25137(c)(1)(A) as receipts arising from a substantial and occasional sale.

For additional details, please refer to the May 10, 2024 edition of [State Tax Matters](#).

California Office of Tax Appeals opines that deducted foreign dividends includible in sales factor

The California Office of Tax Appeals issued its opinion in which it concluded that gross foreign dividend amounts attributable to foreign earnings and profits were includible in the California sales factor.

For a summary of the decision and some taxpayer considerations, please refer to the [Tax Alert](#) dated May 6, 2024.

California Office of Tax Appeals holds that gain from sale of LLC interest is business income

In a case involving an S corporation's gain on the sale of its interest in a limited liability company, the California Office of Tax Appeals held that because the two entities



operated as distributors of similar products and had engaged in a unitary business under the facts, the gain constituted business income subject to apportionment for California income tax purposes under the functional test.

For additional details, please refer to the April 12, 2024 edition of [State Tax Matters](#).

Colorado:

New law temporarily lowers income tax rate from 4.40% to 4.25% for 2024 tax year

Pursuant to preexisting Colorado law that refunds to Colorado taxpayers certain excess state revenues when specified conditions are met, new law amends some of these mechanisms and provides that to refund excess state revenues from fiscal year 2023-24, Colorado's income tax rate is temporarily reduced from 4.40% to 4.25% for the 2024 tax year.

For additional details, please refer to the May 24, 2024 edition of [State Tax Matters](#).

New law modifies requirements for corporations to file combined tax returns

New law revises Colorado's requirements for corporate affiliates to file a Colorado combined tax return to more closely follow the unitary group standards set forth by the Multistate Tax Commission.

For additional details, please refer to the May 17, 2024 edition of [State Tax Matters](#).

Connecticut:

New law extends NOL carryforward period and creates deduction for shift to combined reporting

New law extends the state corporation business tax NOL carryforward period from 20 to 30 income years and permits certain combined groups to deduct, over a 30-year period, the amount necessary to offset the increase in the GAAP valuation allowance against NOLs and tax

credits in Connecticut that resulted from Connecticut's shift to combined reporting.

For additional details, please refer to the June 14, 2024 edition of [State Tax Matters](#).

Florida:

New law generally updates state conformity to IRC

Recently signed legislation generally updates corporate income tax statutory references in Florida to conform to the Internal Revenue Code (IRC) provisions as in effect on January 1, 2024.

For additional details, please refer to the May 10, 2024 edition of [State Tax Matters](#).

Georgia:

New law updates state conformity to IRC

Applicable for taxable years beginning on or after January 1, 2023, new law generally updates Georgia's corporate and individual income tax conformity to the IRC of 1986 provided for in federal law enacted on or before January 1, 2024.

For additional details, please refer to the April 26, 2024 edition of [State Tax Matters](#).

New law lowers corporate income tax rate to match individual income tax rate reductions

New law provides that Georgia's corporate income tax rate shall be the same tax rate as its individual income tax, rather than 5.75%. Moreover, building upon scheduled individual income tax rate reductions enacted in 2022, another signed bill accelerates Georgia's individual income tax rate reductions – providing that the individual income tax rate for tax year 2024 will be 5.39%, rather than 5.49%.

For additional details, please refer to the April 19, 2024 edition of [State Tax Matters](#).

Hawaii:

New law updates state conformity to IRC

New law updates statutory references to the IRC, providing that references to the IRC in Hawaii income tax laws generally refer to the federal law in effect as amended as of December 31, 2023.

For additional details, please refer to the June 28, 2024 edition of [State Tax Matters](#).

Idaho:

New law lowers corporate and personal income tax rates from 5.8% to 5.695%

New law lowers Idaho's corporate income tax rate from 5.8% to 5.695%, and similarly lowers Idaho's flat individual income tax rate from 5.8% to 5.695%, following the income tax rate reductions that were enacted in 2023.

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

Illinois:

Illinois fiscal year 2025 state budget tax highlights: New law limits NOL deduction to \$500K, revises financial institution apportionment, and increases franchise tax credit

Public Act 103-0592 was signed into law including tax-related provisions such as a three-year extension on the limitation of C corporation net loss deduction with an increased cap of \$500,000, an increase of the franchise tax credit to \$10,000, changes to the financial organization apportionment rules, updates to Sports Wagering Tax rate, and other changes.

For a summary of the relevant provisions of the law, see [Tax Alert](#) dated June 17, 2024.

Indiana:

DOR memo says amended return filed after IRS Advance Pricing Agreement is timely

An Indiana Department of Revenue (DOR) memorandum of decision concludes that a taxpayer successfully showed that it timely filed Indiana corporate income tax refund claims because its amended Indiana returns for the prior tax years at issue were filed within 180 days after its Advance Pricing Agreement with the IRS was finalized.

For additional details, please refer to the May 24, 2024 edition of [State Tax Matters](#).

Iowa:

New law allows banks to elect inclusion of investment subsidiaries on franchise tax return

New law permits a financial institution with an investment subsidiary to elect to include the income and expenses of the investment subsidiary on its Iowa franchise tax return.

For additional details, please refer to the May 3, 2024 edition of [State Tax Matters](#).

Kansas:

New law lowers tax rates for some banks and financial institutions

Newly signed legislation contains several tax-related measures, including provisions that lower Kansas' privilege tax rates for financial institutions for tax years 2024 and thereafter by providing that the normal tax rate for banks is reduced from 2.25% to 1.94%, and the normal tax rate for trust companies and savings and loan associations is reduced from 2.25% to 1.93%.

For additional details, please refer to the June 28, 2024 edition of [State Tax Matters](#).

New law modifies adjustments related to section 163(j) and NOLs and revises PTET

Newly signed legislation contains several tax-related measures, including provisions that clarify some Kansas adjustments for disallowed business interest expense under [section 163\(j\)](#) and create a subtraction modification for certain NOLs.

For additional details, please refer to the May 3, 2024 edition of [State Tax Matters](#).

Kentucky: New law updates state conformity to IRC and delays combined reporting deferred tax liability deduction

New law updates Kentucky statutory corporate and personal income tax references to the IRC for tax years beginning on or after January 1, 2024, to the IRC as in effect on December 31, 2023, as well as delays the start date of Kentucky's deferred tax liability deduction enacted to offset the effects of combined reporting changes for financial statement reporting purposes.

For additional details, please refer to the April 19, 2024 edition of [State Tax Matters](#).

Massachusetts: A new release summarizes single sales factor apportionment for corporations and financial institutions

A newly posted technical information release explains certain state tax law changes, such as the move to single sales factor apportionment for all business corporations and financial institutions, and revised financial institution apportionment of investment and trading income.

For additional details, please refer to the June 7, 2024 edition of [State Tax Matters](#).

Maine: New law updates state conformity to IRC

Applicable to tax years beginning on or after January 1, 2023, new law generally conforms state corporate and personal income tax references to the IRC as in effect as of December 31, 2023.

For additional details, please refer to the April 19, 2024 edition of [State Tax Matters](#).

Michigan:

Michigan appellate court reverses lower court to hold that insurance affiliate must file as part of combined return

Holding for the taxpayers, the Michigan Court of Appeals reversed an earlier ruling and held that because it was undisputed that an insurance company and its affiliates comprised a unitary business group under Michigan income tax code provisions, they must file a collective unitary return, including for purposes of calculating the insurance company's Michigan insurance taxes and credits at issue.

For additional details, please refer to the June 28, 2024 edition of [State Tax Matters](#).

Taxpayer holding investments in REMICS cannot claim business loss carryforwards

The Michigan Court of Appeals affirmed that a taxpayer holding investments in real estate mortgage investment conduits (REMICS) could not exclude excess inclusion income from federal taxable income that is the starting point for computing its tax base under Michigan's corporate income tax, and thus it could not carry forward over \$20 million in losses from prior years on its 2018 Michigan return.

For additional details, please refer to the May 24, 2024 edition of [State Tax Matters](#).

Department of Treasury comments on case involving statute of limitations on late unitary filing

A newsletter published by the Tax Policy Division of the Michigan Department of

Treasury comments on the Michigan Court of Appeals 2023 decision affirming 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.

For additional details, please refer to the May 17, 2024 edition of [State Tax Matters](#).

Minnesota:

Multinational company must use alternative apportionment to account for foreign currency hedging

In a case involving a multinational company that managed its foreign currency exchange exposure by buying and selling forward exchange contracts, use of the Minnesota DOR's alternative

apportionment method was deemed appropriate for the state corporate franchise tax years at issue.

For additional details, please refer to the June 28, 2024 edition of [State Tax Matters](#).

New law postpones application of 70% NOL limitation by one year; 80% NOL limitation applies for 2023 tax year

New law retroactively revises provisions from legislation enacted in 2023 (i.e., those that limit the amount of Minnesota's corporate income/franchise tax net operating loss deduction to 70% of taxable net income) by applying them for taxable years beginning after December 31, 2023, rather than after December 31, 2022.

For additional details, please refer to the April 12, 2024 edition of [State Tax Matters](#).



Amended return may be warranted after law change to claim additional NOL deduction

Pursuant to new law that postpones Minnesota's application of a 70% NOL limitation by one year so that the NOL limitation remains at 80% for the 2023 tax year, the Minnesota DOR explains that those that filed a 2023 Minnesota corporate franchise tax return before this law change may need to file an amended return to claim the additional NOL deduction.

For additional details, please refer to the May 3, 2024 edition of [State Tax Matters](#).

Montana:

DOR adopts rule changes reflecting elimination of tax haven jurisdictions list

The Montana DOR adopted rule changes reflecting state corporate income tax legislation enacted in 2023 which removed tax haven corporations from the water's-edge group of affiliated corporations.

For additional details, please refer to the June 28, 2024 edition of [State Tax Matters](#).

Nebraska:

New law enhances deductions for qualified property and R&D and addresses mobile workforce

Newly signed legislation contains several tax measures such as enhanced deductions for some costs of qualifying business assets and research and development (R&D) expenditures in response to now-expired provisions under the federal Tax Cuts and Jobs Act; income tax liability and withholding requirements for some nonresident individuals; and "convenience of the employer" rule revisions.

For additional details, please refer to the May 3, 2024 edition of [State Tax Matters](#).

New Hampshire:

Adopted rules reflect section 163(j) decoupling and market-sourcing apportionment for financial institutions

The New Hampshire Department of Revenue Administration adopted business profits tax administrative rules reflecting state law that now decouples from the limitations on the deduction of business interest expense under [section 163\(j\)](#), as well as state adoption of a market-based sourcing apportionment methodology for financial institutions.

For additional details, please refer to the May 3, 2024 edition of [State Tax Matters](#).

New Jersey:

New law imposes 2.5% "corporate transit fee" surtax on some corporation business taxpayers

New law imposes a 2.5% surtax (the "corporate transit fee") on some New Jersey corporation business tax (CBT) taxpayers that have New Jersey allocated taxable net income in excess of \$10 million. This new surtax is imposed in addition to a taxpayer's CBT liability and no credits are allowed against it.

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

New Jersey Tax Court allows taxpayer to use market-based sourcing for pre-2019 CBT years

In a case involving a New Jersey-based company's sourcing of service receipts for state CBT purposes for the 2011 and 2012 tax years at issue, the New Jersey Tax Court held that the company's use of market-based sourcing was more appropriate than the then standard "costs of performance" method because it was "more reflective of the economic realities of its business."

For additional details, please refer to the April 19, 2024 edition of [State Tax Matters](#).

New Jersey Division of Taxation explains adoption of federal partnership tax audit regime

The New Jersey Division of Taxation released guidance on legislation enacted in 2022 addressing how and when some partnerships must report federal tax adjustments to the Division in response to the federal partnership audit regime under the 2015 Bipartisan Budget Act, which is applicable to any adjustments to a taxpayer's federal taxable income on or after January 1, 2020.

For additional details, please refer to the April 12, 2024 edition of [State Tax Matters](#).

New Mexico:

Court says foreign subs not engaged in US trade or business must be excluded from unitary group

In a "matter of first impression" involving a multinational company and whether its foreign subsidiaries may be deemed a unitary corporation, the New Mexico Court of Appeals held that the statutory definition excludes foreign subsidiaries not engaged in trade or business in the United States as a matter of law, and thus New Mexico could not impose its corporate income tax on underlying foreign dividend income at issue.

For additional details, please refer to the June 21, 2024 edition of [State Tax Matters](#).

New Mexico Taxation and Revenue Department summarizes new law on flat corporate income tax rate and Subpart F income

The New Mexico Taxation and Revenue Department issued a summary of some recently enacted tax legislation, including omnibus tax legislation in New Mexico that provides for a flat 5.9% corporate income

tax rate, expands the state corporate income tax base to include Subpart F income, and narrows an existing 80/20 company water's edge filing group exclusion.

For additional details, please refer to the April 12, 2024 edition of [State Tax Matters](#).

New York:

New York High Court affirms inclusion of royalty payments from foreign affiliates in tax base

The New York Court of Appeals affirmed that while certain payments received by two separate taxpayers from their respective foreign affiliates constituted royalties, such royalty payments could not be excluded under a former statutory royalty exclusion in effect for the prior tax years at issue in computing their respective Article 9-A corporation franchise tax combined return entire net income.

For additional details, please refer to the April 26, 2024 edition of [State Tax Matters](#).

Enacted budget does not increase corporate income tax rate but does contain various tax provisions

New York Governor Kathy Hochul signed legislation as part of New York's 2024-2025 Budget Act, which does not contain the corporate and personal income tax rate increases that had been proposed by the New York Legislature but does incorporate other tax-related provisions – including some impacting certain “high income” individual income tax filers, as well as tax shelter reporting.

For additional details, please refer to the April 26, 2024 edition of [State Tax Matters](#).

Trade Association challenges validity of New Article 9-A Rule on P.L. 86-272 and internet activity

A trade association has filed a suit seeking declaratory judgment that the New York State Department of Taxation and Finance's recently adopted Article 9-A Business Corporation Franchise Tax Regulation



regarding P.L. 86-272 as applied to activities engaged in via the Internet directly conflicts with the controlling federal statute, and so is invalid.

For additional details, please refer to the April 12, 2024 edition of [State Tax Matters](#).

Ohio:

A new release addresses NOL deductions available under municipal net profit tax for TYS 2023 and onward

A new Ohio Department of Taxation release addresses changes to the NOL deductions available under Ohio's municipal net profit tax explaining that NOL carryforward deductions available to taxpayers are no longer subject to the 50% limitation that applied during the five-year phase-in period from taxable years 2018 through 2022

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

Oregon:

State high court affirms that company's in-state activities exceed P.L. 86-272 Protections

In a case involving whether a manufacturer's in-state activities conducted via independent contractors were protected under P.L. 86-272 for

Oregon corporate excise tax purposes, the Oregon Supreme Court affirmed that the pursuit of prebook orders by its in-state representatives went beyond the scope of solicitation of orders under P.L. 86-272 and its in-state activities were not de minimis.

For additional details, please refer to the June 28, 2024 edition of [State Tax Matters](#).

Taxpayer must use special industry apportionment for some affiliates and standard method for others

In a case involving several hundred affiliates with some qualifying as interstate broadcasters that collectively filed a consolidated Oregon corporate excise tax return for the prior tax years at issue, the Oregon Tax Court held that the determination whether to apply Oregon's special industry apportionment methodology for broadcasters must be made separately for each affiliate rather than for the taxpayer as a group.

For additional details, please refer to the May 17, 2024 edition of [State Tax Matters](#).

New law updates state conformity to IRC for specific provisions

While Oregon generally conforms to the IRC on a rolling basis, Oregon tax law contains several references to the IRC as amended and in effect on a specific date and newly

enacted legislation updates several of these references to the IRC as in effect on December 31, 2023.

For additional details, please refer to the April 12, 2024 edition of [State Tax Matters](#).

City of Portland revenue division posts voluntary disclosure information on Portland Metro Area's business income taxes

Administration Policy for the City of Portland, Oregon issued updated voluntary compliance guidance on the City of Portland Business License Tax, Multnomah County Business Income Tax, and Metro SHS Business Income Tax explaining that a limitation on the number of prior year tax payments with a new, unsolicited return is appropriate to assist businesses with tax compliance.

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

Rhode Island:

New bank tax law permits single sales factor election, includes intercompany expense addback, and requires combined reporting information report

New bank excise tax law permits some banks to elect single sales factor apportionment; imposes intercompany expense addbacks for certain banks making this election that would otherwise be included in a unitary business with non-banks; and authorizes a combined reporting study requiring some banks to file an information report with their returns or else face added special penalties.

For additional details, please refer to the June 28, 2024 edition of [State Tax Matters](#).

New law extends NOL carryforward period from 5 to 20 years and limits PTE tax credit

Recently signed legislation provides that the state corporate income tax net operating loss deduction may be carried

forward for 20 years rather than 5 and revises provisions related to Rhode Island's pass-through entity (PTE) tax by limiting the state tax credit passed through to owners for the amount of state income tax paid by the PTE.

For additional details, please refer to the June 21, 2024 edition of [State Tax Matters](#).

South Carolina:

South Carolina ALJ says bank's various income streams must be sourced based on borrower location and gain from stock sale is apportionable

An administrative law judge (ALJ) with the South Carolina Administrative Law Court concluded that applicable state law required a bank taxpayer to source certain loan interest, credit card interest and fees, and credit card interchange fees to South Carolina based upon the location of the bank's South Carolina borrowers; and treat the gain on its sale of certain credit card company stock as apportionable income.

For additional details, please refer to the June 28, 2024 edition of [State Tax Matters](#).

Credit card network's income producing activity is facilitating payments between merchants and customers

In a case involving an out-of-state credit card payment processor, an administrative law judge held that the company's income producing activity is from the provision of a credit card network that facilitates cashless payments for goods and services between merchants and customers, some of which occurred in South Carolina based on what could be perceived to be of the actions of its customer's customer.

For additional details, please refer to the June 7, 2024 edition of [State Tax Matters](#).

New law updates state conformity to IRC

New law updates South Carolina corporate and personal income tax statutory references to the IRC, referring to the federal law in effect as amended through

December 31, 2023, and includes the effective date provisions contained in it.

For additional details, please refer to the May 24, 2024 edition of [State Tax Matters](#).

Tennessee:

Updated manual reflects repealed alternative property base and related refund guidance

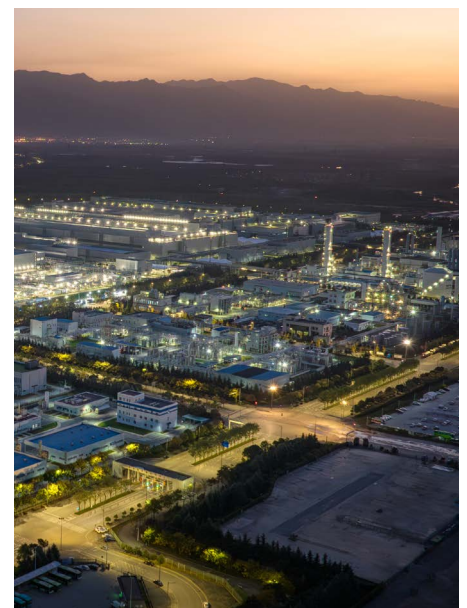
An updated Tennessee Department of Revenue franchise and excise tax manual reflects new law that eliminates the Tennessee franchise tax alternative property base, as well as clarifies the Department's position on the recovery of depreciation expenses forgone due to the taxpayer taking a related federal income tax credit.

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

Virginia:

Noncodified provisions related to intangible expense "addback" statutes remain in effect

Similar to provisions included in state budget acts from previous years, Virginia's recently enacted budget bills include non-codified provisions that



limit the subject to tax and unrelated party safe harbor statutory exceptions to Virginia's intercompany intangible expense addback statute.

For additional details, please refer to the May 17, 2024 edition of [State Tax Matters](#).

Wisconsin:

Parent fails to show intercompany royalties had business purpose and economic substance

In a Wisconsin corporate franchise tax case involving a parent company and its created wholly owned intellectual property (IP) subsidiary that licensed transferred IP back to the parent in exchange for royalties, a county circuit court apparently affirmed that the parent failed to show it had a valid nontax business purpose for entering into the licensing transactions and that they had economic substance.

For additional details, please refer to the May 10, 2024 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

Resource guide on the OECD's Pillar One Amount B report

On June 17, 2024, the OECD released two documents that fulfill the commitment made by the [OECD/G20 Inclusive Framework on BEPS](#) in the report released in February 2024 on Pillar One Amount B (the Amount B report) to identify certain "qualifying" and "covered" jurisdictions. The Amount B report provides a simplified and streamlined approach for determining arm's length prices for baseline marketing and distribution activities that will be incorporated as an annex to chapter IV of the OECD transfer pricing guidelines.

A new ["5 x 5" resource guide](#) from Deloitte US identifies five insights taxpayers should know about the OECD's Amount B report and five actions taxpayers should take as they assess the impact of Amount B and consider any enhancements and improvements to transfer pricing policies, systems, and value chains during 2024.

For additional details, please refer to the Deloitte [tax@hand article](#) dated June 22, 2024.

New OECD administrative guidance clarifies application of Pillar Two minimum tax

On June 17, 2024, the OECD/G20 Inclusive Framework on BEPS published further administrative [guidance](#) on the implementation of the Pillar Two global

minimum tax rules ("Pillar Two"), together with details of the processes for determining that jurisdictions' local implementations of the Pillar Two rules are "qualified."

The Pillar Two global minimum tax rules have been agreed by more than 140 members of the OECD inclusive framework. Jurisdictions are in the process of implementing rules in domestic legislation, which will begin to apply from January 2024.

For additional details, please refer to the Deloitte [tax@hand article](#) dated June 18, 2024.

Russia – United States

On June 17, 2024, Treasury announced ([Announcement 2024-26](#)) that the US has provided formal notice to Russia confirming the suspension of the application of various provisions of the treaty, including those related to dividends, interest, and royalties, as from August 16, 2024. See [Tax treaty round up \(June 2024\)](#).

Australia

ATO releases final guidance on aspects of hybrid mismatch rules

On July 3, 2024, the Australian Taxation Office (ATO) released final tax determination (TD) [TD 2024/4](#) relating to the hybrid mismatch rules and the meaning of "liable entity" and "hybrid payer" in division 832. This follows the [draft TD](#) released for consultation in March with the final view remaining substantively the same. This TD signals the Commissioner's ongoing scrutiny of global hybrid arrangements and the considerations that are particularly relevant to US parented multinationals.

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

Barbados

Tax reform enacted, including Pillar Two legislation

Following the ministerial statement delivered by the Barbados prime minister

Global Pillar Two Legislative Update Tracker

To see how Deloitte can provide you with support on Pillar Two and to receive updates on legislation being introduced to implement Pillar Two, please sign up for Deloitte's Global Pillar Two Legislative Tracker today!

on November 7, 2023 regarding legislation to implement the global anti-base erosion (GloBE) or “Pillar Two” global minimum tax model rules published by the [OECD/ G20 Inclusive Framework on BEPS](#) (and associated legislation), the relevant legislation (the Income Tax (Amendment and Validation) Act, 2024 and the Corporation Top-Up Tax Act, 2024) was approved by both the House of Assembly and the Senate. The legislation received assent from the president on May 21, 2024 and was [published](#) in the official gazette on May 24, 2024. The significant corporate income tax measures in the enacted legislation include a new domestic corporate income tax rate of 9%; the introduction of a tax that is intended to be a qualified domestic minimum top-up tax (QDMTT) with a 15% rate, applicable to in-scope multinational enterprise (MNE) groups (certain MNE groups with annual global consolidated revenue of EUR 750 million or more); changes to the rules for advance payments (“prepayments”) of corporate income tax and the rules relating to tax losses and group relief; and certain other measures.

For additional details, please refer to the Deloitte [tax@hand article](#) dated May 31, 2024.

Belgium

Mandatory Pillar Two notification deadline extended for MNE and large domestic groups

On July 2, 2024, the Belgian tax authorities issued an alert regarding the mandatory registration requirement for multinational enterprise (MNE) and large domestic groups that fall within the scope of the Belgian “Pillar Two” rules, noting that the Pillar Two registration deadline (which requires the filing of a notification form) has been extended to September 16, 2024 (inclusive) for those groups that do not need to make Pillar Two tax prepayments during 2024.

For additional details, please refer to the Deloitte [tax@hand articles](#) dated [July 4, 2024](#) and [May 30, 2024](#).

Parliament adopts new Pillar Two law

On May 2, 2024, the Belgian parliament adopted a new Pillar Two law that incorporates specific provisions contained in the administrative guidance issued by the OECD/G20 Inclusive Framework on BEPS (“OECD inclusive framework”) during 2023 and corrects certain legislative errors identified in the original Pillar Two law dated December 19, 2023.

In addition, the law introduces modifications to the Belgian innovation income deduction (IID) intended to preserve the effectiveness of the IID for groups that are subject to the Pillar Two legislation in Belgium. Without any modifications, the benefit of the IID would have been partially lost, since a top-up tax would have been payable by groups with a GloBE tax rate in Belgium lower than 15% as a result of the IID.

The new law will come into force as from the same dates as the original law of 19 December 2023: the QDMTT and income inclusion rule (IIR) will come into effect on December 31, 2023 (i.e., as from January 1, 2024 for calendar year taxpayers), and the undertaxed profits rule (UTPR) will come into effect on December 31, 2024 (i.e., as from January 1, 2025 for calendar year taxpayers).

For additional details, please refer to the Deloitte [tax@hand article](#) dated May 6, 2024.

Tax authorities issue first clarification of new CFC rules

The Belgian rules on controlled foreign companies (CFCs) were amended by the Program Law of December 21, 2023. The new rules raise a number of questions and in the instructions for completion of the corporate income return for tax year 2024, the tax authorities have provided some important initial clarification regarding the definition of CFC and the application of the participation requirement. Further clarification is expected, but as the rules are effective as from tax year 2024 (i.e., for financial years ending on or after December 31, 2023) taxpayers will have to

take a position in the near future regarding the application of the regime when preparing their financial statements and corporate income tax return.

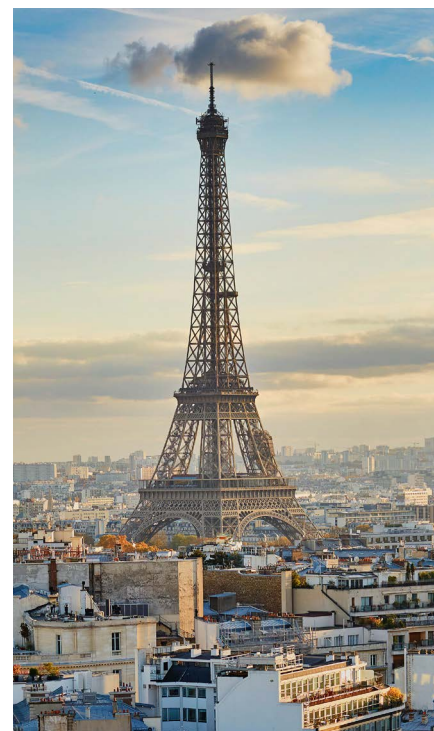
For additional details, please refer to the Deloitte [tax@hand article](#) dated May 3, 2024.

France

Administrative Supreme Court rules final foreign branch losses may not be deducted

On April 21, 2024, the French Administrative Supreme Court ruled that the taxable result of a French group could not take into account the final losses of the group’s Luxembourg branch (Conseil d’Etat, n° 466062).

A French company belonging to a tax consolidated group requested that the final losses incurred by its Luxembourg branch be included in its taxable result for 2015, the year the branch was liquidated. This claim was based on the [2005 Marks & Spencer decision](#) by the Court of Justice of the European Union (CJEU, December 13, 2005, 446/03), extended to permanent establishments (PEs) in the [2008 Lidl Belgium decision](#) (CJEU, May 15, 2008, 414/06).



For additional details, please refer to the Deloitte [tax@hand article](#) dated May 1, 2024.

Germany

MOF publishes final guidance on Tax Haven Defense Act

On June 14, 2024, the German Ministry of Finance (MOF) published its final guidance on the application of the German anti-tax avoidance measures regarding noncooperative jurisdictions. These measures were introduced in 2021 as part of the Tax Haven Defense Act as a response to the European Council's guidelines issued at the end of 2019 encouraging EU member states to implement legislative measures designed to impose specific penalties on jurisdictions placed on the [EU list of noncooperative jurisdictions for tax purposes](#) ("EU list").

For additional details, please refer to the Deloitte [tax@hand article](#) dated June 21, 2024.

Lower tax court provides favorable decision for trade tax loss carryforwards

In a decision dated March 7, 2024, which was published on May 24, 2024, Germany's lower tax court of Duesseldorf ruled that, for trade tax (TT) purposes, a German corporation's participation in a trading partnership should not preclude it from benefitting from an exception under the change-in-ownership rules, which require forfeiture of various tax attributes upon certain share transfers. The lower tax court explained that the determination of harmful structures (e.g., a loss corporation's participation in a (deemed) trading partnership), which prevents the application of the "business continuation clause" exception to the change-in-ownership rules under the corporate income tax code (CITC), can apply differently for TT purposes. Since a partnership generally is considered a separate taxpayer for TT purposes, the lower tax court ruled that the corporation's interest in the trading partnership should not qualify as being harmful.

For additional details, please refer to the Deloitte [tax@hand article](#) dated May 31, 2024.

New transfer pricing rules for intercompany financing contain tightened provisions

The business tax reform bill ("Growth Opportunity Act"), which was signed by the president and published in the federal gazette on March 27, 2024, has tightened the transfer pricing rules in the Foreign Tax Act (FTA) regarding cross-border intercompany financing arrangements. The final version of the bill no longer includes the maximum interest barrier rule, although such rule was in the original draft bill that was introduced into the legislative process by the government. The newly introduced sections 1(3d) and (3e) FTA are similar to certain transfer pricing rules that were proposed at the end of 2019 in the first draft of the EU anti-tax avoidance directive (ATAD) implementation law but were not implemented at that time.

For additional details, please refer to the Deloitte [tax@hand article](#) dated April 15, 2024.

Italy

Decree on Pillar Two transitional safe harbor rules published

On May 28, 2024, a decree was published in the Italian official gazette that was issued by the Italian Ministry of Finance on May 20, 2024 to implement Pillar Two transitional safe harbor (TSH) rules, as provided for under article 39 of the legislative decree (No. 209/2023) that implemented the provisions of [Council Directive \(EU\) 2523/2022](#) ("EU Pillar Two directive") in Italy. Italy's Pillar Two (or GloBE) rules generally are effective as from January 1, 2024 (except for the UTPR, which generally is effective as from January 1, 2025). The TSH rules include a transitional country-by-country (CbC) reporting safe harbor (CbCR TSH) and a transitional UTPR safe harbor (UTPR TSH), and the rules aim to limit the administrative and compliance burdens on groups that qualify for the safe harbors

during the initial fiscal years in which the GloBE rules are applicable.

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

Luxembourg

Pillar Two law: Tax disclosure requirements

The Luxembourg law implementing the minimum effective tax rate (ETR) of 15% for MNEs and large-scale domestic groups (DGs) with consolidated annual revenue exceeding EUR 750 million (referred to as the "Pillar Two law") was published in the Official Journal on December 22, 2023. Effective for fiscal years commencing on or after December 31, 2023, any group falling within the scope of the Pillar Two rules must prepare to apply these new regulations. This process starts with the inclusion of relevant disclosures in annual financial statements, according to the transition rules outlined in the Pillar Two law.

Two recent Q&As ([24/031](#) and [24/032](#), in French only) published by the Luxembourg Accounting Board (Commission des Normes Comptables or CNC), along with [Frequently Asked Questions \(FAQ\)](#) issued by the Luxembourg tax authorities on March 25, 2024 concerning the Pillar Two law (in French only), provide guidance

For additional details, please refer to the Deloitte [tax@hand article](#) dated April 2, 2024.

Switzerland

Federal Supreme Court rules no taxable gain arises from reissue of treasury shares

On June 6, 2024, in a long-awaited landmark decision, the Swiss Federal Supreme Court (Bundesgericht) has [ruled](#) (available in German only) on the question of whether the reissue of treasury shares by a company is subject to corporate income tax. The court concluded that no taxable capital gains arise from the reissue of treasury shares as there is no legal basis in the tax law to deviate from the treatment in the financial statements. Despite this important

decision, however, the Federal Supreme Court has not yet clarified all aspects.

For additional details, please refer to the Deloitte [tax@hand article](#) dated July 1, 2024.

United Kingdom

Guidance on registration for Pillar Two global minimum top-up taxes issued

On May 20, 2024, the UK tax authorities (HM Revenue & Customs (HMRC)) published a [statutory notice](#) and a [supporting guidance page](#) on their website, setting out how businesses within the scope of the UK's Pillar Two top-up taxes (multinational top-up tax and domestic top-up tax) can register for these taxes with HMRC. The guidance also sets out the information that will need to be provided to HMRC upon registration.

For additional details, please refer to the Deloitte [tax@hand article](#) dated May 24, 2024.

HMRC publish guidance on overseas and contracted-out R&D expenditure

The UK Finance Act 2024 introduced major changes to corporation tax R&D reliefs, generally applicable for accounting periods beginning on or after April 1, 2024. These changes include restrictions to the extent to which contractor payments for R&D and payments for externally-provided workers can qualify for relief where R&D activity takes place overseas, and new rules for contracted-out R&D. Further to a consultation on draft guidance in February 2024, on March 27, 2024 HMRC published [updated draft guidance](#) on these specific changes. This guidance will be incorporated into HMRC's Corporate Intangibles Research and Development Manual in due course.

For additional details, please refer to the Deloitte [tax@hand article](#) dated April 5, 2024.

Accounting Developments

Frequently asked questions about Pillar Two

In December 2021, the OECD published [Tax Challenges Arising From the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules \(Pillar Two\)](#) and subsequently issued [additional commentary](#), [administrative guidance](#), and [information](#) clarifying several aspects of the model rules (collectively the “GloBE rules”). Financial Reporting Alert 24-1, which was originally published on March 5, 2024, provides responses to some frequently asked questions (FAQs) about how an entity should account for the tax effects of GloBE rules in accordance with ASC 740 in interim and annual periods. This [FAQ publication was updated on April 15, 2024](#) to address a number of additional questions. Changes include updates regarding uncertain tax positions, other tax impacts, and the accounting for certain aspects of the GloBE rules in the separate financial statements of constituent entities that are members of a multinational enterprise group subject to such rules. While the answers to the FAQs reflect Deloitte's current positions, these views

are subject to change (e.g., on the basis of additional guidance, new information, or changes in practice). Consultation with an entity's accounting advisers is encouraged.

Up-C Structure Services

For Up-C structures, the Up-C Services group offers virtual webcasts from Deloitte specialists covering recent U.S. 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 (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 CPE credits, please visit [Dbriefs Webcasts](#).

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

Deloitte Tax Accounting Conference

- December 9 – 13, 2024 | Virtual
- May 5 – 9, 2025 | Live in Orlando, Florida

More details and registration coming soon!

Learn More

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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 [e-mail](#).

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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