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**Life Sciences Industry Accounting Guide**  
Income Taxes

March 2025

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# Preface

The life sciences ecosystem encompasses a wide array of entities that discover, develop, and manufacture health care products. Such entities include pharmaceutical manufacturers; biotechnology companies; medical device, diagnostic, and equipment manufacturers; and service companies such as drug distributors, contract research organizations (CROs), contract manufacturing organizations (CMOs), and health technology companies.

Finance and accounting professionals in the life sciences industry face complex issues and must exercise significant judgment in applying existing rules to matters such as research and development (R&D) costs, acquisitions and divestitures, consolidation, contingencies, revenue recognition, income taxes, financial instruments, and financial statement presentation and disclosure. The 2025 edition of Deloitte's *Life Sciences Industry Accounting Guide* (the "Guide") addresses these and other relevant topics affecting the industry this year. It includes interpretive guidance, illustrative examples, recent standard-setting and rulemaking developments (through March 7, 2025), and key differences between U.S. GAAP and IFRS<sup>®</sup> Accounting Standards. [Appendix B](#) lists the titles of standards and other literature we cited, and [Appendix C](#) defines the abbreviations we used. Key changes made to this Guide since publication of the 2024 edition are summarized in Appendix D.

We hope the Guide is helpful in navigating the various accounting and reporting challenges that life sciences entities face. We encourage clients to contact their Deloitte team for additional information and assistance.

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# Chapter 7 — Income Taxes

## 7.1 Introduction

The accounting for income taxes under ASC 740 is sometimes very specific and can be complex. The overall objective of accounting for income taxes is to reflect (1) the amount an entity currently owes to tax authorities (current tax payable) and (2) deferred tax assets (DTAs) and deferred tax liabilities (DTLs) for the tax effects of transactions or events that have occurred but that have not yet been reflected in a tax return or vice versa (also referred to as “basis differences” or “temporary differences”). A DTA will be recorded for items that will result in future tax deductions (sometimes referred to as a benefit or a deductible temporary difference), and DTLs are recorded for items that will result in the inclusion of future taxable income in an entity’s tax return (taxable temporary difference). This balance sheet approach is used to calculate temporary differences and, in effect, takes into account the total tax that would be payable (or receivable) if all of an entity’s assets and liabilities were realized at their carrying value at a specific time (the reporting date).

In accordance with ASC 740, the critical event for recognition of a DTA is the event that gives rise to the deductible temporary difference, tax credit, or net operating loss (NOL) carryforward. Once that event occurs, those tax benefits should be recognized, subject to a realizability assessment. In effect, earning taxable income in future years is treated as a confirmation of realizability and not as a prerequisite to asset recognition. At the same time, management should consider future events to record those DTAs at amounts that are more likely than not to be realized in future tax returns. In the case of DTLs, ASC 740 requires an entity to include in its balance sheet an obligation for the tax consequences of taxable temporary differences, even when losses are expected in future years.

The following is a brief, general summary of deferred tax accounting under ASC 740:

- DTLs are recognized for future taxable amounts.
- DTAs are recognized for future deductions, operating losses, and tax credit carryforwards.
- The enacted tax rate expected to apply is used to measure DTAs and DTLs.
- A valuation allowance is recognized to reduce DTAs to the amounts that are more likely than not to be realized.
- The amount of the valuation allowance is based on all available positive and negative evidence about the future. The more objective the positive or negative evidence, the more weight the evidence carries in supporting the determination of whether DTAs will or will not be realized.
- Deferred tax expense or benefit is computed as the difference between the beginning and ending balance of the net DTA or DTL for the period.
- Entities present DTAs and DTLs as noncurrent in a classified balance sheet.
- The effects of changes in rates or laws are recognized in the period of enactment.

## 7.2 Industry Issues

The discussions and examples below contain guidance on income tax matters that frequently affect life sciences entities. The guidance cited is not intended to be all-inclusive or comprehensive; rather, it provides targeted considerations related to the application of ASC 740 that are most relevant to the industry.

For more information about the topics summarized below, see Deloitte's Roadmap [Income Taxes](#).

### 7.2.1 Scope Considerations

The scope of ASC 740 is limited to "taxes based on income" when income is determined after revenues and gains are reduced by some amount of expenses and losses allowed by the jurisdiction. Therefore, a tax based solely on revenues would not be within the scope of ASC 740 because the taxable base amount is not reduced by any expenses. A tax based on gross receipts, revenue, or capital should be accounted for under other applicable literature (e.g., ASC 450). In contrast, a tax whose base takes into account both income and expense is within the scope of ASC 740. A common question for life sciences entities to consider is whether certain R&D credits are within the scope of ASC 740.

Certain tax jurisdictions provide refundable credits (e.g., qualifying R&D credits in certain countries and state jurisdictions and alternative fuel tax credits for U.S. federal income tax) that do not depend on the entity's ongoing tax status or tax position (e.g., an entity may receive a refund despite being in a taxable loss position). Tax credits (e.g., refundable credits) whose realization does not depend on the entity's generation of taxable income or the entity's ongoing tax status or tax position are not considered an element of income tax accounting under ASC 740. Thus, even if the credit claims are filed in connection with a tax return, the refunds are not considered to be part of income taxes and therefore are not within the scope of ASC 740. In such cases, an entity would not record the credit as a reduction of income tax expense; rather, the entity should determine the credit's classification on the basis of its nature.

When determining the classification of these credits, an entity may consider them to be a form of government grant or assistance. There is no specific authoritative guidance under U.S. GAAP on the recognition and measurement of government assistance received by business entities. Accordingly, diversity in practice exists, and multiple models under U.S. GAAP with respect to accounting for government assistance may be acceptable. See Section 12.1.1.2 for more information.

In rare circumstances, a tax law may change the way a tax credit is realized. For example, a jurisdiction may have historically required that a credit be realized on the tax return as a reduction in taxes payable but subsequently changes the law so that the credit can be realized without an entity's first incurring a tax liability (i.e., the credit amount becomes refundable but was not when it arose). In this situation, an entity would generally continue to apply ASC 740 to the credits recognized at the time of the law change. Any new refundable credits earned after the tax law change would be accounted for in accordance with the guidance in this section.

Credits whose realization ultimately depends on taxable income (e.g., nonrefundable R&D credits) are generally recognized as a reduction of income tax expense. See [Section 12.2](#) of Deloitte's Roadmap [Income Taxes](#) for additional guidance on the presentation and recognition of investment tax credits.



## 7.2.2 Intra-Entity Transfers of IP

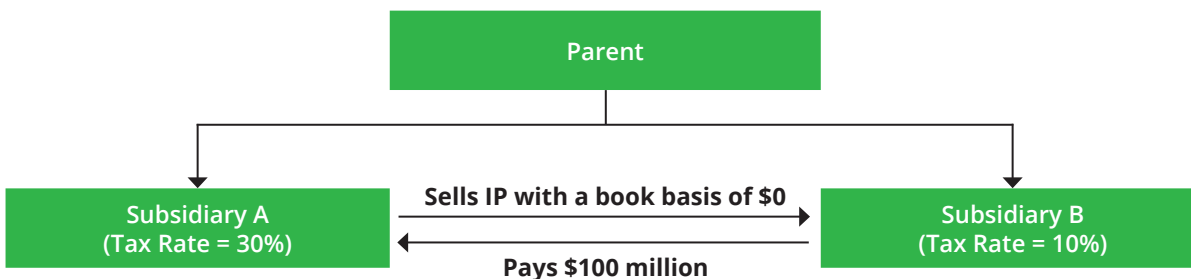
Life sciences entities often develop IP such as drug formulas, trade secrets, know-how, and other proprietary information. This IP may be developed in one jurisdiction but subsequently transferred to a subsidiary in another jurisdiction. Such transfers are often tax-motivated, and both the initial and subsequent accounting for them has historically been complex. An entity should record the current and deferred tax effects of intra-entity transfers of assets other than inventory, including the tax consequences of intra-entity asset transfers involving IP.

ASC 740-10-25-3(e) prohibits recognition of the deferred tax consequences of intra-entity transfers of inventory. However, this prohibition does not apply to noninventory assets. Under ASC 740-10-25-20(i), the selling (transferring) entity in an intra-entity transfer of an asset other than inventory is required to recognize any current tax expense or benefit upon transfer of the asset. Similarly, the purchasing (receiving) entity is required to recognize a DTA or DTL, as well as the related deferred tax benefit or expense, upon receipt of the asset.

The example below illustrates the income tax accounting for intra-entity transfers of assets other than inventory.

### Example 7-1

Consider the following:



In accordance with ASC 740-10-25-20(i), since the transferred asset is an asset other than inventory (IP in this case), A is required to recognize the current tax expense associated with the taxable gain on the sale of the IP by recording the following journal entry:

Current tax expense	30,000,000	
Current taxes payable		30,000,000

In addition, B is required to recognize the deferred tax effects associated with its purchase of the IP by recording the following journal entry:

DTA	10,000,000	
Deferred tax benefit		10,000,000

### 7.2.2.1 Interim Reporting Considerations

There is no explicit guidance in ASC 740-270 on whether the tax effects of intra-entity transfers of assets other than inventory should be recognized as discrete items or included in the estimated annual effective tax rate (AETR) for interim reporting purposes. Paragraph BC13 of [ASU 2016-16](#) states, in part:

Because of the variety of intra-entity asset transfers, the Board did not want to preclude an entity from making its own assessment about how to treat an intra-entity asset transfer for purposes of the estimate. The Board also agreed with stakeholders who indicated that if the Board had decided that all intra-entity asset transfers should be treated similarly for purposes of the estimate, it would have created an exception to the model in Topic 740. The Board's view is that it would not be unusual for entities following the guidance to conclude that many intra-entity transfers of assets other than inventory would be treated as discrete items for purposes of the computation. However, the Board understands from stakeholders' input that because the nature of, frequency of, and ability to estimate these transfers vary among entities, there are circumstances in which an entity could conclude that the transaction should be included in the computation of the estimated annual effective tax rate. The Board understands that an entity will need to apply judgment on the basis of the facts and circumstances to conclude whether the tax consequences of an intra-entity asset transfer other than inventory should be included in the computation of the estimated annual effective tax rate or treated as a discrete item in the interim period in which the transfer occurs.



#### Connecting the Dots

Entities should carefully consider all of the provisions and exceptions in ASC 740-270 to determine whether the tax effects of intra-entity asset transfers should be treated as discrete or included in the estimated AETR for interim reporting purposes.

### 7.2.3 Transfer Pricing

Many life sciences entities are global and operate legal entities in multiple countries. This may simply be owing to the size and scale of the business or may be the result of regulatory requirements. For example, life sciences entities are frequently required to have regulatory approval to manufacture or distribute products in each country in which their products are manufactured or sold. Similarly, CROs are often required to perform R&D services on different patient populations in multiple geographic locations. Because of the global nature of many life sciences entities, income tax accounting issues regarding the use of transfer pricing for intra-entity and related-party transactions arise. Generally, transfer pricing is the pricing used for transfers of tangible property, intangible property, services, or financing between affiliated entities in different tax jurisdictions. These transactions include transfers between domestic or international entities, such as (1) U.S. to foreign, (2) foreign to foreign, (3) U.S. to U.S., and (4) U.S. state to state.

The general transfer pricing principle is that the pricing of a related-party transaction should be consistent with the pricing of similar transactions between independent entities under similar circumstances (i.e., an arm's-length transaction). Transfer pricing tax regulations are intended to prevent entities from using intra-entity charges to evade taxes by inflating or deflating the profits of a particular jurisdiction in which the larger consolidated group does business. Even if a parent corporation or its subsidiaries are in tax jurisdictions with similar tax rates, an entity may have tax positions that are subject to the recognition and measurement principles in ASC 740-10-25-6 and ASC 740-10-30-7.

An entity's exposure to transfer pricing primarily occurs when the entity includes in its tax return the benefit received from a related-party transaction that was determined to have not been conducted as though it was at arm's length. An unrecognized tax benefit (UTB) results when one of the related parties reports either lower revenue or higher costs than it can sustain under examination with the taxing authority (depending on the type of transaction). While it is likely that a portion of the revenue or costs will be allowed in these situations, the amount of benefit is often uncertain because of the subjectivity of valuing the related-party transaction. The UTB is recorded to reflect this uncertainty.

An entity must perform two steps in applying ASC 740 to all uncertain tax positions within its scope: (1) recognition and (2) measurement. The requirements of ASC 740 in the context of transfer pricing arrangements, including related considerations, are outlined below.

### **7.2.3.1 Determining the Unit of Account**

Before applying the recognition and measurement criteria, an entity must identify all material uncertain tax positions and determine the appropriate unit of account for assessment. As noted in ASC 740-10-20, a tax position encompasses an “allocation or a shift of income between jurisdictions” (i.e., a transfer pricing arrangement). Therefore, intra-entity and related-party transactions under transfer pricing arrangements are within the scope of ASC 740.

Further, tax positions related to transfer pricing generally should be evaluated individually, since two entities and two tax jurisdictions are involved in each transaction. Such an evaluation should be performed even when the transaction is supported by a transfer pricing study prepared by one of the entities. Typically, there would be at least two units of account. For example, the price at which one entity will sell goods to another entity will ultimately be the basis the second entity will use to determine its cost of goods sold. In addition, some transfer pricing arrangements could be made up of multiple components that could be challenged individually or in aggregate by a tax authority. Therefore, there could be multiple units of account associated with a particular transfer pricing arrangement.

### **7.2.3.2 Recognition**

ASC 740-10-25-6 indicates that the threshold for recognition has been met “when it is more likely than not, based on the technical merits, that the position will be sustained upon examination.” An entity should apply the recognition threshold and guidance in ASC 740 to each unit of account in a transfer pricing arrangement. In some cases, a tax position will be determined to have met the recognition threshold if a transaction has taken place to generate the tax positions and some level of benefit will therefore be sustained. For example, assume that a U.S. parent entity receives a royalty for the use of intangibles by a foreign subsidiary that results in taxable income for the parent and a tax deduction for the foreign subsidiary. The initial tax filing (income in the receiving jurisdiction and expense/deduction in the paying jurisdiction) may typically meet the more-likely-than-not recognition threshold on the basis of its technical merits, since a transaction between two parties has occurred. However, because there are two entities and two tax jurisdictions involved, the tax jurisdictions could question whether the income is sufficient, whether the deduction is excessive, or both. Such factors should generally be considered during the recognition phase as part of the determination of what the tax jurisdictions are more likely than not to accept on the basis of the technical merits.

### **7.2.3.3 Measurement**

After an entity has assessed the recognition criteria in ASC 740 and has concluded that it is more likely than not that the tax position taken will be sustained upon examination, the entity should measure the associated tax benefit. This measurement should take into account all relevant information, including tax treaties and arrangements between tax authorities. As discussed above, each tax position should be assessed individually and a minimum of two tax positions should be assessed for recognition and measurement in each transfer pricing transaction.

For measurement purposes, ASC 740-10-30-7 requires that the tax benefit be based on the largest amount that is more than 50 percent likely to be realized upon settlement with a tax jurisdiction “that has full knowledge of all relevant information.” Intra-entity or transfer pricing assessments present some unique measurement-related challenges that are based on the existence of tax treaties or other arrangements (or the lack of such arrangements) between two tax jurisdictions.

Measurement of uncertain tax positions is typically based on facts and circumstances. The following are some general considerations (not all-inclusive):

- *Transfer pricing studies* — An entity will often conduct a transfer pricing study with the objective of documenting the appropriate arm’s-length pricing for the transactions. The entity should consider the following when using a transfer pricing study to support the tax positions taken:
  - The qualifications and independence of third-party specialists involved (if any).
  - The type of study performed (e.g., benchmarking analysis, limited or specified method analysis, U.S. documentation report, Organisation for Economic Co-operation and Development [OECD] report).
  - The specific transactions and tax jurisdictions covered in the study.
  - The period covered by the study.
  - The reasonableness of the model(s) and the underlying assumptions used in the study (i.e., comparability of companies or transactions used, risks borne, any adjustments made to input data).
  - Any changes in the current environment, including new tax laws in effect.
- *Historical experience* — An entity should consider previous settlement outcomes of similar tax positions in the same tax jurisdictions. Information about similar tax positions, in the same tax jurisdictions, that the entity has settled in previous years may serve as a good indicator of the expected settlement of current positions.
- *Applicability of tax treaties or other arrangements* — An entity should consider whether a tax treaty applies to a particular tax position and, if so, how the treaty would affect the negotiation and settlement with the tax authorities involved.
- *Symmetry of positions* — Even though each tax position should be evaluated individually for appropriate measurement, if there is a high likelihood of settlement through “competent-authority” procedures under the tax treaty or other agreement, an entity should generally use the same assumptions about such a settlement to measure both positions (i.e., the measurement assumptions are similar, but the positions are not offset). Under the terms of certain tax treaties entered into by the United States and foreign jurisdictions, countries mutually agree to competent-authority procedures to relieve companies of double taxation created by transfer pricing adjustments to previously filed returns. If competent-authority procedures are available, entities should carefully consider whether to pursue relief through them and whether the particular jurisdictions involved are highly likely to reach an agreement with respect to the particular disputed transactions.

An entity should carefully consider whether the tax jurisdictions involved strictly follow the arm’s-length principle. Some jurisdictions may have a mandated statutory margin that may or may not equate to what is considered arm’s length by another reciprocal taxing jurisdiction. In these situations, when an entity measures positions, it may be inappropriate for the entity to assume that they are symmetrical.

### **7.2.3.4 Presentation**

In some cases, if two governments follow the OECD's transfer pricing guidelines to resolve substantive issues related to transfer pricing transactions between units of the same entity, an asset could be recognized in one jurisdiction because of the application of competent-authority procedures, and a liability could be recognized for UTBs from another tax jurisdiction that arose because of transactions between the entity's affiliates that are not considered at arm's length.

In this case, an entity should present the liability for UTBs and the tax benefit on a gross basis in its balance sheet. In addition, a public entity would include only the gross liability for UTBs in the tabular reconciliation disclosure. However, in the disclosure required by ASC 740-10-50-15A(b), the public entity would include the liability for UTBs and the tax benefit on a net basis in the amount of UTBs that, if recognized, would affect the effective tax rate.

## **7.2.4 Research and Development**

For many life sciences entities, R&D activities represent a significant focus and expenditure. Beyond the above-mentioned scope considerations related to refundable R&D tax credits, these activities may result in various income tax accounting impacts that should be accounted for in accordance with ASC 740. For example, R&D cost-sharing agreements may affect an entity's accounting for the income tax effects of share-based payments. In addition, an entity may acquire R&D assets in a business combination that result in the creation of temporary differences. These issues are summarized below.

### **7.2.4.1 R&D Cost-Sharing Arrangements**

A reporting entity may enter into an arrangement with a related entity (typically a foreign subsidiary) to share the cost of developing certain intangible assets. Under such an arrangement, which is often referred to as a cost-sharing arrangement, one company bears expenses on behalf of another company and is subsequently reimbursed for those costs. The shared costs may include the cost of share-based payments issued to employees of the reporting entity. Regarding the tax impact of the sharing of share-based payment costs, the discussion document for the FASB Statement 123(R) Resource Group's July 21, 2005, meeting states, in part:

Related companies that plan to share the cost of developing intangible property may choose to enter into what is called a cost-sharing agreement whereby one company bears certain expenses on behalf of another company and is reimbursed for those expenses. U.S. tax regulations specify the expenses that must be included in a pool of shared costs; such expenses include costs related to stock-based compensation awards granted in tax years beginning after August 26, 2003.

The tax regulations provide two methods for determining the amount and timing of share-based compensation that is to be included in the pool of shared costs: the "exercise method" and the "grant method." Under the exercise method, the timing and amount of the allocated expense is based on the intrinsic value that the award has on the exercise date. Companies that elect to follow the grant method use grant-date fair values that are determined based on the amount of U.S. GAAP compensation costs that are to be included in a pool of shared costs. Companies must include such costs in U.S. taxable income regardless of whether the options are ultimately exercised by the holder and result in an actual U.S. tax deduction.

Cost-sharing agreements affect the U.S. company's accounting for the income tax effects of share-based compensation. Companies should consider the impact of cost-sharing arrangements when measuring, on the basis of the tax election they have made or plan to make, the initial and subsequent deferred tax effects.

**Example 7-2**

Company A, which is located in the United States, enters into a cost-sharing arrangement with its subsidiary, Company B, which is located in Switzerland. Under the arrangement, the two companies share costs associated with the R&D of certain technology. Company B reimburses A for 30 percent of the R&D costs incurred by A. The U.S. tax rate is 25 percent. Cumulative book compensation for a fully vested option issued to a U.S. employee is \$100 for the year ending on December 31, 20X6. The award is exercised during 20X7, when the intrinsic value of the option is \$150.

The tax accounting impact discussed below.

**Exercise Method**

On December 31, 20X6, A records \$18 as the DTA related to the option (rounded for \$100 book compensation expense  $\times$  70% not subject to reimbursement  $\times$  25% tax rate). When, in 20X7, the option is exercised, any net tax benefit that exceeds the DTA is an excess tax benefit and is recorded in the income statement. The company is entitled to a U.S. tax deduction resulting in a benefit (net of the inclusion) of \$26 (rounded for \$150 intrinsic value when the option is exercised  $\times$  70% not reimbursed  $\times$  25%). Accordingly, \$8 (\$26 – \$18) would be recorded in the income statement as an excess tax benefit.

**Grant Method**

The cost-sharing impact is an increase of currently payable U.S. taxes each period; however, in contrast to the exercise method, the cost-sharing method should have no direct impact on the carrying amount of the U.S. DTA related to share-based compensation. If there was \$100 of stock-based compensation during 20X6, the impact on the December 31, 20X6, current tax provision would be \$8 (rounded for \$100 book compensation expense  $\times$  30% reimbursed  $\times$  25%). If the stock-based charge under ASC 718 is considered a deductible temporary difference, a DTA also should be recorded in 20X6 for the financial statement expense, in the amount of \$25 (\$100 book compensation expense  $\times$  25%). The net impact on the 20X6 income statement is a tax benefit of \$17 (\$25 – \$8). At settlement, the excess tax deduction of \$13 (rounded for excess of intrinsic value over \$50 book compensation expense  $\times$  25%) would be recorded in the income statement.

**7.2.4.2 R&D Assets Acquired in a Business Combination**

Acquired R&D assets will be separately recognized and measured at their acquisition-date fair values. ASC 350-30-35-17A states that an R&D asset acquired in a business combination must be considered an indefinite-lived intangible asset until completion or abandonment of the associated R&D efforts. Once the R&D efforts are complete or abandoned, an entity should apply the guidance in ASC 350 to determine the useful life of the R&D assets and should amortize these assets accordingly in the financial statements. If the project is abandoned, the asset would be written off if it has no alternative use.

In accordance with ASC 740, deferred taxes should be recorded for temporary differences related to acquired R&D assets as of the business combination's acquisition date. As with all acquired assets and assumed liabilities, an entity must compare the amount recorded for an R&D intangible asset with its tax basis to determine whether a temporary difference exists. If the tax basis of the R&D intangible asset is zero, as it will be in a typical nontaxable business combination, a DTL will be recorded for that basis difference.

### 7.2.5 Valuation Allowances and Tax-Planning Strategies

A life sciences entity that has recurring losses or other negative evidence must consider all available evidence, both positive and negative, to determine whether a valuation allowance against its DTAs is needed. In assessing positive and negative evidence, an entity must consider the following four possible sources of taxable income discussed in ASC 740-10-30-18:

1. "Future reversals of existing taxable temporary differences."
2. "Future taxable income exclusive of reversing temporary differences and carryforwards."
3. "Taxable income in prior carryback year(s) if carryback is permitted under the tax law."
4. "Tax-planning strategies."

This analysis can be quite complex depending on the entity's facts and circumstances. Significant judgment is often required, particularly in the evaluation of items (2) and (4) above. It is difficult to assert that the entity will have future taxable income exclusive of reversing taxable temporary differences when it has cumulative losses in recent years. Further, tax-planning strategies must meet certain criteria to be treated as a source of taxable income, and evaluation of those criteria is often not straightforward.

### 7.2.6 Prescription Drug Fees

The Patient Protection and Affordable Care Act, as amended by the Health Care and Education Affordability Reconciliation Act, imposed an annual fee, payable to the U.S. Treasury, on the pharmaceutical manufacturing industry for each calendar year beginning on or after January 1, 2011. The amount of the fee to be paid by a given entity is based on the entity's branded prescription drug (BPD) sales for the preceding year as a percentage of the industry's BPD sales for the same period. Under current U.S. tax law, the fee is not tax deductible and will therefore result in a permanent difference between an entity's income for financial reporting purposes and its taxable income. This permanent difference will result in an increase in the entity's overall effective tax rate.

### 7.2.7 Section 382 Limitations on NOL Carryforwards

Because of the significant up-front costs required for companies to bring a new drug through regulatory approval and ultimately to market, it is common for companies in the life sciences industry to generate losses in the early stage of their life cycle. Companies can generally benefit from these losses in the form of NOL carryforwards that offset future taxable income.

However, Internal Revenue Code (IRC) Section 382 provides that loss corporations may be subject to a limitation on the amount of the NOL carryforward that can be realized in periods after a change in ownership (the "Section 382 limitation"). While ownership changes can result from a business combination or an IPO transaction, they can also be driven by a new round of equity financing that affects the company's ownership structure when certain thresholds are met. Companies should assess all changes to their ownership structure to determine whether any Section 382 limitation is required.

The determination of a Section 382 limitation involves a high degree of complexity and requires careful evaluation. An assessment of potential limitations on NOL carryforwards should be included as part of a company's ongoing tax-planning and tax-forecasting strategies, and the impacts of such limitations on potential funding, exit plans, or acquisition portfolio strategies should also be considered. Companies that may be subject to Section 382 limitations are encouraged to consult with their tax advisers.

In September 2019, the U.S. Treasury and the IRS issued [proposed Treasury regulations](#) on the items of income and deduction that are treated as built-in gains and losses under IRC Section 382. The proposed regulations would significantly modify existing guidance on the determination of built-in gains and losses. While the proposed regulations have not been formally withdrawn, IRS officials have publicly stated that any guidance in this area would be repropounded. Nevertheless, we expect that any future guidance would be less favorable than existing guidance. Accordingly, companies should continue monitoring the status of IRC Section 382 guidance and consult with their tax advisers to understand how the proposals could affect their income tax profile.

## **7.2.8 Tax Deductibility of Patent Infringement Litigation Costs**

Patent infringement litigation costs incurred after the actual sale of a product, which are expensed for book purposes, are generally tax deductible as “ordinary and necessary” business expenses under IRC Section 162(a). However, for generic drug companies filing ANDAs under the Hatch-Waxman Act, the treatment of these costs (i.e., expensed vs. capitalized) can result in a temporary difference. This is because the IRS has challenged the tax deductibility of costs incurred by generic drug companies to navigate the “paragraph IV” process (i.e., the process in which a generic drug company seeks FDA approval of an ANDA by certifying, in accordance with 21 U.S.C. Section 355(j)(2)(A)(vii)(IV), that it believes that a third party’s patent is invalid or will not be infringed by the generic drug company’s new product).

### **7.2.8.1 Background**

On March 8, 2013, the IRS Office of Chief Counsel issued a [memorandum](#) clarifying the capitalization of incurred legal fees related to NDAs and ANDAs, including patent litigation costs arising from paragraph IV patent certification. The memorandum states that legal costs associated with the paragraph IV process should be capitalized.

In a manner consistent with the memorandum, the IRS confirmed that FDA-approved ANDAs are amortizable intangibles under IRC Section 197 and should be amortized ratably over a 15-year period. Further, the IRS argued that patent litigation costs are part of the ANDA approval process (the intangible asset). Accordingly, the IRS issued notices of proposed adjustments (NOPAs) to companies that had immediately expensed (deducted) these costs in their annual tax returns.

### **7.2.8.2 U.S. Tax Court Ruling**

Many generic pharmaceutical companies challenged the NOPAs by issuing protest statements to the IRS or bringing lawsuits to the U.S. Tax Court. In April 2021, after years of litigation, the U.S. Tax Court issued a ruling (*Mylan Inc. and Subsidiaries vs. Commissioner of Internal Revenue*) that was partly favorable to Mylan Inc., a generic pharmaceutical company.

In its ruling, the U.S. Tax Court held, in part, that the generic pharmaceutical company could immediately deduct the legal fees it had incurred to defend patent infringement lawsuits as “ordinary and necessary business expenses,” and did not need to capitalize those expenses as the IRS argued, because the patent litigation was separate from the ANDA approval process. The IRS appealed the U.S. Tax Court’s ruling to the U.S. Court of Appeals for the Third Circuit, and the Tax Court’s ruling was upheld. This matter is closed, establishing a precedent.



## 7.2.9 Selling Income Tax Credits to Monetize Them

Income tax credits that can be used only to reduce an income tax liability and would never be refundable by the government are within the scope of ASC 740. Some tax jurisdictions might, however, allow an entity that generates certain types of income tax credits to either use a credit to reduce its own income tax liability or effectively “sell” all or a portion of the credit by assigning the right to claim the credit to another qualified entity. One such situation is illustrated in the example below, which is adapted from the summary in the New Jersey Economic Development Authority’s (NJEDA’s) [FAQs](#) on the New Jersey Technology Business Tax Certificate Transfer Program.

### Example 7-3

The New Jersey Technology Business Tax Certificate Transfer Program enables approved technology and biotechnology businesses with NOLs to sell their unused NOL carryover and unused R&D tax credits for at least 80 percent of the value of the tax benefits to a profitable corporate taxpayer in New Jersey that is not an affiliated business. This allows technology and biotechnology businesses with NOLs to turn their tax losses and credits into cash to buy equipment or facilities, or for other allowable expenditures. The NJEDA determines eligibility, and the New Jersey Division of Taxation determines the value of the tax benefits (unused NOL carryover and unused R&D tax credits).

In those situations, if an entity does not have sufficient taxable income to use all or a portion of the income tax credit or in which using it might take multiple tax years, the entity might achieve a better economic benefit (i.e., present value benefit) by selling the credit. Regardless of intent, if the credit can be used only to reduce an income tax liability either of the entity that generated it or the entity to which it is transferred and would never be refundable by the government, we believe that the credit should remain within the scope of ASC 740.<sup>1</sup> In such situations, the entity that generated the credit would recognize and measure it in accordance with the recognition and measurement criteria of ASC 740. To the extent that the income tax credit does not reduce income taxes currently payable, the entity would recognize a DTA for the carryforward and assess it for realizability in a manner consistent with the sources of income cited in ASC 740-10-30-18. While we believe that such an assessment would generally be predicated upon the normal course of business (i.e., an entity would not factor in its ability to sell the underlying credit as a basis for realizing the related DTA), we understand on the basis of a technical inquiry with the FASB staff that it would also be acceptable to consider the expected sales proceeds when assessing realizability.

If the entity were to subsequently sell the income tax credit, we understand on the basis of the same FASB staff technical inquiry that it would be most appropriate to reflect any proceeds and resulting gain/loss on the sale as a component of the tax provision. Alternatively, we believe that the sale could be treated no differently than the sale of any other asset, with gain or loss recognized in pretax earnings for any difference between the proceeds received and the recorded carrying value of the DTA for the income tax credit that was recognized in accordance with the guidance in ASC 740 on recognition and measurement.<sup>2</sup>

<sup>1</sup> While we believe accounting for transferable credits within the scope of ASC 740 is most appropriate, consistent with feedback received from the FASB staff, we believe it would be acceptable for a company to account for transferable credits in a manner similar to refundable credits (described in [Section 7.2.1](#)) as the company generating the credit does not need taxable income in order to monetize the credit.

<sup>2</sup> If an entity’s policy is to reflect gain or loss in pretax earnings, it would not be appropriate to consider the expected proceeds when assessing realizability of the related DTA.

### 7.3 Tax Cuts and Jobs Act of 2017

The Tax Cuts and Jobs Act of 2017 (the “2017 Act”) includes the following provisions that are relevant to life sciences entities:

- *Global intangible low-taxed income (GILTI)* — The 2017 Act requires certain income (i.e., GILTI) earned by controlled foreign corporations (CFCs) to be included currently in the gross income of the CFCs’ U.S. shareholder. GILTI is the excess of the shareholder’s “net CFC tested income” over the net deemed tangible income return (the “routine return”), which is defined as the excess of (1) 10 percent of the aggregate of the U.S. shareholder’s pro rata share of the qualified business asset investment of each CFC with respect to which it is a U.S. shareholder over (2) the amount of certain interest expense taken into account in the determination of net CFC-tested income.

A deduction is permitted to a domestic corporation in an amount equal to 50 percent of the sum of the GILTI inclusion and the amount treated as a dividend because the corporation has claimed a foreign tax credit as a result of the inclusion of the GILTI amount in income (“IRC Section 78 gross-up”). If the sum of the GILTI inclusion (and related IRC Section 78 gross-up) and the corporation’s foreign-derived intangible income (FDII) exceeds the corporation’s taxable income, the deductions for GILTI and for FDII are reduced by the excess. As a result, the GILTI deduction can be no more than 50 percent of the corporation’s taxable income (and will be less if the corporation is also entitled to an FDII deduction). The maximum GILTI deduction is reduced to 37.5 percent for taxable years beginning after December 31, 2025.

- *Deduction for FDII* — The 2017 Act allows a domestic corporation a deduction for a portion of its FDII. The amount of the deduction depends, in part, on U.S. taxable income. The percentage of income that can be deducted is reduced in taxable years beginning after December 31, 2025.
- *Base erosion anti-abuse tax (BEAT)* — A corporation is potentially subject to tax under the BEAT provision if the controlled group of which it is a part has sufficient gross receipts and derives a sufficient level of “base erosion tax benefits.” Under the BEAT provision, a corporation must pay a base erosion minimum tax amount (BEMTA) in addition to its regular tax liability after credits. The BEMTA is generally equal to the excess of (1) a fixed percentage of a corporation’s modified taxable income (taxable income determined without regard to any base erosion tax benefit related to any base erosion payment, and without regard to a portion of its NOL deduction) over (2) its regular tax liability (reduced by certain credits). The fixed percentage is generally 5 percent for taxable years beginning in 2018, 10 percent for years beginning after 2018 and before 2026, and 12.5 percent for years after 2025.
- *Capital expensing* — The 2017 Act permits 100 percent immediate expensing for qualified property through 2022, which is phased down each subsequent year through 2026 (80 percent in 2023, 60 percent in 2024, 40 percent in 2025, 20 percent in 2026).
- *Orphan drug credit* — The 2017 Act halved the credit for research on rare diseases, known as the orphan drug credit.
- *Research and experimental (R&E) expenses* — The 2017 Act requires R&E costs to be amortized over 5 years for R&E activities performed in the United States (or 15 years for R&E activities performed outside the United States).



## Changing Lanes

On December 12, 2022, the U.S. Treasury and IRS released [Revenue Procedure 2023-8](#), which provides procedural guidance that allows taxpayers to make an automatic change in method of accounting so that they can comply with the provision of [IRC Section 174](#) that requires capitalization of specified R&E expenses (the “Required Section 174 Method”). The Required Section 174 Method, which resulted from the 2017 Act’s amendments to IRC Section 174, is effective for tax years beginning after December 31, 2021. Before the effective date of the Required Section 174 Method, taxpayers could deduct R&E expenses immediately in the year in which those costs were incurred or elect to capitalize or amortize those costs over a 60-month period.

A taxpayer is generally precluded from obtaining automatic consent for a change in method of accounting if it has made or requested a change for the same item during any of the prior five taxable years ending with the year of change. However, Revenue Procedure 2023-8 waives this requirement for a change to the Required Section 174 Method for a taxpayer’s first taxable year beginning after December 31, 2021.<sup>3</sup> For more information, see Deloitte’s December 14, 2022, Tax Alert [IRS Issues Procedural Guidance for Method Changes to Comply With Section 174](#) and January 3, 2023, Tax Alert [IRS Issues Modified Procedural Guidance for Method Changes to Comply With Section 174](#).

For a discussion of other matters related to the income tax accounting consequences of the 2017 Act’s provisions, see Deloitte’s January 3, 2018 (updated August 30, 2018), [Financial Reporting Alert](#).

## 7.4 CARES Act

On March 27, 2020, President Trump signed into law the CARES Act, a massive tax-and-spending package intended to provide additional economic relief to address the impact of the COVID-19 pandemic. Several significant business tax provisions in the CARES Act that are intended to improve cash flow and liquidity could affect a company’s accounting for income taxes. Under ASC 740, the effects of new legislation are recognized upon enactment, which (for federal legislation) is the date the president signs the bill into law. Accordingly, recognition of the tax effects of the CARES Act was required in the interim and annual periods that included March 27, 2020.

The following provisions of the CARES Act are most likely to affect life sciences entities:

- *Modifications to limitations on deductibility of NOLs (Section 2303)* — The 2017 Act eliminated, with certain exceptions, the NOL carryback period and permits an indefinite carryforward period while limiting the NOL deduction to 80 percent of taxable income (computed without regard to the NOL deduction). The CARES Act repeals the 80 percent limitation for taxable years beginning before January 1, 2021.
- *Modifications to limitations on deductibility of business interest (Section 2306)* — The CARES Act amends IRC Section 163(j) as applied to taxable years beginning in 2019 and 2020. IRC Section 163(j) limits the deduction for business interest expense to the sum of (1) the taxpayer’s business interest income, (2) 30 percent of the taxpayer’s adjusted taxable income, and (3) the taxpayer’s floor plan financing interest expense for the taxable year. The CARES Act increases

<sup>3</sup> On December 29, 2022, the U.S. Treasury and IRS released [Revenue Procedure 2023-11](#), which modifies Revenue Procedure 2023-8 by providing that a taxpayer will not be granted audit protection if a change in method is made for the taxable year immediately after the first taxable year in which the Required Section 174 Method becomes effective. That is, a calendar-year taxpayer that did not apply the Required Section 174 Method in its 2022 taxable year tax return would not obtain audit protection by filing a Form 3115 that is effective for taxable year 2023. However, Revenue Procedure 2023-11 otherwise retains the same eligibility and audit protection terms as Revenue Procedure 2023-8.

the 30 percent adjusted taxable income threshold to 50 percent for taxable years beginning in 2019 and 2020.<sup>4</sup>

- *Alternative minimum tax (AMT) credit acceleration (Section 2305)* — The 2017 Act repealed the corporate AMT, which operated in parallel with the regular tax system. The CARES Act amends Section 53(e) of the 2017 Act so that all prior-year minimum tax credits are potentially available for refund for the first taxable year of a corporation beginning in 2018. Companies will need to adjust the classification of any remaining AMT credits as a result of the AMT credit acceleration.
- *Expensing of qualified improvement property (QIP) (Section 2307)* — The 2017 Act inadvertently failed to include QIP in the 15-year property classification. Accordingly, QIP was classified by default as 39-year property and was consequently ineligible for the additional first-year bonus depreciation. To fix these inadvertent oversights, the CARES Act includes technical amendments that are retroactive to the effective date of the 2017 Act. Companies will need to consider (1) how the QIP technical correction affects their assessment of uncertain tax positions, including the impacts of interest and penalties; (2) the possibility of having to file amended tax returns; and (3) the related impact on current taxes payable and DTAs and DTLs.
- *Other tax considerations* — Depending on an entity's facts and circumstances, certain of the aforementioned sections of the CARES Act (e.g., those related to the NOL carryback and the QIP technical correction) could also affect various other aspects of an entity's tax provision (e.g., GILTI, BEAT, FDII). Accordingly, an entity will need to carefully consider its facts and circumstances to determine the appropriate accounting.
- *Interim reporting considerations* — An entity uses an estimated AETR to compute its taxes for interim periods related to ordinary income (or loss). Generally, the provisions of the CARES Act that affect ordinary income (e.g., credits that are not related to income taxes) should be considered and estimated as part of an entity's estimated AETR.

For more information about the CARES Act and its impacts, see Deloitte's April 9, 2020 (updated September 18, 2020), [Heads Up](#).

## 7.5 Inflation Reduction Act of 2022

On August 16, 2022, President Biden signed the IRA into law. The IRA has a number of tax-related provisions, including:

- A 15 percent book minimum tax ("corporate AMT") on the adjusted financial statement income (AFSI) of applicable corporations (see [Section 7.5.1](#)).
- A plethora of clean energy tax incentives in the form of tax credits, some of which include a direct-pay option or transferability provisions (see Deloitte's August 12, 2022, Tax Alert [Clean Energy Credits and Incentives in the Inflation Reduction Act of 2022 — Details and Observations](#)).
- A 1 percent excise tax on certain corporate stock buybacks (see [Section 7.5.2](#)).
- A redesign of Medicare (see Section 1.4.9.1).

For more information about the IRA and its impacts, see Deloitte's November 9, 2022, [Emerging ASC 740 Issues: Recent Tax Legislation](#).

The clean energy tax credit changes in the IRA are not expected to have a significant impact on the life sciences industry.

<sup>4</sup> Special rules also apply for partnerships and short taxable years in 2019 and 2020. For additional information, see Deloitte's [COVID-19 Stimulus: A Taxpayer Guide](#).

Many of the income tax impacts of the IRA are effective for financial reporting periods and tax years beginning on or after January 1, 2023. For more information, see Deloitte’s April 3, 2023, [Financial Reporting Alert](#).

### 7.5.1 Corporate AMT

The corporate AMT has many similarities to the since repealed, pre-2018 U.S. AMT system applicable to corporations. ASC 740 addressed that tax law and provided that (1) “[i]n the U.S. federal tax jurisdiction, the applicable tax rate [for measuring U.S. federal deferred taxes] is the regular tax rate” and (2) a DTA would be recognized for AMT credit carryforwards available under the legislation, which would then be assessed for realization.

We believe that similar accounting will be applied to the corporate AMT. Accordingly, under this approach, no remeasurement of existing DTAs and DTLs would be needed in the period of enactment. Rather, the tax effects of the corporate AMT (i.e., increase in tax payable and related credit) would only be reflected in an entity’s financial statements after the law is actually effective (i.e., beginning in an entity’s first reporting period and tax year that begins after December 31, 2022). More specifically, an entity that expects to owe corporate AMT for tax years beginning after December 31, 2022, would recognize an increase in current tax payable for such years along with a DTA for AMT credit carryforwards that would then need to be assessed for realization (i.e., assessed for a valuation allowance). The resulting tax effects would be considered in determining the entity’s AETR in such future years.

For more information, see Deloitte’s August 10, 2022, U.S. International Tax Alert [Corporate AMT Included in Inflation Reduction Act of 2022](#).

#### 7.5.1.1 Potential Interaction With Valuation Allowance

While deferred taxes will continue to be measured at the regular tax rate, the introduction of corporate AMT will have an effect on existing DTAs in the regular tax system if an entity expects to be perpetually paying corporate AMT (e.g., while an NOL for an entity that is expected to perpetually pay corporate AMT might result in a reduction in tax under the regular system, the NOL may not be available for corporate AMT purposes, and the entity might pay corporate AMT on the income sheltered by the NOL in the regular tax system).

We believe that there are two acceptable approaches to assessing the realizability of DTAs in the regular system for perpetual corporate AMT taxpayers. Under the first approach, the entity would assess the realizability of its DTAs on the basis of all available information. If, for example, the expected tax benefit of an NOL is less than the reported amount because the utilization of the NOL will result in incremental corporate AMT, a valuation allowance would be required to reflect the actual amount of tax benefit that will be realized with respect to the NOL. Alternatively, the entity could assess the realizability of its DTAs solely on the basis of the regular tax system without taking into account amounts due under the corporate AMT system (i.e., any incremental impact of the corporate AMT would be accounted for in the period the corporate AMT is incurred).

These approaches are illustrated in the example below.

#### Example 7-4

Assume that Entity A:

- Had \$1,000 of pre-2018 NOL carryforwards and no corporate AMT credit or NOL carryforward.
- Expects sufficient future income to fully utilize its pre-2018 NOL carryforward.
- Expects to perpetually be a corporate AMT taxpayer and, accordingly, will need to record a full valuation allowance against any corporate AMT credit carryforwards that arise in future years.

For simplicity, further assume that there are no other permanent or temporary differences or attributes.

These assumptions are reflected in the table below.

	Regular Tax	Corporate AMT
Future pre-NOL AFSI and taxable income <b>(A)</b>	\$ 1,000	\$ 1,000
NOL deduction	(1,000)	0
Taxable income/AFSI <b>(B)</b>	\$ 0	\$ 1,000
Tax rate <b>(C)</b>	21%	15%
Taxes payable with NOL carryforward <b>(B × C)</b>	\$ 0	\$ 150
Taxes payable without NOL carryforward <b>(A × C)</b>	\$ 210	\$ 150

Entity A could select either of the following approaches to assess the realizability of DTAs in the regular system:

- *Approach 1* — The utilization of the NOL reduces the regular tax liability of \$210 down to the corporate AMT liability of \$150. As a result, the NOL only results in a reduction of future cash outflows of \$60, necessitating a \$150 valuation allowance against the \$210 NOL DTA.
- *Approach 2* — The \$150 incremental cost of corporate AMT would be accounted for in the period in which it arises, and no valuation allowance would be recorded against the \$210 NOL DTA since there is sufficient regular taxable income expected in future years.

In addition, the IRA allows entities to reduce their corporate AMT tax liability by certain general business credits. Entities applying the first approach that have a valuation allowance because of an inability to use such credits in the regular tax system would need to consider whether such credits may now be realizable as a result of the corporate AMT.

## 7.5.2 Stock Buyback 1 Percent Excise Tax

The IRA adds a new IRC section, Section 4501, that imposes a 1 percent excise tax on stock repurchases by publicly traded companies that occur after December 31, 2022. Specifically, under new IRC Section 4501, a covered corporation would be subject to a tax equal to 1 percent of (1) the fair market value of any stock of the corporation that is repurchased by this corporation (or certain affiliates) during any taxable year, with limited exceptions, less (2) the fair market value of any stock issued by the covered corporation (or certain affiliates) during the taxable year (including compensatory stock issuances). The 1 percent excise tax may also be imposed on acquisitions of stock in certain mergers or acquisitions involving covered corporations.

Because the tax is not based on a measure of income, the excise tax is not an income tax and, therefore, is not within the scope of ASC 740. The accounting for taxes paid in connection with the repurchase of stock is not specifically addressed in U.S. GAAP. However, entities may consider the guidance in AICPA Technical Q&As Section 4110.09, which indicates that direct and incremental legal and accounting costs associated with the acquisition of treasury stock may be added to the cost of the treasury stock. Therefore, it is acceptable to account for the IRC Section 4501 excise tax obligation that results from the repurchase of common stock classified within permanent equity as a cost of the treasury stock transaction. Any reductions in the excise tax obligation associated with share issuances would also be recognized as part of the original treasury stock transaction even if the share issuance is a different type of instrument than the share that was repurchased. Additional considerations are necessary when the excise tax obligation that arises is related to redemptions of preferred stock. Such an excise tax obligation would be recognized as a cost of redeeming the preferred stock. The accounting for redemptions of preferred stock differs depending on the classification of the preferred stock as permanent equity, temporary equity, or a liability. An entity would need to use a systematic and rational allocation approach to account for the effect of share issuances on the excise tax obligation when the entity has repurchases of both common stock and preferred stock during a taxable period.

For more information about the stock buyback tax under the IRA, see Deloitte’s April 27, 2023, [Heads Up](#) and August 12, 2022, Tax Alert [Excise Tax on Repurchases of Stock](#).

## 7.6 OECD Pillar Two

In October 2021, more than 135 countries and jurisdictions entered into an agreement (the “Global Tax Deal”) to participate in a “two-pillar” international tax approach developed by the OECD, which includes establishing a global minimum corporate tax rate of 15 percent. The OECD published *Tax Challenges Arising From the Digitalisation of the Economy — Global Anti-Base Erosion Model Rules (Pillar Two)*<sup>5</sup> in December 2021 and subsequently issued additional commentary and administrative guidance<sup>6</sup> clarifying several aspects of the model rules (collectively, the “GloBE rules”).

The Pillar Two rules are intended to ensure that large multinational enterprise (MNE) groups pay a minimum level of tax on the income arising in each of the jurisdictions in which they operate. The rules do so by imposing a top-up tax on profits arising in a jurisdiction whenever the effective tax rate, determined on a jurisdictional basis, is below the 15 percent minimum rate. The Pillar Two rules include:<sup>7</sup>

- “[A]n Income Inclusion Rule (IIR), which imposes top-up tax on a parent entity in respect of the low taxed income of a constituent entity.”
- “[A]n Undertaxed Payment Rule (UTPR), which denies deductions or requires an equivalent adjustment to the extent the low tax income of a constituent entity is not subject to tax under an IIR.”
- A Qualified Domestic Minimum Top-up Tax (QDMTT) that applies to local constituent entities of in-scope MNEs and produces outcomes that are consistent with the GloBE rules.
- A Subject to Tax Rule (STTR) that allows source jurisdictions to “tax back” when defined categories of intra-group covered income are subject to nominal corporate income tax rates below the STTR minimum rate and domestic taxing rights over that income have been ceded under a treaty.

<sup>5</sup> OECD (2021), *Tax Challenges Arising From Digitalisation of the Economy — Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/782bac33-en>.

<sup>6</sup> The OECD periodically publishes [commentary](#), [administrative guidance](#), and [information](#) about the GloBE rules on its Web site.

<sup>7</sup> Quoted text in the first two bullet points is from *OECD/G20 Base Erosion and Profit Shifting Project, Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy*, October 2021.

At the FASB's February 1, 2023, meeting, the FASB staff announced that the global minimum tax imposed under the Pillar Two rules, as published by the OECD,<sup>8</sup> is an AMT and that deferred taxes would not be recognized or adjusted for the effect of global minimum taxes that conform to such Pillar Two rules. As support for its conclusion, the FASB staff cited the guidance in ASC 740-10-30-10 and ASC 740-10-30-12 as well as in ASC 740-10-55-31 and 55-32. Accordingly, the incremental effects of such taxes would be accounted for as a period cost (i.e., the increase in tax payable would only be reflected in an entity's financial statements after a law is actually effective).



### Connecting the Dots

Since MD&A within a company's quarterly and annual filings must include discussion and analysis of significant economic changes that materially affect the amount of reported income from continuing operations, if a registrant's reported income tax is, or is likely to be, materially affected by the Pillar Two rules, the SEC staff expects the registrant's MD&A disclosure to contain a description of the extent of the economic impact on reported income. As registrants have additional time to assess the impacts of Pillar Two on their results of operations or financial condition, they should enhance their disclosures (e.g., by quantifying the reasonably likely impact, if known and material). Such disclosures may need to include a range of reasonably likely outcomes when a registrant's specific facts and circumstances are uncertain.

For more information about Pillar Two generally, see Deloitte's December 22, 2021, U.S. International Tax Alert [Pillar Two: OECD Inclusive Framework Global Minimum Tax Model Rules](#). For more information about the accounting and disclosure implications of Pillar Two, see Deloitte's [February 1, 2023](#), and [March 5, 2024 \(updated November 8, 2024\)](#), *Financial Reporting Alert* newsletters.



### Changing Lanes

On January 20, 2025, President Trump issued an [executive order](#) instructing the secretary of the Treasury and the permanent representative of the United States to the OECD to notify the OECD that previous commitments made by the United States with respect to the Global Tax Deal "have no force or effect within the United States absent an act by the Congress adopting the relevant provisions of the Global Tax Deal." The long-term implications of the executive order are presently unclear, but the executive order in and of itself is not expected to have any current-period accounting effects. Entities should continue to monitor U.S. legislation for new developments and consider the need to adjust their disclosures regarding the impacts of Pillar Two accordingly.

## 7.7 New Accounting Standard — Improvements to Income Tax Disclosures (ASU 2023-09)

In December 2023, the FASB issued [ASU 2023-09](#), which establishes new income tax disclosure requirements in addition to modifying and eliminating certain existing requirements. The new guidance is aimed at addressing what the ASU describes as stakeholder feedback indicating that "the existing income tax disclosures should be enhanced to provide information to better assess how an entity's operations and related tax risks and tax planning and operational opportunities affect its tax rate and prospects for future cash flows."

Under the new guidance, entities must consistently categorize and provide greater disaggregation of information in the rate reconciliation. They must also further disaggregate income taxes paid. The disclosure requirements of ASU 2023-09 apply to all entities subject to ASC 740.

<sup>8</sup> As jurisdictions enact laws in response to the Pillar Two rules, each jurisdiction's enacted law will ultimately need to be separately evaluated for consistency with the framework.



The rate reconciliation requirements for PBEs differ from those for non-PBEs as follows:

- *PBEs* — Under the current guidance in ASC 740, public entities<sup>9</sup> are required to reconcile the income tax expense (or benefit) from continuing operations with the amount that would result from applying the domestic federal statutory rate to pretax income (loss) from continuing operations. In addition to the existing requirement, under ASU 2023-09, PBEs must annually “(1) disclose specific categories in the rate reconciliation and (2) provide additional information for reconciling items that meet a quantitative threshold (if the effect of those reconciling items is equal to or greater than 5 percent of the amount computed by multiplying pretax income [or loss] by the applicable statutory income tax rate).”
- *Non-PBEs* — Under the current guidance in ASC 740, nonpublic entities are required to provide disclosure of the nature of significant reconciling items, but a numerical reconciliation of income tax expense is not required. Under ASU 2023-09, although a numerical reconciliation is not required, non-PBEs are required to disclose (1) the nature and effect of the specific categories of reconciling items introduced by the new guidance and (2) individual jurisdictions resulting in a significant difference between the effective tax rate and the statutory tax rate.

In addition to requiring compliance with the new rate reconciliation disclosure requirements, ASU 2023-09 requires all entities within the scope of ASC 740 to provide annual disclosure of income taxes paid by disaggregating those amounts by foreign, domestic, and state taxes, with further disaggregation by jurisdiction on the basis of a quantitative threshold of 5 percent “of total income taxes paid (net of refunds received).” However, comparative information for all periods presented is not required for the disclosures related to income taxes paid in an individual jurisdiction under ASC 740-10-50-23.

The amendments in ASU 2023-09 are effective for PBEs for annual periods beginning after December 15, 2024. For entities other than PBEs, the amendments are effective for annual periods beginning after December 15, 2025. The ASU permits entities to early adopt the amendments “for annual financial statements that have not yet been issued or made available for issuance.”

For more information about ASU 2023-09, see Deloitte’s January 18, 2024, [Heads Up](#).

## 7.8 SEC Comment Letter Themes Related to Income Taxes

Overall, the themes of SEC staff comments issued to registrants on financial reporting and disclosures related to income taxes have remained consistent year over year. Such comments continue to focus on (1) valuation allowances, (2) disclosures related to the income tax rate, (3) tax effects of significant or unusual transactions that occurred during the period, and (4) noncompliance with disclosure requirements (e.g., omission of required disclosures).

The SEC staff continues to request early-warning disclosures to help financial statement users understand key estimates and assumptions that registrants made in recording items related to income taxes and how changes to those estimates and assumptions could potentially affect the financial statements in the future. The SEC staff also continues to issue comments on non-GAAP measures with a particular focus on the income tax impact of the adjustments made to the GAAP measures. For additional information about non-GAAP measures, see Deloitte’s Roadmap [Non-GAAP Financial Measures and Metrics](#).

<sup>9</sup> ASU 2023-09 replaces the term “public entity” throughout ASC 740 with the term “public business entity” as defined in the ASC master glossary.

In 2022, the SEC issued updates to certain [C&DIs](#) on non-GAAP financial measures. However, C&DI Question 102.11 as issued on May 17, 2016, remains applicable in providing clarification on the presentation of the income tax effects of certain metrics based on the nature of the measure:

**Question 102.11**

**Question:** How should income tax effects related to adjustments to arrive at a non-GAAP measure be calculated and presented?

**Answer:** A registrant should provide income tax effects on its non-GAAP measures depending on the nature of the measures. If a measure is a liquidity measure that includes income taxes, it might be acceptable to adjust GAAP taxes to show taxes paid in cash. If a measure is a performance measure, the registrant should include current and deferred income tax expense commensurate with the non-GAAP measure of profitability. In addition, adjustments to arrive at a non-GAAP measure should not be presented “net of tax.” Rather, income taxes should be shown as a separate adjustment and clearly explained.

Historically, the SEC staff has stated that boilerplate language should be avoided with respect to income tax disclosures within MD&A and that approaches more conducive to effective disclosure would include:

- Using the income tax rate reconciliation as a starting point and describing the details of the material items.
- Discussing significant foreign jurisdictions, including statutory rates, effective rates, and the current and future impact of reconciling items.
- Providing meaningful disclosures about known trends and uncertainties, including expectations regarding the countries where registrants operate.

For more information about SEC comment letter themes that are relevant to the life sciences industry, see Deloitte’s Roadmap [SEC Comment Letter Considerations, Including Industry Insights](#).

# Appendix B — Titles of Standards and Other Literature

## AICPA Literature

### Accounting and Valuation Guides

*Assets Acquired to Be Used in Research and Development Activities*

*Valuation of Privately-Held-Company Equity Securities Issued as Compensation*

### Clarified Statements on Auditing Standards

AU-C Section 501, "Audit Evidence — Specific Considerations for Selected Items"

AU-C Section 620, "Using the Work of an Auditor's Specialist"

## FASB Literature

### ASC Topics

ASC 105, *Generally Accepted Accounting Principles*

ASC 205, *Presentation of Financial Statements*

ASC 210, *Balance Sheet*

ASC 220, *Income Statement — Reporting Comprehensive Income*

ASC 230, *Statement of Cash Flows*

ASC 235, *Notes to Financial Statements*

ASC 250, *Accounting Changes and Error Corrections*

ASC 260, *Earnings per Share*

ASC 270, *Interim Reporting*

ASC 275, *Risks and Uncertainties*

ASC 280, *Segment Reporting*

ASC 310, *Receivables*

ASC 320, *Investments — Debt Securities*

ASC 321, *Investments — Equity Securities*

ASC 323, *Investments — Equity Method and Joint Ventures*

ASC 326, *Financial Instruments — Credit Losses*

ASC 330, *Inventory*

ASC 340, *Other Assets and Deferred Costs*

ASC 350, *Intangibles — Goodwill and Other*

ASC 360, *Property, Plant, and Equipment*

ASC 405, *Liabilities*

ASC 410, *Asset Retirement and Environmental Obligations*

ASC 420, *Exit or Disposal Cost Obligations*

ASC 440, *Commitments*

ASC 450, *Contingencies*

ASC 460, *Guarantees*

ASC 470, *Debt*

ASC 480, *Distinguishing Liabilities From Equity*

ASC 505, *Equity*

ASC 605, *Revenue Recognition*

ASC 606, *Revenue From Contracts With Customers*

ASC 610, *Other Income*

ASC 705, *Cost of Sales and Services*

ASC 710, *Compensation — General*

ASC 712, *Compensation — Nonretirement Postemployment Benefits*

ASC 715, *Compensation — Retirement Benefits*

ASC 718, *Compensation — Stock Compensation*

ASC 720, *Other Expenses*

ASC 730, *Research and Development*

ASC 740, *Income Taxes*

ASC 805, *Business Combinations*

ASC 808, *Collaborative Arrangements*

ASC 810, *Consolidation*

ASC 815, *Derivatives and Hedging*

ASC 820, *Fair Value Measurement*

ASC 825, *Financial Instruments*

ASC 830, *Foreign Currency Matters*

ASC 832, *Government Assistance*

ASC 835, *Interest*

ASC 840, *Leases*

ASC 842, *Leases*

ASC 845, *Nonmonetary Transactions*

ASC 848, *Reference Rate Reform*

ASC 852, *Reorganizations*

ASC 855, *Subsequent Events*

ASC 860, *Transfers and Servicing*

ASC 905, *Agriculture*

ASC 915, *Development Stage Entities*

ASC 930, *Extractive Activities — Mining*

ASC 944, *Financial Services — Insurance*

ASC 946, *Financial Services — Investment Companies*

ASC 954, *Health Care Entities*

ASC 958, *Not-for-Profit Entities*

ASC 960, *Plan Accounting — Defined Benefit Pension Plans*

ASC 970, *Real Estate — General*

ASC 985, *Software*

## **ASUs**

ASU 2010-27, *Other Expenses (Topic 720): Fees Paid to the Federal Government by Pharmaceutical Manufacturers* — a consensus of the FASB Emerging Issues Task Force

ASU 2011-06, *Other Expenses (Topic 720): Fees Paid to the Federal Government by Health Insurers* — a consensus of the FASB Emerging Issues Task Force

ASU 2014-09, *Revenue From Contracts With Customers (Topic 606)*

ASU 2014-10, *Development Stage Entities (Topic 915): Elimination of Certain Financial Reporting Requirements, Including an Amendment to Variable Interest Entities Guidance in Topic 810, Consolidation*

ASU 2014-15, *Presentation of Financial Statements — Going Concern (Subtopic 205-40): Disclosure of Uncertainties About an Entity's Ability to Continue as a Going Concern*

ASU 2014-16, *Derivatives and Hedging (Topic 815): Determining Whether the Host Contract in a Hybrid Financial Instrument Issued in the Form of a Share Is More Akin to Debt or to Equity* — a consensus of the FASB Emerging Issues Task Force

ASU 2015-16, *Business Combinations (Topic 805): Simplifying the Accounting for Measurement-Period Adjustments*

ASU 2016-01, *Financial Instruments — Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Financial Liabilities*

ASU 2016-02, *Leases (Topic 842)*

ASU 2016-10, *Revenue From Contracts With Customers (Topic 606): Identifying Performance Obligations and Licensing*

ASU 2016-12, *Revenue From Contracts With Customers (Topic 606): Narrow-Scope Improvements and Practical Expedients*

ASU 2016-13, *Financial Instruments — Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*

ASU 2016-15, *Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments* — a consensus of the FASB Emerging Issues Task Force

ASU 2016-16, *Income Taxes (Topic 740): Intra-Entity Transfers of Assets Other Than Inventory*

ASU 2016-17, *Consolidation (Topic 810): Interests Held Through Related Parties That Are Under Common Control*

ASU 2016-18, *Statement of Cash Flows (Topic 230): Restricted Cash* — a consensus of the FASB Emerging Issues Task Force

ASU 2016-20, *Technical Corrections and Improvements to Topic 606, Revenue From Contracts With Customers*

ASU 2017-01, *Business Combinations (Topic 805): Clarifying the Definition of a Business*

ASU 2017-04, *Intangibles — Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment*

ASU 2017-11, *Earnings per Share (Topic 260); Distinguishing Liabilities From Equity (Topic 480); Derivatives and Hedging (Topic 815): (Part I) Accounting for Certain Financial Instruments With Down Round Features, (Part II) Replacement of the Indefinite Deferral for Mandatorily Redeemable Financial Instruments of Certain Nonpublic Entities and Certain Mandatorily Redeemable Noncontrolling Interests With a Scope Exception*

ASU 2017-12, *Derivatives and Hedging (Topic 815): Targeted Improvements to Accounting for Hedging Activities*

ASU 2018-08, *Not-for-Profit Entities (Topic 958): Clarifying the Scope and the Accounting Guidance for Contributions Received and Contributions Made*

ASU 2018-10, *Codification Improvements to Topic 842, Leases*

ASU 2018-11, *Leases (Topic 842): Targeted Improvements*

ASU 2018-17, *Consolidation (Topic 810): Targeted Improvements to Related Party Guidance for Variable Interest Entities*

ASU 2018-18, *Collaborative Arrangements (Topic 808): Clarifying the Interaction Between Topic 808 and Topic 606*

ASU 2019-01, *Leases (Topic 842): Codification Improvements*

ASU 2019-04, *Codification Improvements to Topic 326, Financial Instruments — Credit Losses, Topic 815, Derivatives and Hedging, and Topic 825, Financial Instruments*

ASU 2019-05, *Financial Instruments — Credit Losses (Topic 326): Targeted Transition Relief*

ASU 2019-10, *Financial Instruments — Credit Losses (Topic 326), Derivatives and Hedging (Topic 815), and Leases (Topic 842): Effective Dates*

ASU 2019-11, *Codification Improvements to Topic 326, Financial Instruments — Credit Losses*

ASU 2020-01, *Investments — Equity Securities (Topic 321), Investments — Equity Method and Joint Ventures (Topic 323), and Derivatives and Hedging (Topic 815): Clarifying the Interactions Between Topic 321, Topic 323, and Topic 815* — a consensus of the FASB Emerging Issues Task Force

ASU 2020-02, *Financial Instruments — Credit Losses (Topic 326) and Leases (Topic 842): Amendments to SEC Paragraphs Pursuant to SEC Staff Accounting Bulletin No. 119 and Update to SEC Section on Effective Date Related to Accounting Standards Update No. 2016-02, Leases (Topic 842)*

ASU 2020-03, *Codification Improvements to Financial Instruments*

ASU 2020-04, *Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting*

ASU 2020-05, *Revenue From Contracts With Customers (Topic 606) and Leases (Topic 842): Effective Dates for Certain Entities*

ASU 2020-06, *Debt — Debt With Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging — Contracts in Entity's Own Equity (Subtopic 815-40): Accounting for Convertible Instruments and Contracts in an Entity's Own Equity*

ASU 2021-01, *Reference Rate Reform (Topic 848): Scope*

ASU 2021-04, *Earnings per Share (Topic 260), Debt — Modifications and Extinguishments (Subtopic 470-50), Compensation — Stock Compensation (Topic 718), and Derivatives and Hedging — Contracts in Entity's Own Equity (Subtopic 815-40): Issuer's Accounting for Certain Modifications or Exchanges of Freestanding Equity-Classified Written Call Options* — a consensus of the FASB Emerging Issues Task Force

ASU 2021-05, *Leases (Topic 842): Lessors — Certain Leases With Variable Lease Payments*

ASU 2021-08, *Business Combinations (Topic 805): Accounting for Contract Assets and Contract Liabilities From Contracts With Customers*

ASU 2021-09, *Leases (Topic 842): Discount Rate for Lessees That Are Not Public Business Entities*

ASU 2022-01, *Derivatives and Hedging (Topic 815): Fair Value Hedging — Portfolio Layer Method*

ASU 2022-02, *Financial Instruments — Credit Losses (Topic 326): Troubled Debt Restructurings and Vintage Disclosures*

ASU 2022-03, *Fair Value Measurement (Topic 820): Fair Value Measurement of Equity Securities Subject to Contractual Sale Restrictions*

ASU 2022-06, *Reference Rate Reform (Topic 848): Deferral of the Sunset Date of Topic 848*

ASU 2023-01, *Leases (Topic 842): Common Control Arrangements*

ASU 2023-05, *Business Combinations — Joint Venture Formations (Subtopic 805-60): Recognition and Initial Measurement*

ASU 2023-07, *Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures*

ASU 2023-09, *Income Taxes (Topic 740): Improvements to Income Tax Disclosures*

ASU 2024-02, *Codification Improvements — Amendments to Remove References to the Concepts Statements*

ASU 2024-03, *Income Statement — Reporting Comprehensive Income — Expense Disaggregation Disclosures (Subtopic 220-40): Disaggregation of Income Statement Expenses*

ASU 2025-01, *Income Statement — Reporting Comprehensive Income — Expense Disaggregation Disclosures (Subtopic 220-40): Clarifying the Effective Date*

## Concepts Statements

No. 5, *Recognition and Measurement in Financial Statements of Business Enterprises*

No. 8, *Conceptual Framework for Financial Reporting — Chapter 4, Elements of Financial Statements*

## Invitations to Comment

No. 2021-004, *Agenda Consultation*

No. 2025-ITC100, *Agenda Consultation*

## Proposed ASUs

No. 2017-280, *Consolidation (Topic 812): Reorganization*

No. 2019-790, *Derivatives and Hedging (Topic 815): Codification Improvements to Hedge Accounting*

No. 2019-800, *Codification Improvements*

No. 2024-ED100, *Derivatives and Hedging (Topic 815) and Revenue From Contracts With Customers (Topic 606): Derivatives Scope Refinements and Scope Clarification for a Share-Based Payment From a Customer in a Revenue Contract*

No. 2024-ED200, *Derivatives and Hedging (Topic 815): Hedge Accounting Improvements*

No. 2024-ED400, *Intangibles — Goodwill and Other — Internal-Use Software (Subtopic 350-40): Targeted Improvements to the Accounting for Internal-Use Software*

No. 2024-ED700, *Government Grants (Topic 832): Accounting for Government Grants by Business Entities*

No. 2024-ED910, *Environmental Credits and Environmental Credit Obligations (Topic 818)*

## Other

FASB Staff *Revenue Recognition Implementation Q&As*

## IFRS Literature

IFRS 2, *Share-Based Payment*

IFRS 3, *Business Combinations*

IFRS 9, *Financial Instruments*

IFRS 10, *Consolidated Financial Statements*

IFRS 11, *Joint Arrangements*

IFRS 12, *Disclosure of Interests in Other Entities*

IFRS 15, *Revenue From Contracts With Customers*

IFRS 16, *Leases*

IAS 1, *Presentation of Financial Statements*

IAS 7, *Statement of Cash Flows*

IAS 10, *Events After the Reporting Period*

IAS 12, *Income Taxes*



IAS 17, *Leases*

IAS 20, *Accounting for Government Grants and Disclosure of Government Assistance*

IAS 21, *The Effects of Changes in Foreign Exchange Rates*

IAS 27, *Separate Financial Statements*

IAS 32, *Financial Instruments: Presentation*

IAS 37, *Provisions, Contingent Liabilities and Contingent Assets*

IAS 38, *Intangible Assets*

IAS 40, *Investment Property*

*Lease Liability in a Sale and Leaseback: Amendments to IFRS 16*

## **IRC**

Section 78, "Gross Up for Deemed Paid Foreign Tax Credit"

Section 162(a), "Trade or Business Expenses; General"

Section 163(j), "Interest; Limitation on Business Interest"

Section 174, "Amortization of Research and Experimental Expenditures"

Section 197, "Amortization of Goodwill and Certain Other Intangibles"

Section 382, "Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change"

Section 409A, "Inclusion in Gross Income of Deferred Compensation Under Nonqualified Deferred Compensation Plans"

Section 422, "Incentive Stock Options"

Section 423, "Employee Stock Purchase Plans"

## **PCAOB Literature**

Auditing Standard 3101, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*

Release No. 2017-001, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion and Related Amendments to PCAOB Standards*

## **SEC Literature**

### **Final Rule Releases**

No. 33-10786, *Amendments to Financial Disclosures About Acquired and Disposed Businesses*

No. 33-11126, *Listing Standards for Recovery of Erroneously Awarded Compensation*

No. 33-11265, *Special Purpose Acquisition Companies, Shell Companies, and Projections*

No. 33-11275, *The Enhancement and Standardization of Climate-Related Disclosures for Investors* [stayed]

No. 34-95607, *Pay Versus Performance*

## **FRM**

Topic 1, "Registrant's Financial Statements"

Topic 2, "Other Financial Statements Required"

Topic 3, "Pro Forma Financial Information"

Topic 5, "Smaller Reporting Companies"

Topic 7, "Related Party Matters"

Topic 10, "Emerging Growth Companies"

Topic 12, "Reverse Acquisitions and Reverse Recapitalizations"

## **Interpretive Releases**

No. 33-9106, *Commission Guidance Regarding Disclosure Related to Climate Change*

No. 33-10403, *Updates to Commission Guidance Regarding Accounting for Sales of Vaccines and Bioterror Countermeasures to the Federal Government for Placement Into the Pediatric Vaccine Stockpile or the Strategic National Stockpile*

## **Regulation S-K**

Item 10(e), "General: Use of Non-GAAP Financial Measures in Commission Filings"

Item 101, "Description of Business"

Item 103, "Legal Proceedings"

Item 201, "Market Price of and Dividends on the Registrant's Common Equity and Related Stockholder Matters"

Item 302, "Supplementary Financial Information"

Item 303, "Management's Discussion and Analysis of Financial Condition and Results of Operations"

Item 305, "Quantitative and Qualitative Disclosures About Market Risk"

Item 308, "Internal Control Over Financial Reporting"

Item 402, "Executive Compensation"

Item 404, "Transactions With Related Persons, Promoters and Certain Control Persons"

Item 407, "Corporate Governance"

Item 503, "Prospectus Summary"

## **Regulation S-X**

Rule 1-02(w), "Definitions of Terms Used in Regulation S-X (17 CFR part 210); Significant Subsidiary"

Article 2, "Qualifications and Reports of Accountants"

Rule 3-01, "Consolidated Balance Sheet"

Rule 3-02, "Consolidated Statements of Comprehensive Income and Cash Flows"

Rule 3-03, "Instructions to Statement of Comprehensive Income Requirements"

Rule 3-04, "Changes in Stockholders' Equity and Noncontrolling Interests"

Rule 3-05, "Financial Statements of Businesses Acquired or to Be Acquired"

Rule 3-09, "Separate Financial Statements of Subsidiaries Not Consolidated and 50 Percent or Less Owned Persons"

Rule 3-10, "Financial Statements of Guarantors and Issuers of Guaranteed Securities Registered or Being Registered"

Rule 3-12, "Age of Financial Statements at Effective Date of Registration Statement or at Mailing Date of Proxy Statement"

Rule 3-13, "Filing of Other Financial Statements in Certain Cases"

Rule 3-14, "Special Instructions for Financial Statements of Real Estate Operations Acquired or to Be Acquired"

Rule 3-16, "Financial Statements of Affiliates Whose Securities Collateralize an Issue Registered or Being Registered"

Rule 4-08(g), "General Notes to Financial Statements; Summarized Financial Information of Subsidiaries Not Consolidated and 50 Percent or Less Owned Persons"

Rule 4-08(n), "General Notes to Financial Statements; Accounting Policies for Certain Derivative Instruments"

Rule 5-02, "Commercial and Industrial Companies; Balance Sheets"

Rule 5-03, "Commercial and Industrial Companies; Statements of Comprehensive Income"

Article 8, "Financial Statements of Smaller Reporting Companies"

Rule 10-01(b), "Interim Financial Statements; Other Instructions as to Content"

Article 11, "Pro Forma Financial Information"

Rule 11-01 "Presentation Requirements"

Rule 11-02(a), "Preparation Requirements; Form and Content"

Article 15, "Acquisitions of Businesses by a Shell Company (Other Than a Business Combination Related Shell Company)"

## **SAB Topics**

No. 1.B.3, "Financial Statements; Allocation of Expenses and Related Disclosure in Financial Statements of Subsidiaries, Divisions or Lesser Business Components of Another Entity: Other Matters"

No. 1.M, "Financial Statements; Materiality"

No. 5.A, "Miscellaneous Accounting; Expenses of Offering"

No. 5.Y, "Miscellaneous Accounting; Accounting and Disclosures Relating to Loss Contingencies"

No. 14, "Share-Based Payment"

- No. 14.B, "Transition From Nonpublic to Public Entity Status"
- No. 14.D, "Certain Assumptions Used in Valuation Methods"
  - No. 14.D.1, "Expected Volatility"
  - No. 14.D.2, "Expected Term"

## **Securities Act of 1933**

Rule 144, “Persons Deemed Not to Be Engaged in a Distribution and Therefore Not Underwriters — General Guidance”

Rule 405, “Definitions of Terms”

Section 6(e), “Commissions, Allowances, Discounts, and Other Fees”

## **Securities Exchange Act of 1934**

Rule 17a-5, “Reports to Be Made by Certain Brokers and Dealers”

Section 3(a)(80), “Definitions and Application of Title; Emerging Growth Company”

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Section 15(d), “Supplementary and Periodic Information”

## **TRG Agenda Papers**

TRG Agenda Paper 6, *Customer Options for Additional Goods and Services and Nonrefundable Upfront Fees*

TRG Agenda Paper 11, *October 2014 Meeting — Summary of Issues Discussed and Next Steps*

TRG Agenda Paper 41, *Measuring Progress When Multiple Goods or Services Are Included in a Single Performance Obligation*

TRG Agenda Paper 44, *July 2015 Meeting — Summary of Issues Discussed and Next Steps*

TRG Agenda Paper 48, *Customer Options for Additional Goods and Services*

TRG Agenda Paper 54, *Considering Class of Customer When Evaluating Whether a Customer Option Gives Rise to a Material Right*

TRG Agenda Paper 55, *April 2016 Meeting — Summary of Issues Discussed and Next Steps*

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### **AICPA Accounting Interpretation**

AIN-APB 25, *Accounting for Stock Issued to Employees: Accounting Interpretations of APB Opinion No. 25*

### **AICPA Accounting Statement of Position**

96-1, *Environmental Remediation Liabilities*

### **EITF Abstracts**

Issue No. 00-21, “Revenue Arrangements With Multiple Deliverables”

Issue No. 01-9, “Accounting for Consideration Given by a Vendor to a Customer (Including a Reseller of the Vendor’s Products)”

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Issue No. 03-17, “Subsequent Accounting for Executory Contracts That Have Been Recognized on an Entity’s Balance Sheet”

Issue No. 08-6, “Equity Method Investment Accounting Considerations”

Issue No. 09-2, “Research and Development Assets Acquired in an Asset Acquisition”

Issue No. 09-4, “Seller Accounting for Contingent Consideration”

## **FASB Concepts Statement**

No. 6, *Elements of Financial Statements* — a replacement of FASB Concepts Statement No. 3 (incorporating an amendment of FASB Concepts Statement No. 2)

## **FASB Interpretation**

No. 14, *Reasonable Estimation of the Amount of a Loss* — an interpretation of FASB Statement No. 5

## **FASB Statements**

No. 5, *Accounting for Contingencies*

No. 52, *Foreign Currency Translation*

No. 95, *Statement of Cash Flows*

No. 114, *Accounting by Creditors for Impairment of a Loan* — an amendment of FASB Statements No. 5 and 15

No. 123(R), *Share-Based Payment*

No. 133, *Accounting for Derivative Instruments and Hedging Activities*

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AB-1305, *Voluntary Carbon Market Disclosures*

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SB-253, *Climate Corporate Data Accountability Act*

SB-261, *Greenhouse Gases: Climate-Related Financial Risk*

### **European Sustainability Reporting Standards (ESRS)**

Regulation (EU) 2023/2772 of 31 July 2023 Supplementing Directive 2013/34/EU of the European Parliament and of the Council as Regards Sustainability Reporting Standards

- ESRS 1, *General Requirements*
- ESRS 2, *General Disclosures*

### **E.U. Corporate Sustainability Reporting Directive (CSRD)**

Directive 2022/2464/EU of the European Parliament and of the Council of 14 December 2022 Amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as Regards Corporate Sustainability Reporting

## **EU Taxonomy Regulation**

Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the Establishment of a Framework to Facilitate Sustainable Investment, and Amending Regulation (EU) 2019/2088

## **IFRS Sustainability Disclosure Standards**

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Omnibus I — COM(2025) 81, Proposal for a Directive of the European Parliament and of the Council Amending Directives 2006/43/EC, 2013/34/EU, (EU) 2022/2464 and (EU) 2024/1760 as Regards Certain Corporate Sustainability Reporting and Due Diligence Requirements

## Appendix C — Abbreviations

Abbreviation	Description
<b>AETR</b>	annual effective tax rate
<b>AFS</b>	available for sale
<b>AFSI</b>	adjusted financial statement income
<b>AI</b>	artificial intelligence
<b>AICPA</b>	American Institute of Certified Public Accountants
<b>AIN</b>	AICPA Accounting Interpretation of an APB Opinion
<b>AMT</b>	alternative minimum tax
<b>ANDA</b>	abbreviated new drug application
<b>APB</b>	Accounting Principles Board
<b>API</b>	active pharmaceutical ingredient
<b>ARO</b>	asset retirement obligation
<b>ASC</b>	FASB Accounting Standards Codification
<b>ASR</b>	accelerated share repurchase
<b>ASU</b>	FASB Accounting Standards Update
<b>AUD</b>	Australian dollar(s)
<b>BC</b>	Basis for Conclusions
<b>BEAT</b>	base erosion anti-abuse tax
<b>BEMTA</b>	base erosion minimum tax amount
<b>BPD</b>	branded prescription drug
<b>C&amp;DI</b>	Compliance and Disclosure Interpretation
<b>CAM</b>	critical audit matter
<b>CAQ</b>	Center for Audit Quality
<b>CARB</b>	California Air Resources Board
<b>CARES Act</b>	Coronavirus Aid, Relief, and Economic Security Act

Abbreviation	Description
<b>CECL</b>	current expected credit loss
<b>CFC</b>	controlled foreign corporation
<b>CIMA</b>	Chartered Institute of Management Accountants
<b>CMO</b>	contract manufacturing organization
<b>CODM</b>	chief operating decision maker
<b>CPU</b>	central processing unit
<b>CRO</b>	contract research organization
<b>CSRD</b>	Corporate Sustainability Reporting Directive
<b>DTA</b>	deferred tax asset
<b>DTL</b>	deferred tax liability
<b>EBITDA</b>	earnings before interest, taxes, depreciation, and amortization
<b>EC</b>	European Commission
<b>ED</b>	exposure draft
<b>EDGAR</b>	SEC electronic data gathering, analysis, and retrieval system
<b>EFRAG</b>	European Financial Reporting Advisory Group
<b>EGC</b>	emerging growth company
<b>EITF</b>	Emerging Issues Task Force
<b>ELOC</b>	equity line of credit
<b>EPS</b>	earnings per share
<b>ESA</b>	energy service agreement
<b>ESG</b>	environmental, social, and governance
<b>ESPP</b>	employee stock purchase plan
<b>ESRS</b>	European Sustainability Reporting Standards

Abbreviation	Description
<b>E.U.</b>	European Union
<b>EUR</b>	euros
<b>Exchange Act</b>	Securities Exchange Act of 1934
<b>FAQ</b>	frequently asked question
<b>FASB</b>	Financial Accounting Standards Board
<b>FAST Act</b>	Fixing America's Surface Transportation Act
<b>FDA</b>	U.S. Food and Drug Administration
<b>FDII</b>	foreign-derived intangible income
<b>FOB</b>	free on board
<b>FPI</b>	foreign private issuer
<b>FRM</b>	SEC Division of Corporation Finance Financial Reporting Manual
<b>FVO</b>	fair value option
<b>FVTOCI</b>	fair value through other comprehensive income
<b>GAAP</b>	generally accepted accounting principles
<b>GDP</b>	gross domestic product
<b>GHG</b>	greenhouse gas
<b>GILTI</b>	global intangible low-taxed income
<b>GloBE</b>	Global anti-Base Erosion
<b>GPO</b>	group purchasing organization
<b>GPU</b>	graphics processing unit
<b>HAFWP</b>	how and for what purpose
<b>HFI</b>	held for investment
<b>HFS</b>	held for sale
<b>HVAC</b>	heating, ventilation, and air conditioning
<b>IAS</b>	International Accounting Standard
<b>IASB</b>	International Accounting Standards Board
<b>ICFR</b>	internal control over financial reporting
<b>IFRS</b>	International Financial Reporting Standard
<b>IIR</b>	investigator-initiated research

Abbreviation	Description
<b>IOSCO</b>	International Organization of Securities Commissions
<b>IP</b>	intellectual property
<b>IPO</b>	initial public offering
<b>IPR&amp;D</b>	in-process research and development
<b>IRA</b>	Inflation Reduction Act of 2022
<b>IRC</b>	Internal Revenue Code
<b>IRS</b>	Internal Revenue Service
<b>ISO</b>	incentive stock option
<b>ISSB</b>	International Sustainability Standards Board
<b>IT</b>	information technology
<b>ITC</b>	invitation to comment
<b>JOBS Act</b>	Jumpstart Our Business Startups Act
<b>LCD</b>	liquid-crystal display
<b>LIBOR</b>	London Interbank Offered Rate
<b>LIFO</b>	last in, first out
<b>LLM</b>	large language model
<b>M&amp;A</b>	merger and acquisition
<b>MD&amp;A</b>	Management's Discussion & Analysis
<b>MNE</b>	multinational enterprise
<b>MSL</b>	medical science liaison
<b>NDA</b>	new drug application
<b>NFP</b>	not-for-profit (entity)
<b>NFRD</b>	Non-Financial Reporting Directive
<b>NIH</b>	National Institutes of Health
<b>NLP</b>	natural language processing
<b>NOL</b>	net operating loss
<b>NOPA</b>	notice of proposed adjustment
<b>NQSO or NSO</b>	nonqualified stock option
<b>OCA</b>	SEC Office of the Chief Accountant
<b>OCI</b>	other comprehensive income



Abbreviation	Description
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OEM</b>	original equipment manufacturer
<b>PBE</b>	public business entity
<b>PCAOB</b>	Public Company Accounting Oversight Board
<b>PCC</b>	Private Company Council
<b>PIPE</b>	private investment in public equity
<b>PP&amp;E</b>	property, plant, and equipment
<b>PRV</b>	priority review voucher
<b>PTRS</b>	probability of technical and regulatory success
<b>Q&amp;A</b>	question and answer
<b>QIP</b>	qualified improvement property
<b>R&amp;D</b>	research and development
<b>R&amp;E</b>	research and experimental
<b>RAM</b>	random-access memory
<b>REMS</b>	risk evaluation and mitigation strategy
<b>RIM</b>	retail inventory method
<b>ROU</b>	right-of-use
<b>SaaS</b>	software as a service
<b>SAB</b>	SEC Staff Accounting Bulletin
<b>SAFE</b>	simple agreement for future equity
<b>SEC</b>	U.S. Securities and Exchange Commission

Abbreviation	Description
<b>Securities Act</b>	Securities Act of 1933
<b>SEPA</b>	standby equity purchase agreement
<b>SG&amp;A</b>	selling, general, and administrative
<b>SOX</b>	Sarbanes-Oxley Act of 2002
<b>SPAC</b>	special-purpose acquisition company
<b>SPPI</b>	solely payments of principal and interest
<b>SRC</b>	smaller reporting company
<b>S&amp;P 500</b>	Standard & Poor's 500 Index
<b>TCFD</b>	Task Force on Climate-related Financial Disclosures
<b>TD</b>	Treasury Decision
<b>TDR</b>	troubled debt restructuring
<b>TRG</b>	transition resource group
<b>TSA</b>	transition services agreement
<b>USD</b>	U.S. dollar(s)
<b>UTB</b>	unrecognized tax benefit
<b>VCO</b>	voluntary carbon offset
<b>VIE</b>	variable interest entity
<b>VWAP</b>	volume-weighted average daily market price
<b>XBRL</b>	eXtensible Business Reporting Language

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