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Tax Accounting Perspectives

SAB 118 considerations for proposed regulations and interim reporting
September 10, 2018

Shortly after the enactment of Tax Cuts and Jobs Act (the "Act"), the SEC staff issued SEC Staff Accounting Bulletin No. 118 ("SAB 118"). SAB 118 provides guidance on how to account for the Act in the period of enactment and how to account for subsequent changes when its assessment of the impact is incomplete. Where the assessment is incomplete "provisional" amounts are recorded where reasonable estimates can be made. It is important to consider SAB 118 when new information such as IRS and Treasury guidance, including proposed regulations, becomes available.

What's new?

Recent guidance may impact interim tax accounting and reporting
Since the enactment of new tax legistlation, the Internal Revenue Service ("IRS") and state tax authorities continue to issue news releases, notices, instructions and other forms of guidance to assist taxpayers with implementing the Act. Entites should understand the potential impact of this new information on *provisional amounts* recorded in previously-issued financial statements.

On August 1, 2018, Treasury and the IRS released proposed regulations under IRC Section 965 (i.e., transition tax). It is expected in the coming months that the IRS will issue additional guidance on global intangible low-taxed income (GILTI), Section 163(j) interest expense limitations, foreign tax credits (FTCs), base erosion anti-abuse tax (BEAT), foreign-derived intangible income (FDII) and anti-hybrid rules. It is important to distinguish between guidance related tax law changes that are recorded in the enactment period and guidance that impacts tax calculations after enactment period (i.e., 2018 AETR computations).

Highlights

Accounting for new guidance during interim periods under SAB 118
Under SAB 118, entities unable to complete accounting for income tax effects of the Act (in the period of enactment) are allowed up to one year to finalize the accounting. This one-year period, known as the measurement period, ends once an entity is able to complete its assessment of the impact of the Act on its income tax accounts but not later than on December 22, 2018. Entities should update or finalize the impact of the Act when new or sufficient information is available. Under SAB 118, companies recorded the impact as: (1) final (complete), (2) provisional (incomplete, with reasonable estimate) or (3) no adjustment (incomplete, unable to estimate).

Throughout the measurement period, an entity may need to reflect the impact of new information by adjusting [or recording] provisional amounts. Income tax effects of events not related to the Act should not be reported as measurement period adjustments.

What's new
Recent guidance may impact interim tax accounting and reporting

Highlights
Accounting for new guidance during interim periods under SAB 118

What does this mean for you
- Assess new information available in interim periods
- Record provisional adjustments as discrete item(s)
- Consider disclosures

Deloitte perspective
Consider additional analysis and disclosure at each reporting period

What does this mean for you

Assess new information available in interim periods

Management should assess whether the Section 965 proposed regulations change previous estimates of transition tax or provisional amounts recorded in financial statements. Specifically, they should determine if the proposed regulations will change any positions they intend to ultimately take on either an originally filed return, amended return, or in connection with an examination by tax authorities. Finally, management should assess whether an unrecognized tax benefit (UTB) liability is required.

In addition to the Section 965 proposed regulations, management should also address other guidance issued by federal or state authorities. Similarly, as this information is analyzed, companies need to consider adjustments to other provisional amounts.

Under ASC 740, an entity does not normally consider new information received after the balance sheet date that was not available as of the balance sheet date. However, given the unique circumstances associated with the Act, where an entity has recorded provisional amounts for items that are still open as of the balance sheet date we believe it is also acceptable to consider such new information in updating provisional amounts as of the balance sheet date.

However, new information that constitutes a change in tax law should be reflected no sooner than the period in which the new law is enacted.

Although not under the scope of SAB 118, entities will still need to consider the effects of new information on the computation of its Annual Effective Tax Rate (“AETR”).

For further discussion on interim reporting and the AETR, see Chapter 9 of [2017 Deloitte Roadmap to Accounting for Income Taxes]

Record provision adjustments as discrete item(s)

To the extent companies adjust provisional amounts because of new information, the adjustment should be recorded as a discrete item in continuing operations rather than an adjustment to its AETR

Consider disclosures

SAB 118 requires entities to disclose “information about the material financial reporting impacts of the Act for which the accounting is incomplete”. Entities should refresh disclosures quarterly.

For items that were disclosed as complete in a prior Form 10-K (or Form 10-Q), they do not need to be repeated in subsequent Form 10-Q filings. However, an item reported as complete in a prior Form 10-Q would generally be repeated in the entity’s next Form 10-K filing.

For items that were disclosed as provisional or incomplete and are considered “open”, they would generally be treated like “material contingencies”. Accordingly, we believe that the relevant SAB 118 disclosures would need to be updated or refreshed as necessary in follow-on filings for these items until the accounting for such items is completed.

Deloitte perspective

Consider additional analysis and disclosure at each reporting period

While many tax accounting effects were recorded in the period of enactment, there are many aspects to consider during interim reporting as more guidance is issued, prior year estimates are refined or finalized, and additional disclosures may be necessary.

Companies should continue to analyze all aspects of the Act at each reporting period.

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