Accounting for Income Taxes
Quarterly Hot Topics

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Treasury and the IRS recently issued the following notices related to the Tax Cuts and Jobs Act (the “Act”)

These notices may impact the financial statement income tax accounting calculations pursuant to ASC 740 of companies for the period of enactment or subsequent quarters in the measurement period under SAB 118. A question therefore arises as to the appropriate period to report the impact of these notices.

While entities can always reflect the impact of the guidance from a notice in the period including the release date, there may be instances the specific Notice provides “clarifying guidance during the measurement period” and could be incorporated in the entity’s provisional amounts for an earlier open period. For each issue in these notices, an entity should determine whether the Notice is interpretive in nature and clarifies how certain provisions in the Act should be applied or if the Notice represents a change in tax law.

Please refer to Deloitte Financial Reporting Alert 18-1 – Frequently Asked Questions About Tax Reform (Updated June 20, 2018), FAQ 12.4 for considerations regarding when to reflect the financial statement impact of guidance received during the measurement period.

Notice 2018-26: Transition tax on foreign earnings

On April 2, 2018, the Internal Revenue Service (“IRS”) issued Notice 2018-26, which announces that the Department of the Treasury (“Treasury”) and the IRS intend to issue regulations (“forthcoming regulations”) providing guidance on the application of Internal Revenue Code (“IRC”) section 965 covering, in part:

- The limitation on application of downward attribution from partners to partnership for purposes of IRC section 965;
- US persons eligible to make tax payment deferral elections under IRC section 965(h) and (i);
- Treatment of the section 965(c) deduction for purposes of IRC sections 56 (alternative minimum tax (AMT));
- US persons eligible to make the IRC section 962 election to have corporate rates apply to the IRC section 965 tax computation; and
- Penalty waivers.

Notice 2018-28: Initial guidance for computing business interest expense limitation under IRC section 163(j)

On April 2, 2018, the Treasury and the IRS released Notice 2018-28, Initial Guidance under IRC section 163(j), announcing their intent to issue proposed regulations providing guidance to assist taxpayers in complying with the new IRC section 163(j). Tax professionals should consider the impact of Notice 2018-28 when determining the proper reporting and deductibility of business interest expense subject to new IRC section 163(j). Notice 2018-28 states that the Treasury and IRS intends to withdraw existing proposed regulations under former IRC section 163(j), which date back to 1991, in connection with the issuance of regulations under new IRC section 163(j). Notice 2018-28 states that before issuance of the regulations, taxpayers may rely on the rules described in sections 3 through 7, which are included below:

Section 3 – Carryforward and treatment of disallowed disqualified interest under prior IRC section 163(j)

Section 4 – Characterization of C corporation business interest expense and income
Section 5 – Application of IRC section 163(j) to consolidated group

Section 6 – Impact of IRC section 163(j) on earnings and profits

Section 7 – Partnership and S corporation rules

**Notice 2018-30: Modification to Notice 2003-65 regarding application of IRC section 168(k) for IRC section 382 purposes**

On May 8, 2018, the IRS issued Notice 2018-30, which modified Notice 2003-65 to provide that the computation of recognized built-in gain (RBIG) and recognized built-in loss (RBIL) under Notice 2003-65 for IRC section 382 purposes should be made without regard to IRC section 168(k). The Act made certain modifications to the rules applicable to IRC section 168(k) regarding bonus depreciation allowed for certain “qualified property” acquired and placed in service after September 27, 2017 and before January 1, 2027.

Notice 2018-30 is applicable to ownership changes that occur after May 8, 2018.

**Notice 2018-35: Transitional guidance related to advanced payments**

On April 8, 2018, the IRS released an advance version of Notice 2018-35 to provide transitional guidance under new IRC section 451(c), which allows accrual method taxpayers to elect a limited deferral of the inclusion of income associated with certain advance payments.

Notice 2018-35 states that the rules in new IRC section 451(c) largely track the approach taken by the IRS in Revenue Procedure 2004-34, and that the IRS and Treasury Department expect to issue future guidance regarding the treatment of advance payments to implement this legislative change. Notice 2018-35 states that taxpayers (with or without applicable financial statements) receiving advance payments may continue to rely on Rev. Proc. 2004-34 until future guidance is effective.

**Notice 2018-38: 2018 Fiscal-year blended tax rates for corporations**

On April 16, 2018, the IRS released Notice 2018-38, clarifying the methodology that fiscal-year corporations must use to calculate their regular tax and any AMT liability for a taxable year beginning in 2017 and ending in 2018. Such guidance is timely because the Act reduced the regular corporate income tax rate from 35% to 21% and also repealed the corporate AMT, generally effective for taxable years beginning after December 31, 2017.

Because a taxpayer would have an AMT liability only to the extent that its tentative minimum tax exceeds its regular tax liability (reduced by the foreign tax credit) for the same taxable year, there was some uncertainty as to how “tentative taxes” should be calculated pursuant to IRC section 15 (and the applicable regulations) to effectively prorate the rate changes for a fiscal-year corporation. Notice 2018-38 resolves this uncertainty by providing that, for a fiscal year beginning in 2017 and ending in 2018, “tentative taxes” for regular tax and AMT purposes must be separately adjusted (i.e., prorated) pursuant to IRC section 15 before the determination is made as to whether the taxpayer’s tentative minimum tax, as adjusted for the entire fiscal year, exceeds its regular tax liability, also as adjusted for the entire fiscal year.

**Notice 2018-57: Defers applicability of final IRC section 987 regulations by one more year, allows temporary regulations to sunset**

On June 13, 2018, Treasury and the IRS issued Notice 2018-57, announcing their intent to defer the applicability date of the final IRC section 987 regulations (issued on December 7, 2016) by one more year. Thus, for a calendar year taxpayer, the final IRC section 987 regulations would generally apply for the
taxable year beginning on January 1, 2020. The applicability date of the corresponding provisions under IRC sections 861, 985, 988, and 989 will also be deferred by one more year. However, the related Temporary Regulations will expire on December 6, 2019 and will not become applicable.

Importantly, certain Temporary Regulations are not impacted by Notice 2018-57. Thus, the deferral rules under Treas. Reg. sections 1.987-12T and 1.988-2(b)(16) continue to apply today, but are also scheduled to expire on December 6, 2019.

Notice 2018-57 confirms that taxpayers can adopt early the final section 987 regulations and the related temporary regulations. Notice 2018-57 also indicates that Treasury and the IRS are considering changes to the final IRC section 987 regulations that would allow taxpayers to elect to apply alternative rules for transitioning to the final Treasury Regulations and determining IRC section 987 gain or loss.

**Federal Tax Accounting Methods and Periods**

**Automatic consent to change a method of accounting for the adoption of ASC 606 or IFRS 15**

On May 9, 2018, the IRS issued Rev. Proc. 2018-31 which provides an updated list of automatic method changes that may be made under the procedures of Rev. Proc. 2015-13. The changes made by Rev. Proc. 2018-31 are mostly to remove terms or method changes that are obsolete, and/or inapplicable as a result of the Act.

On May 10, 2018, the IRS issued Rev. Proc. 2018-29 which adds new automatic method change procedures for taxpayers changing certain accounting methods as a result of compliance with the new financial accounting standards for revenue recognition under ASC 606 or IFRS 15 (collectively, “New Standards”). Specifically, Rev. Proc. 2018-29 modifies Rev. Proc. 2018-31 to provide procedures under IRC section 446 and Treasury Regulation section 1.446-1(e) to obtain automatic consent of the Commissioner to change to a method of accounting that uses the New Standards to:

- Identify performance obligations,
- Allocate transaction price to performance obligations, and/or
- Consider performance obligations satisfied.

Rev. Proc. 2018-29 is not intended to provide guidance related to amendments made to IRC section 451 by the Act. Effectively, the revenue procedure applies to those taxpayers who adopted the New Standards in taxable years prior to the enactment of the Act due to the uncertainty in the treatment of revenue under the new sections 451(b) and (c). A single Form 3115 can be filed to include all of the changes under Rev. Proc. 2018-29, but the IRC section 481(a) adjustment must be separately stated for each method change.

**US Multistate**

**Recent US Supreme Court decision - Wayfair**

On June 21, 2018, the US Supreme Court issued its opinion in *Wayfair* et. al. In a 5-4 decision, the majority held that the physical presence rule established in its previous decisions in *Quill* (1992) and *National Bellas Hess* (1967) for purposes of sales/use tax nexus “is unsound and incorrect.”

As a result, the US Supreme Court reversed the lower court decisions and upheld the constitutionality of the 2016 South Dakota law establishing a sales/use tax nexus standard based on the existence annually
of more than $100,000 of in-state sales or 200 or more transactions involving in-state deliveries of goods or services.

For additional details, please refer to the June 22, 2018 Multistate Tax Alert.

New legislative updates

Alabama

The Alabama Department of Revenue has issued administrative rule amendments concerning its state corporate income tax, including revisions that repeal and replace Alabama’s current corporate income tax rule on the carryforward of net operating losses (NOL).

For additional details, please refer to the May 23, 2018 Multistate Tax Alert.

Colorado

On June 4, 2018, Governor Hickenlooper signed House Bill 1185 (H.B. 1185), which adopts a market-based sourcing methodology for sales of services and intangible property for Colorado corporate income tax purposes. This will replace Colorado’s current proportional costs of performance methodology, effective for tax years beginning on or after January 1, 2019. H.B. 1185 includes the following modifications to Colorado income tax law to affect this apportionment change: Implements market-based sourcing for sales of services and intangible property; and Provides definitions for “apportionable income” and “receipts.”

For additional details, please refer to the June 8, 2018 issue of State Tax Matters.

Florida

On March 23, 2018, Governor Scott signed House Bills 7087 and 7093, which amended Florida’s tax laws affecting corporate income tax, sales and use tax and fuel tax.

The new law establishes a one-year reduction to the current 5.5 percent corporate income tax rate contingent upon satisfaction of a specified tax revenue target, for taxable years beginning on or after January 1, 2019.

For additional details, please refer to the March 30, 2018 issue of State Tax Matters and the Multistate Tax Alert dated March 30, 2018.

Iowa

On May 30, 2018, Governor Reynolds signed Senate File 2417 which reduces the corporate income tax rate effective for tax years beginning on or after January 1, 2021, to a top rate of 9.8 percent, and eliminates the federal income tax deduction for tax years beginning on or after January 1, 2022.

For additional details, please refer to the June 8, 2018 issue of State Tax Matters and the Multistate Tax Alert dated June 18, 2018.

Kentucky

Significant recent modifications to Kentucky tax law include the following:

- Implementation of a flat 5% tax rate on corporations and individuals effective for tax years beginning on or after January 1, 2018.
• Adoption of a single sales factor apportionment formula and market-based sourcing provisions effective for tax years beginning on or after January 1, 2018.

• Mandatory combined reporting for unitary businesses, effective for taxable years beginning on or after January 1, 2019

• An election to file a consolidated state return based on the federal filing group, effective for taxable years beginning on or after January 1, 2019

• Extension of a three-factor apportionment formula to certain communications, cable, and internet access service companies for taxable years beginning on or after January 1, 2018

For additional details, please refer to the May 4, 2018 issue of State Tax Matters, the Multistate Tax Alert dated May 4, 2018, and the Multistate Tax Alert dated June 1, 2018.

Louisiana

The Louisiana Department of Revenue has amended an administrative rule pursuant to legislation enacted in 2016 that requires an “addback” adjustment for certain related party interest expense, intangible expense, and management fees for Louisiana corporate income tax purposes.

For additional details, please refer to the April 27, 2018 issue of State Tax Matters.

On June 12, 2018, Governor Edwards signed a new law (effective immediately) that provides for certain state corporate income tax limitations on exclusions and deductions that were enacted pursuant to 2015 legislation for each of the taxable years beginning during the calendar years of 2015, 2016, and 2017, regardless of the date the original or any amended return for the period is filed. The new law also disallows the portion of exclusions or deductions limited under these provisions if they are claimed on an amended return filed on or after July 1, 2018.

For additional details, please refer to the June 15, 2018 issue of State Tax Matters.

Maryland

Effective July 1, 2018, and applicable for tax years beginning after December 31, 2017, new law phases in single-sales factor apportionment for Maryland corporate income tax purposes. However, a “worldwide headquartered company” that filed a federal corporate income tax return for the taxable year may elect to calculate its Maryland state taxable income using a three-factor apportionment fraction, with a double-weighted sales factor.

For additional details, please refer to the April 27, 2018 issue of State Tax Matters and the Multistate Tax Alert dated May 16, 2018.

Missouri

Applicable for tax years beginning on or after January 1, 2020, the new law lowers Missouri’s corporate income tax rate from 6.25% to 4%. Also applicable for tax years beginning on or after January 1, 2020, the new law replaces most existing apportionment methods with a single factor method based on receipts. Please note that special industry apportionment methods applicable to transportation, railroad, interstate bridge, and telephone/telegraph companies were retained.

For additional details, please refer to the June 8, 2018 issue of State Tax Matters.
Oregon

On April 13, 2018, Governor Brown signed Senate Bill 1528, which includes the following amendment to Oregon tax law:

- Effective for tax years beginning on or after January 1, 2018, and before January 1, 2024, a new credit for corporate income taxes is created for certified contributions to the Oregon Opportunity Grant Fund.

This bill became effective on June 10, 2018. For additional details, please refer to the April 13, 2018 issue of State Tax Matters and the April 23, 2018 Multistate Tax Alert.

Pennsylvania

The Pennsylvania Department of Revenue (Department) has issued another administrative bulletin regarding the 2017 Pennsylvania Supreme Court ruling which held that the fixed-dollar statutory cap of $3 million on Pennsylvania’s net operating loss (NOL) carryover deduction, as applied to the taxpayer and year at issue, violated the Uniformity Clause of the Pennsylvania Constitution.

For additional details, please refer to the May 18, 2018 issue of State Tax Matters.

Tennessee

Effective immediately and applicable for tax years beginning on or after January 1, 2018, new law permits certain defined publicly traded “financial asset management companies” to elect to apportion their net earnings and net worth for state franchise and excise tax purposes using a single sales factor (i.e., single receipts factor) apportionment formula.

For additional details, please refer to the April 20, 2018 issue of State Tax Matters.

Texas

The Texas Comptroller of Public Accounts has released a ruling addressing whether certain gross proceeds derived from transactions involving securities were properly considered gross receipts that should be included in the calculation of a taxpayer’s apportionment factor for purposes of the Texas franchise tax (commonly referred to as the Texas margin tax) under Texas Tax Code section 171.106(f).

For additional details, please refer to the May 11, 2018 issue of State Tax Matters and the Multistate Tax Alert dated May 21, 2018.

On June 7, 2018, a Texas Court of Appeals (Court) has affirmed that a taxpayer’s provision of various “telecom products” constituted the provision of services rather than tangible goods under Texas’ statutory definitions and case law. Accordingly, the taxpayer could not deduct its underlying electricity costs in providing such telecom services for purposes of calculating its deductible costs of goods sold under the Texas franchise tax (commonly referred to as the Texas margin tax).

In doing so, the Court explained that by supplying internet access, telephone connectivity, and video streams to private consumers through a network of cables and wires, the taxpayer was providing “services” as that term is commonly used, and that case law involving certain facility-related exhibition costs and deductions available to movie theaters has limited application and did not apply to the taxpayer in this case.

For additional details, please refer to the June 15, 2018 issue of State Tax Matters.
Utah

Applicable for taxable years beginning on or after January 1, 2018, another recently signed bill lowers Utah’s corporate income tax rate from 5% to 4.95%. For taxable years beginning on or after January 1, 2019, this new law additionally phases in mandatory use of single sales factor apportionment on business income for all corporations except defined “optional apportionment taxpayers.”

For additional details, please refer to the March 30, 2018 issue of State Tax Matters and the April 6, 2018 issue of State Tax Matters.

Multistate tax considerations of federal tax reform

Typically, states address conformity to the IRC through legislation, although certain states may seek to address essential details through administrative guidance as well. Legislative responses are expected throughout 2018, depending upon when each state is in session.

The following states have recently enacted new tax legislation in connection with US tax reform:

Alabama

On April 27, 2018, the Alabama Department of Revenue issued a Notice regarding the IRC section 965 transition tax, specifically the deemed repatriation income impact upon Alabama corporate and partnership taxpayers.

For additional details, please refer to the May 23, 2018 Multistate Tax Alert.

Arizona

Effective ninety-one days after adjournment of the 2018 legislature, new law generally updates the definition of the IRC to the IRC as in effect on January 1, 2018. However, specifically for state corporate and personal tax income purposes, and applicable for tax years beginning from and after December 31, 2016 through December 31, 2017, the new law generally conforms state corporate and personal income tax references to the IRC as in effect on January 1, 2017.

For additional details, please refer to the April 13, 2018 issue of State Tax Matters and the Multistate Tax Alert dated June 1, 2018.

California

The California Franchise Tax Board (FTB) has issued its fourth and final report summarizing California’s conformity to the Act, including how some of the recently enacted federal tax provisions may impact California’s tax system. This final FTB report generally consolidates findings from its earlier three reports.

For additional details, please refer to the April 27, 2018 issue of State Tax Matters.

The FTB has issued some guidance with respect to filing certain 2017 California tax returns where the 2017 federal tax return contains an adjustment under IRC section 965, as amended by the Act. The guidance generally explains that California does not conform to IRC section 965.

For additional details, please refer to the May 25, 2018 issue of State Tax Matters.
Colorado

The Colorado Department of Revenue (Department) has issued supplemental filing instructions for state corporate income tax purposes that i) taxpayers reporting IRC section 965 income for federal income tax purposes in light of the Act must also report that income to Colorado, and ii) the steps necessary to report this income on the Colorado return depend on how the income is reported for federal income tax purposes.

The Department also explains that a corporation claiming a federal credit for foreign taxes paid on IRC section 965 income generally is eligible to deduct a corresponding portion of the IRC section 965 income as part of its foreign source income exclusion on its Colorado return.

Additionally, the Department states that taxpayers owing Colorado tax as the result of IRC section 965 income may request a waiver for penalties resulting from any tax underpayments attributable to such income. Also, while IRC section 965 permits certain taxpayers to elect to remit federal tax on IRC section 965 income in installments over several years, this election does not extend to Colorado tax and there is no similar provision in Colorado law – as such, any Colorado tax attributable to IRC section 965 income generally is due at the same time as the Colorado return upon which it is reported.

For additional details, please refer to the June 22, 2018 issue of State Tax Matters.

Connecticut

On May 31, 2018, Governor Malloy signed Senate Bill 11 (SB 11). The majority of SB 11’s provisions are in response to recent federal tax reform legislation, the most notable being the enactment of a new pass-through entity (PET) income tax levied at the top personal income tax rate and offset by a credit at the personal or corporate income tax level. The PET, applicable to taxable years commencing on or after January 1, 2018, is detailed further below. Affected taxpayers should take note of the recently issued estimated installment payment form and Special Notice issued by the Connecticut Department of Revenue on June 6, 2018.

SB 11 also enacts changes to Connecticut’s tax laws affecting individuals and corporations, applicable to taxable years commencing on or after January 1, 2017, unless otherwise noted, including the following:

- Decouples from IRC section 163(j) for corporate income tax purposes.
- Amends the required add-back of expenses related to the dividend received deduction (DRD) at five percent of all dividends received for corporate tax purposes.
- Decouples from IRC section 168(k) bonus depreciation for individual income tax purposes.
- Effective July 1, 2018, authorizes municipalities to issue residential property tax credits to eligible individual taxpayers who make contributions to the approved community supporting organizations.

For additional details, please refer to the June 8, 2018 issue of State Tax Matters and the Multistate Tax Alert dated June 7, 2018.

Florida

As mentioned above, on March 23, 2018, Governor Scott signed House Bills 7087 and 7093, which amended Florida’s tax laws affecting corporate income tax, sales and use tax and fuel tax. Notable amendments include the following:

- Updating Florida’s federal tax conformity date to the IRC in effect on January 1, 2018; and
- Extending Florida’s current decoupling from federal bonus depreciation to include assets placed in service before January 1, 2027
For additional details, please refer to the March 30, 2018 issue of State Tax Matters and the Multistate Tax Alert dated March 30, 2018.

**Georgia**

Governor Deal recently signed Senate Bill 328 (S.B. 328), which repeals a provision of recently-enacted House Bill 918 (H.B. 918) related to Georgia’s conformity to IRC section 951A. With the repeal, corporate taxpayers may now subtract the full amount of global intangible low-taxed income (GILTI) received in determining Georgia taxable income pursuant to Georgia’s subtraction modification for Subpart F income. However, the related federal deduction provided by IRC section 250 generally will not be allowable for taxpayers subtracting 100% of GILTI as Subpart F income.

For additional details, please refer to the March 30, 2018 issue of State Tax Matters and the Multistate Tax Alert dated March 19, 2018.

**Hawaii**

Effective immediately, new law updates statutory references to the IRC, providing that December 31, 2017, references to the IRC in Hawaii corporate income tax laws generally refer to the federal law in effect as amended as of February 9, 2018 (previously, December 31, 2016). The new law contains a number of provisions that decouple from specific IRC sections, including some in response to the Act, such as decoupling from IRC section 250 relating to GILTI and foreign-derived intangible income (FDII), and IRC section 267A relating to some related party amounts paid or accrued in certain transactions or with certain entities.

For additional details, please refer to the June 22, 2018 issue of State Tax Matters.

**Idaho**

In response to the federal tax reform provisions of the Act, Idaho has enacted legislation over the last several months that reduces income tax rates, amends Idaho’s conformity to the IRC relative to the deemed repatriation provisions of IRC section 965 and GILTI, and amends certain add-back provisions effectively disconnecting Idaho from specific federal provisions.

For additional details, please refer to the May 29, 2018 Multistate Tax Alert.

**Illinois**

The Illinois Department of Revenue has issued an information bulletin addressing how some of the federal tax reform provisions enacted in 2017 may impact Illinois income taxation and underlying reporting, specifically the new foreign income deemed repatriation transition tax under IRC section 965 and how some taxpayers should account for the differences in federal versus state treatment on their 2017 Illinois returns.

For additional details, please refer to the March 30, 2018 issue of State Tax Matters.

**Indiana**

On May 14, 2018, Indiana Governor Eric Holcomb signed House Bill 1316 which amended Indiana’s tax laws in response to the Act. H.B. 1316 includes the following notable amendments:

- Effective retroactive to January 1, 2018, updates the IRC conformity date to February 11, 2018, for both individual and corporate income tax purposes.
- For tax years beginning after December 25, 2016, requires deemed repatriation income under IRC section 965(a) to be added back for corporate income tax purposes and requires the deduction under IRC section 965(c) to be added back for individual income tax purposes.
- Expands the foreign source dividend deduction for corporate income tax purposes to include income associated with IRC section 965 and IRC section 951A for taxable years after December 25, 2016.
- Effective retroactive to January 1, 2018, decouples from IRC section 163(j) interest limitations rules.
- Effective retroactive to January 1, 2018, updates the Indiana NOL carryforward period from being tied to IRC section 172(b) to being limited to a 20-year carryforward period.

For additional details, please refer to the June 11, 2018 Multistate Tax Alert.

Iowa

As mentioned above, on May 30, 2018, Iowa Governor Reynolds signed Senate File 2417 which updates Iowa’s IRC conformity to the IRC in effect on March 24, 2018, for tax years, beginning during the 2019 calendar year and subsequently adopting “rolling IRC conformity” for tax years beginning on or after January 1, 2020. This change will apply for corporate and pass-through entity taxpayers.

For additional details, please refer to the June 8, 2018 issue of State Tax Matters and the Multistate Tax Alert dated June 18, 2018.

Kentucky

For tax years beginning on or after January 1, 2018, updates conformity to the IRC as in effect on December 31, 2017 for both corporate taxpayers, while continuing to decouple from federal depreciation provisions.

For additional details, please refer to the May 4, 2018 issue of State Tax Matters, the Multistate Tax Alert dated May 4, 2018, and the Multistate Tax Alert dated June 1, 2018.

Michigan

The Michigan Department of Treasury recently commented on federal tax reform and some of the underlying related state tax aspects, including state conformity to IRC section 965 deemed repatriated income and GILTI. Regarding Michigan’s Corporate Income Tax (CIT), the Department stated that “section 623(2)(d) of the CIT provides that to the extent included in federal taxable income, dividends from foreign persons and foreign operating entities be deducted in calculating CIT tax base, including amounts determined under Subpart F (IRC sections 951 to 964, and by extension, 965).” Further, “GILTI is treated in the same manner as Subpart F income. Consequently, section 623(2)(d) of the CIT would also result in this GILTI being deducted from the tax base to the extent included in federal taxable income.”

For additional details, please refer to the June 8, 2018 issue of State Tax Matters.

Nebraska

Effective immediately, new law provides that for purchases of depreciable personal property occurring on or after January 1, 2018, and before January 1, 2020, if there is an election to expense the depreciable property under IRC section 179 and similar personal property is traded in as part of the payment for the newly acquired property, then the Nebraska adjusted basis is “the remaining net book value of the
property traded in, plus the additional amount that was paid by the taxpayer for the newly acquired property.”

For additional details, please refer to the April 27, 2018 issue of State Tax Matters.

New Hampshire

The New Hampshire Department of Revenue Administration has created a “Federal Tax Reform” landing page on its website with a full report and supplemental information on how the Act may directly impact the New Hampshire Business Profits Tax (BPT).

For additional details, please refer to the April 27, 2018 issue of State Tax Matters.

New York

On April 12, 2018, Governor Cuomo of New York signed into law the 2018 - 2019 Budget Act (S07509C/A09509C) (Budget Act). The Budget Act includes amendments to the Article 9-A franchise tax on business corporations (including certain state credits and incentives) and the Article 22 personal income tax. Notably, the Budget Act clarifies the treatment of certain federal tax reform provisions enacted in the Act for New York tax purposes and includes provisions intended to reduce the potential burden imposed by federal tax reform on New York individual taxpayers.

For additional details, please refer to the May 9, 2018 Multistate Tax Alert.

New York City

The New York City (City) Department of Finance has issued a notice regarding certain provisions of the Act, specifically the tax considerations and potential late payment penalty relief for some City taxpayers affected by the new IRC section 965 mandatory deemed repatriation income provisions, and subject to the General Corporation Tax (GCT), Banking Corporation Tax (BTX) or Unincorporated Business Tax (UBT).

For additional details, please refer to the April 27, 2018 issue of State Tax Matters.

North Carolina

On June 12, 2018, the North Carolina Senate and House overrode Governor Cooper’s veto of a new law (which goes into immediate effect) which generally updates corporate income tax conformity with the IRC as in effect as of February 9, 2018 (previously, January 1, 2017). Responding to some provisions of the Act, the new law includes state corporate income tax deductions for amounts included in federal taxable income under IRC section 951A regarding GILTI, as well as the IRC section 965 transition tax (note that these state deductions must be calculated “net” of certain related expenses).

The new law also provides addition adjustments for amounts deducted under IRC sections 250 and 965(c); however, the legislation generally maintains conformity to the new federal interest deduction limits under IRC section 163(j), which are still then subject to North Carolina’s previously imposed limitations on interest.

For additional details, please refer to the June 15, 2018 issue of State Tax Matters.

Oklahoma

Applicable for tax years ending after January 1, 2017, new law permits taxpayers electing to make installment payments of their federal tax due pursuant to the provisions of IRC section 965(h) to also
have such election apply to their payment of Oklahoma income taxes “attributable to the income upon which such installment payments are based.”

For additional details, please refer to the May 18, 2018 issue of State Tax Matters.

Oregon

Oregon Governor Brown recently signed two significant pieces of Oregon legislation responding to federal tax reform. On April 10, 2018, Governor Brown signed Senate Bill 1529, which includes the following notable amendments to Oregon tax law:

- Effective for taxable years beginning on or after January 1, 2017, Oregon taxpayers must add back amounts deducted under IRC section 965(c).
- Effective for taxable years beginning on or after January 1, 2017, Oregon’s tax haven law is repealed.
- Effective for taxable years beginning on or after January 1, 2017, and before January 1, 2018, a new corporate income tax credit is created equal to the lesser of Oregon tax attributable to IRC section 965 or the amount of Oregon tax attributable to and imposed on the taxpayer pursuant to Oregon’s tax haven law for tax years beginning on or after January 1, 2014, and before January 1, 2017.

On April 13, 2018, Governor Brown signed Senate Bill 1528, which includes the following amendment to Oregon tax law:

- Effective for tax years beginning on or after January 1, 2018, Oregon taxpayers must add back to taxable income amounts deducted under IRC section 199A.

Both of these bills become effective on June 10, 2018. For additional details, please refer to the April 13, 2018 issue of State Tax Matters and the April 23, 2018 Multistate Tax Alert.

Pennsylvania

In light of the Act, the Pennsylvania Department of Revenue (Department) has issued an information notice discussing application of the new repatriation transition tax (RTT) under IRC section 965 to Pennsylvania’s corporate net income tax (CNIT).

For additional details, please refer to the April 27, 2018 issue of State Tax Matters.

Rhode Island

The Rhode Island Department of Revenue’s Division of Taxation (Division) has released an advisory and an accompanying proposed new administrative regulation on the state income tax treatment of IRC section 965 income for C corporations, including how to report deferred foreign income for Rhode Island tax purposes, in light of the Act.

Under the Division’s proposed new regulation, C corporations would include, as Rhode Island income for tax year 2017, the amount of their net IRC section 965 income – that is, IRC section 965 income less federal deductions provided under IRC section 965. The Division’s proposed new regulation also includes information on i) whether a Rhode Island dividends-received deduction (DRD) would be allowed against net IRC section 965 income, ii) related apportionment computations, iii) whether deferral of the Rhode Island tax payment is allowed, and iv) associated filing procedures and penalty relief. A public hearing on the proposed new administrative rule will be held on June 21, 2018, and the underlying public comment period ends on July 12, 2018.
For additional details, please refer to the June 15, 2018 issue of State Tax Matters.

**Tennessee**

Effective immediately and applicable for tax years beginning on or after January 1, 2020, new law decouples Tennessee from the amendments to IRC section 163(j) under the Act that set limits on certain business interest deductions for state franchise and excise tax purposes.

For additional details, please refer to the May 25, 2018 issue of State Tax Matters.

**Wisconsin**

On April 3, 2018, Governor Walker signed Assembly Bill 259, (2017 Wisconsin Act 231 (Act 231)) which includes the following notable amendments to Wisconsin tax law:

- Effective for taxable years beginning after December 31, 2016, and before January 1, 2018, updates Wisconsin corporate and individual income tax conformity to the IRC as amended through December 31, 2016;
- Effective for taxable years beginning after December 31, 2017, updates Wisconsin corporate and individual income tax conformity to the IRC as amended through December 31, 2017, with decoupling from certain provisions of the 2017 Tax Reform Act

For additional details, please refer to the April 6, 2018 issue of State Tax Matters and the Multistate Tax Alert dated April 17, 2018.

**Amnesty/Voluntary Disclosure**

**Indiana**

The Indiana Department of Revenue (Department) has announced that it is offering a limited-time voluntary disclosure initiative (VDI) for certain out-of-state online retailers that have inventory located in third-party Indiana warehouses and sell to Indiana customers. This special VDI will run through December 31, 2018, and potentially offers eligible participants related penalty abatement and limited look-back periods for their underlying state sales and use, as well as state income, taxes due.

For additional details, please refer to the May 11, 2018 issue of State Tax Matters.

**Massachusetts**

The Massachusetts Department of Revenue has issued a technical information release on potential estimated tax penalty relief for certain state corporate excise taxpayers impacted by the Act regarding inclusion of IRC section 965 repatriation income in their state corporate excise tax bases.

For additional details, please refer to the May 18, 2018 issue of State Tax Matters.

**International**

**India: Finance Act 2018 enacted**

India’s Finance Bill 2018 received presidential assent on March 29, 2018 and now is enacted law, following changes made by the lower house of parliament.

The parliament clarified certain measures in the original bill, including the rules relating to country-by-country (CbC) reporting and the requirement to obtain a permanent account number (PAN). Most of the provisions in what is now the Finance Act 2018, including the reduction in the corporate tax rate from
30% to 25%, plus the applicable surcharge and cess (i.e., additional Indian tax assessment) for domestic companies whose total turnover or gross receipts during FY 2016-17 did not exceed INR 2.5 billion, are effective on April 1, 2018, unless otherwise stated.

For additional details, please refer to the April 13, 2018 issue of World Tax Advisor.

### Accounting Developments

#### CAQ SEC Regulations Committee releases highlights of March 13, 2018, joint meeting with the SEC staff

On Wednesday, May 16, 2018, the Center for Audit Quality (CAQ) posted to its Web site the highlights of the March 13, 2018, CAQ SEC Regulations Committee joint meeting with the SEC staff. Among other topics, the Committee discussed certain financial reporting implications of tax reform legislation with the SEC staff, summarized below:

**Non-GAAP measures** — The SEC staff indicated that adjustments related to the impact of the Act in a company’s non-GAAP financial measures may be appropriate, depending on the circumstances. However, any such adjustments should be balanced and not just for select provisions of the Act (i.e., no “cherry picking” of non-GAAP adjustments).

Further, certain registrants may also wish to consider making adjustments that “attempt to depict a ‘normalized’ tax rate” between comparable periods to enhance comparability of periods before and after federal tax reform (i.e., adjustments in which the new tax rate is applied to periods before enactment). However, the SEC staff commented that such adjustments to non-GAAP measures may not be appropriate because they may not reflect alternative judgments, tax strategies, or other actions that a registrant may have taken if the lower tax rate had applied to all periods presented.

**SEC Regulation S-X, Article 11, pro forma financial information** — Registrants are encouraged to discuss their specific facts and circumstances regarding pro forma financial information with the CF-OCA if they are contemplating reflecting the impact of the Act on historical periods as a material event in pro forma financial information presented pursuant to SEC Regulation S-X, Rule 11-01(a)(8).3.

Refer to the highlights of the meeting posted to the CAQ Web site, and the Journal Entry dated May 22, 2018 for more details.

#### ASU 2018-07: FASB simplifies the accounting for share-based payment arrangements with non-employees

On June 20, 2018, the FASB issued ASU 2018-07, which simplifies the accounting for share-based payments granted to non-employees for goods and services. Under the ASU, most of the guidance on such payments to non-employees would be aligned with the requirements for share-based payments granted to employees.

Currently, share-based payment arrangements with employees are accounted for under ASC 718, while non-employee share-based payments issued for goods and services are accounted for under ASC 505-50. ASC 505-50, before the ASU’s amendments, differs significantly from ASC 718. Differences include (but are not limited to) the guidance on (1) the determination of the measurement date (which generally is the date on which the measurement of equity-classified share-based payments becomes fixed), (2) the accounting for performance conditions, (3) the ability of a non-public entity to use certain practical...
expedients for measurement, and (4) the accounting for (including measurement and classification) share-
based payments after vesting. The ASU eliminates most of these differences.

For public business entities, the amendments in ASU 2018-07 are effective for fiscal years beginning after
December 15, 2018, including interim periods within those fiscal years. For all other entities, the
amendments are effective for fiscal years beginning after December 15, 2019, and interim periods within
fiscal years beginning after December 15, 2020. Early adoption is permitted if financial statements have
not yet been issued (for public business entities) or have not yet been made available for issuance (for all
other entities), but no earlier than an entity’s adoption date of ASC 606. If early adoption is elected, all
amendments in the ASU that apply must be adopted in the same period. In addition, if early adoption is
elected in an interim period, any adjustments should be reflected as of the beginning of the fiscal year
that includes that interim period.

ASU 2018-07 generally requires an entity to use a modified retrospective transition approach, with a
cumulative-effect adjustment to retained earnings as of the beginning of the fiscal year, for all (1) liability-
classified non-employee awards that have not been settled as of the adoption date and (2) equity-
classified non-employee awards for which a measurement date has not been established.

Please refer to the June 21, 2018 edition of Heads Up for additional details.

Learn More

REMINDER: Tax Cuts and Jobs Act signed into law

Deloitte has issued Financial Reporting Alert 18-1 – Frequently Asked Questions About Tax Reform
(Updated June 20, 2018), which contains responses to frequently asked questions (FAQs) about how an
entity should account for the tax effects of the Act in accordance with ASC 740. While the answers to the
FAQs reflect both our views and the views expressed by the FASB at various, meetings, these views are
subject to change on the basis of additional input received or further developments in practice. We also
plan to frequently update this document to reflect developments as they occur and as additional questions
surface.

Deloitte Tax Accounting Conference

Deloitte's Tax Accounting Conference features interactive courses taught by experienced professionals who
will explain applicable guidance as well as share real-world experiences and leading practices. Take
advantage of registration discounts. Register today.

A Roadmap to Accounting for Income Taxes

The 2017 edition of A Roadmap to Accounting for Income Taxes was released on December 18, 2017. This
Roadmap provides Deloitte's insights into and interpretations of the income tax accounting guidance in
ASC 740 and IFRS. Throughout the Roadmap, new guidance has been added, examples related to some of
the guidance included in the previous edition have been added or substantively revised, and minor edits
have been made to existing guidance to improve its clarity. This edition does not include updates related
to tax reform legislation that had not been enacted before this edition was published.

We hope that you find our Roadmap useful and informative.
Additional resources that you may find helpful

- Accounting for Income Taxes – Quarterly Hot Topics Archive
- Tax Reform Insights
- Deloitte Tax Accounting & Provision Services Home Page
- Deloitte Tax Accounting & Provisions Dbriefs Webcasts Series
- Deloitte Heads Up Newsletter Archive
- Global Tax Developments Quarterly – Accounting for Income Taxes

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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