TWIST-Q | Summary of Developments – 2nd Quarter 2023

This checklist includes developments for the second calendar quarter of 2023 that have occurred prior to the date of publication. Please note that certain items may be dated earlier as these items were first made publicly available during the second quarter of 2023. Additionally, there may be developments that occur or legislation that will be enacted after we release this checklist. Please stay tuned to our **TWIST** weekly podcast series for additional updates.

Corporate Income Tax Rate Changes and Developments	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
Arkansas' highest corporate income tax rate that applies to net income exceeding $25,000 has been reduced from 5.3 percent to 5.1 percent effective for tax years beginning on or after January 1, 2023. Senate Bill 549 (signed April 10, 2023).	AR				
The 10 percent surtax that expired at the end of 2022 has been extended through tax years beginning on or after January 1, 2023 and before January 1, 2026. This surcharge applies to companies that have more than $250 in corporation tax liability and either (1) have at least $100 million in annual gross income or (2) are taxable members of a combined group that files a combined unitary return, regardless of their annual gross income amount. House Bill 6941 (signed June 12, 2023).	CT				

Corporate Income Tax Rate Changes and Developments	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
For taxable years beginning on or after January 1, 2023, and before January 1, 2024, the rate of tax on the first $100,000 of a corporation's income is 5.58 percent; income in excess of $100,000 is taxed at 7.25 percent. For taxable years beginning on or after January 1, 2024, and before January 1, 2025, the rate applied to income over $100,000 is 5.84 percent and the tax on the first $100,000 is 5.58 percent. For taxable years beginning on or after January 1, 2025 and before January 1, 2026, a flat 5.20 percent rate applies to all taxable income. That flat rate is reduced to 4.55 percent for tax years beginning on or after January 1, 2026 and before January 1, 2027. The flat rate is further reduced to 3.99 percent for tax years beginning on or after January 1, 2027. Legislative Bill 754 (signed May 31, 2023).	NE				
The additional 0.75 percent rate applicable to entire net income if a taxpayer's apportioned business income base exceeds $5 million has been extended through taxable years beginning before January 1, 2027. S. 4009 (signed May 3, 2023).	NY				
Under current law, the Commissioner of Taxation and Finance is required to annually adjust the rate of the Metropolitan Transit Authority (MTA) surcharge as necessary to ensure that the receipts from the surcharge will meet and not exceed the financial projections for the state fiscal year. Effective beginning on or after January 1, 2024, the current 30 percent Metropolitan Transit Authority surcharge rate will remain in place indefinitely. S. 4009 (signed May 3, 2023).	NY				
For tax years ending on or after December 31, 2024, a subtraction equal to the lesser of net earnings or $50,000 applies to pre-apportioned net earnings as calculated under the excise tax law. This amount cannot create or increase a net operating loss. House Bill 323 (signed May 11, 2023).	TN				

IRC Conformity	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
Effective retroactively to January 1, 2023. Florida adopts the Internal Revenue Code as in effect on January 1, 2023. House Bill 7063 (signed May 25, 2023).	FL				
For tax years beginning on or after January 1, 2022, Georgia adopts the Code as amended through January 1, 2023. Senate Bill 56 (signed May 2, 2023).	GA				
For the sections of the Code that are operative, Hawaii adopts the Internal Revenue Code as of December 31, 2022, for tax years beginning after December 31, 2022. House Bill 1100 (signed June 5, 2023).	HI				
The definition of "Internal Revenue Code" means the Internal Revenue Code of 1986 as amended and in effect on January 1, 2023. Senate Bill 419 (signed May 4, 2023).	IN				
The definition of "Internal Revenue Code" means the Internal Revenue Code of 1986 as amended through May 1, 2023. House File 1938 (signed May 24, 2023).	MN				
Internal Revenue Code means the Code as enacted as of January 1, 2023. Senate Bill 174 (signed April 3, 2023).	NC				
Oregon has rolling conformity to the Code for provisions that affect federal taxable income. For other purposes, Oregon adopts the Code as amended and in effect on December 31, 2022. Senate Bill 141 (signed June 7, 2023).	OR				

Tax Base	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
As a result of the *Anschutz* decision invalidating Rule 39-22-103(5.3.), which provided that certain retroactive CARES Act provisions did not affect a taxpayer's Colorado tax liability, a corporation must amend prior year returns to apply the retroactive CARES Act provisions. In addition, taxpayers may need to amend the 2021 tax year return to adjust the House Bill 21-1002 subtraction that was allowed to corporations for certain retroactive CARES Act changes that were previously disallowed. CARES Act Tax Law Changes & Colorado Impact (Colo. Dep't of Rev. April 2023).	CO				
Internal Revenue Code section 174, which requires amortization of research and experimental expenses, is treated as it was in effect before the enactment of the Tax Cuts and Jobs Act. Senate Bill 56 (signed May 2, 2023).	GA				
Effective for taxable years beginning after December 31, 2021, a taxpayer must: (1) deduct from the taxpayer's adjusted gross income the amount of specified research or experimental expenditures charged to capital account for the taxable year; and (2) add to the taxpayer's adjusted gross income an amount equal to the deduction claimed under Section 174 of the Internal Revenue Code for the taxable year. Senate Bill 419 (signed May 4, 2023).	IN				
A corporate income taxpayer may claim a deduction for any: (1) federal, state, or local grant received by the taxpayer; and (2) any discharged federal, state, or local indebtedness incurred by the taxpayer for purposes of providing or expanding access to broadband service in Indiana. Senate Bill 419 (signed May 4, 2023).	IN				

Tax Base	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
Effective for tax years beginning after December 31, 2022, the amount of the net operating deduction must not exceed 70 percent of taxable net income in a single tax year. House File 1938 (signed May 24, 2023).	MN				
Under prior law, 100 percent of the gross GILTI amount was excluded in computing Minnesota taxable income. Effective for tax years beginning after December 31, 2022, GILTI included in taxable income under IRC section 951A is treated as dividend income eligible for the dividends received deduction. No IRC section 250 deduction is allowed. House File 1938 (signed May 24, 2023).	MN				
Effective for tax years beginning after December 31, 2022, the deduction for dividends received from another corporation is reduced from 80 to 50 percent for dividends received from a 20 percent or more owned corporation. The deduction is further reduced to 40 percent (from 70 percent) for dividends received from a corporation when less than 20 percent of the stock is owned. House File 1938 (signed May 24, 2023).	MN				
Oklahoma allows taxpayers to make an irrevocable election for immediate and full expensing of qualified property and qualified improvement property. For income tax returns filed on or after January 1, 2023, federal taxable income must be increased by the amount of depreciation received under the Internal Revenue Code for qualified property or qualified improvement property for which the election has been made to immediately and fully expense the asset on the Oklahoma income tax return for the year in which the property was placed in service. Senate Bill 602 (signed May 25, 2023).	OK				

Tax Base	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
For assets purchased on or after January 1, 2023, Tennessee adopts IRC section 168 as it exists and applies under the Tax Cuts and Jobs Act. As such, taxpayers may take bonus depreciation deductions for assets purchased on or after January 1, 2023 in the year of the purchase if the taxpayer takes bonus depreciation on the asset for federal tax purposes. For assets purchased on or before December 31, 2022, bonus depreciation deductions continue to be disallowed. House Bill 323 (signed May 11, 2023).	TN				
If the application of certain apportionment law changes collectively results in an aggregate increase in a publicly traded taxpayer's net deferred tax liability or an aggregate decrease in the taxpayer's net deferred tax asset, or an aggregate change from a net deferred tax asset to a net deferred tax liability, a taxpayer is entitled to a subtraction. The subtraction will be taken over a 10-year period beginning with the taxpayer's tax year that begins on or after January 1, 2033, and will be equal to one tenth of the amount necessary to offset the increase in the net deferred tax liability or decrease in the net deferred tax asset. House Bill 3286 (signed March 29, 2023).	WV				

Apportionment Changes and Developments	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
Effective for tax years beginning on or after January 1, 2024, sales to the U.S. Government will be sourced to the destination state. House Bill 1045 (signed April 10, 2023).	AR				
For tax years beginning on or after January 1, 2024 and before January 1, 2025 (the 2024 tax year), 85.71 percent of "throwback sales" will be sourced to Arkansas, and 14.29 percent will be sourced outside Arkansas. Those percentages change in subsequent years as follows: for the 2025 tax year, 71.42 percent in Arkansas and 28.58 percent outside Arkansas; for the 2026 tax year, 57.13 percent in Arkansas and 42.87 percent outside Arkansas; for the 2027 tax year, 42.84 percent in Arkansas and 57.16 percent outside Arkansas; for the 2028 tax year, 28.55 percent in Arkansas and 71.45 percent outside Arkansas; for the 2029 tax year, 14.26 percent in Arkansas and 85.74 percent outside Arkansas; and for tax years beginning on or after January 1, 2030, throwback sales will be sourced 100 percent outside Arkansas. House Bill 1045 (signed April 10, 2023).	AR				
Effective for tax years beginning on or after January 1, 2023, an organization operating a railroad partly within and partly without Arkansas may apportion income by multiplying the organization's income by a sales factor apportionment formula, or a three-factor, double-weighted sales apportionment formula. Senate Bill 482 (signed April 11, 2023).	AR				
For tax years beginning on or after January 1, 2024, the rule that excludes from the numerator and denominator of the sales factor (1) receipts assigned to a state where the taxpayer is not taxable, or (2) receipts where the state of assignment cannot be determined or reasonably approximated, is repealed. Also repealed is the requirement that sales of intangible property not otherwise described in the statute are excluded from the numerator and the denominator of the sales factor. House Bill 631 (pending signature).	LA				

Apportionment Changes and Developments	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
Receipts from hedging activities were not receipts from the taxpayer's primary business, which was developing and producing crude oil and natural gas and refining and marketing those products for sale. Because the hedging program receipts did not derive from the taxpayer's primary business activity, they were excluded from its sales factor. *Chevron, U.S.A., Inc. v. Oregon Dep't of Rev.* (Ore. Tax Ct. May 17, 2023).	OR				
For all open periods, electricity will be treated as tangible personal property for the purpose of apportioning income under the state's Corporate Net Income Tax. As such, receipts relating to the provision of electricity will be sourced to Pennsylvania if the electricity is delivered or shipped to a purchaser within Pennsylvania, regardless of the f.o.b. point or other conditions of the sale. Corporation Tax Bulletin No. 2023-01 (Pa. Dep't of Rev. May 1, 2023).	PA				
For tax years ending on or after December 31, 2023, but before December 31, 2024, the receipts factor is weighted five times. The weighting for the receipts factor increases to eleven for tax years ending on or after December 31, 2024, but before December 31, 2025. For tax years ending on or after December 31, 2025, the state is fully transitioned to a single receipts factor formula. House Bill 323 (signed May 11, 2023).	TN				
A taxpayer was permitted to elect the single sales factor apportionment method allowed to manufacturers meeting certain criteria on an amended return. The Department of Taxation had argued that the election was permitted on an original return only. *Dep't of Taxation v. 1887 Holdings Inc.* (Va. App. May 23, 2023).	VA				

Filing Methods	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
For tax years beginning after December 31, 2022, combined groups that make a water's edge election will no longer include unitary affiliates incorporated in certain specifically enumerated jurisdictions considered to be tax havens. Senate Bill 246 (signed May 22, 2023).	MT				

Credits	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
For income years starting on or after July 1, 2025, corporations may earn fixed capital investment tax credits for investments made by certain LLCs they own if they are (1) headquartered in Connecticut; (2) own, directly or indirectly, at least 80 percent of an LLC that, for federal tax purposes, is treated as a partnership or disregarded as an entity separate from its owner (i.e., a disregarded entity); and (3) provide telecommunications services. House Bill 6941 (signed June 12, 2023).	CT				
Under Louisiana law, qualifying insurers are entitled an investment tax credit against the amount of Premium Tax owed. In addition, every insurance company is entitled to offset its Louisiana corporate income tax by the amount of Premium Tax paid. The Premium Tax offset, which is based on premiums paid by an insurance company during the preceding twelve months, does not include the Investment Tax Credit. *Louisiana Health Service & Indemnity Co. v. Robinson* (La. Ct. App. June 2, 2023).	LA				

Franchise Tax	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
For franchise taxes payable by domestic corporations on or after January 1, 2024, the first $5,000 of liability is exempt from the tax imposed. House Bill 3817 (signed June 7, 2023).	IL				
The business capital tax, which was scheduled to be phased out at the end of 2023, will continue to be imposed at a 0.1875 percent rate for tax years beginning prior to January 1, 2027. S. 4009 (signed May 3, 2023).	NY				
The franchise tax, which is assessed upon every corporation, association, joint-stock company, and business trust, doing business in this state, at a rate of 1.25 for each $1,000.00 of capital used, invested, or employed within Oklahoma, is eliminated beginning with the 2024 tax year. House Bill 1039 (enacted June 2, 2023).	OK				
Tennessee's franchise tax is based on the greater of the taxpayer's net worth or the book value of real or tangible personal property owned or used in Tennessee (the minimum measure). For tax years ending on or after December 31, 2024, only the actual value of the taxpayer's aggregate real or tangible property in excess of $500,000 will be used to compute the minimum measure. House Bill 323 (signed May 11, 2023).	TN				