KPMG

TWIST-Q | Summary of Developments - 2nd Quarter 2021

This checklist includes developments for the second calendar quarter of 2021 that have occurred prior to the date of publication. Please note that certain Quarter 2 items may be dated earlier, as these items were first made publicly available during the second quarter of 2021. Please note that 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. For purposes of this checklist, the CARES Act refers to the Coronavirus Aid, Relief, and Economic Security Act. Any reference to the CAA refers to the Consolidated Appropriations Act of 2020.

Rate Changes	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
The ten percent corporate surtax is extended through tax years beginning prior to January 1, 2023. The surtax does not apply to taxpayers that pay the $250 minimum tax or that have less than $100 million in gross income for the tax year. However, taxpayers filing combined returns are subject to the surtax regardless of income level. Senate Bill 1202 (signed June 23, 2021).	CT				
Idaho's corporate income tax rate is reduced from 6.925 percent to 6.5 percent effective January 1, 2021. House Bill 380 (signed May 10, 2021).	ID				
For taxable years beginning on or after January 1, 2022, and before January 1, 2023, the rate applicable to taxable income in excess of $100,000 is reduced from 7.81 percent to 7.5 percent. For taxable years beginning on or after January 1, 2023, the highest rate is further reduced to 7.25 percent on all taxable income in excess of $100,000. The corporate income tax rate on the first $100,000 of income remains at 5.58 percent. Legislative Bill 432 (signed May 26, 2021).	NE				

Rate Changes	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
For tax years beginning on or after January 1, 2021 and before January 1, 2024, the rate applicable to entire net income increases from 6.5 percent to 7.25 percent if the taxpayer's business income base exceeds $5 million. All income is subject to the 7.25 percent rate if the $5 million income base is exceeded. Assembly Bill 3009/Senate Bill 2509 (signed April 19, 2021).	NY				
For tax years beginning after December 31, 2021, the corporate income tax rate is reduced from 6.0 percent to 4.0 percent. House Bill 2960 (signed May 21, 2021).	OK				

IRC Conformity	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
For tax years beginning from and after December 31, 2020, Arizona's connection to the Code has been updated to reflect the IRC as amended and in effect on March 11, 2021. For tax years beginning from and after December 31, 2019 through December 31, 2020, Arizona adopts the IRC as of January 1, 2020 including changes made by certain federal acts (i.e., the 2020 CARES Act, the Consolidated Appropriations Act of 2021, and the American Rescue Plan Act of 2021). Senate Bill 1752 (signed April 14, 2021).	AZ				
For tax years beginning after December 31, 2020, Hawaii generally adopts the IRC as amended as of December 31, 2020. For tax years beginning after December 31, 2019, Hawaii generally adopts the IRC as amended as of March 27, 2020. House Bill 1041 (pending signature).	HI				

IRC Conformity	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
Applicable retroactively to January 1, 2021, Indiana adopts the IRC as in effect on March 31, 2021. Any change to the Code prior to March 31, 2021 that affects the computation of corporate taxable income applies to the same tax year for Indiana purposes as it does for federal purposes. House Bill 1001 (signed April 29, 2021).	IN				
Applicable to all taxable years beginning after December 31, 2020, an amendment to the IRC does not affect the determination of Maryland taxable income for any tax year that begins in the calendar year in which the amendment is enacted, or any tax year that precedes the calendar year in which the amendment is enacted. An exception to the general rule applies if the amendment's impact on Maryland income tax revenue is less than $5 million for the fiscal year that begins during the calendar year in which the amendment is enacted, or any fiscal year that precedes the calendar year in which the amendment is enacted. House Bill 495 (enacted without signature May 30, 2021).	MD				
The definition of the IRC has been updated to reflect the Code as amended through December 31, 2020. House Bill 4017 (signed May 18, 2021).	SC				
For taxable years beginning on and after January 1, 2020, Vermont's conformity to the IRC is updated to December 31, 2020. For tax years beginning on and after January 1, 2021, the IRC means the Code as of March 31, 2021. House Bill 315 (enacted without signature April 17, 2021); House Bill 436 (signed June 8, 2021).	VT				

Nexus and Public Law 86-272	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
For tax years beginning on or after January 1, 2022, a corporation has nexus with Maine if: (1) that corporation is organized or commercially domiciled in Maine, or (2) the corporation is organized or commercially domiciled outside of Maine and the corporation's property or payroll in Maine exceeds $250,000, or the corporation's sales into the state exceed $500,000. If the corporation has 25 percent of its property, payroll or sales into the state, the corporation likewise has Maine nexus. House Paper 891 (signed June 11, 2021).	ME				
A corporate taxpayer's activity of picking up rejected produce orders after they had been accepted by customers was not ancillary to the sale of produce and was not protected under P.L. 86-272. However, for most of the tax years at issue, this activity was de minimis and therefore did not cause the taxpayer to lose protection under P.L. 86-272. *Procacci Bros. Sales Corp. v. Dir. Div. of Taxation* (N.J. Tax Ct. May 27, 2021).	NJ				

Tax Base	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
Following the acquisition of one corporation by another, carryover losses will be allowed only if the corporation going out of existence earns sufficient profits apportionable to Arkansas in the post-merger period to absorb the carryover losses claimed by the surviving corporation. This limitation is determined by multiplying the proportion of merged assets contained within the succeeding corporation by the taxpayer's total multistate income or the total income apportioned to Arkansas. Admin. Decision No. 21-070 (Ark. Dep't of Fin. and Admin. Apr. 27, 2021).	AR				

Tax Base	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
In computing an Arkansas NOL, taxpayers are required to add back all nontaxable income. Partnership income not directly allocated to Arkansas is excluded in computing a corporation's Arkansas gross income. As this income is not subject to Arkansas taxation, it is required to be added back in computing the state NOL. Admin. Decision No. 21-313 (Ark. Dep't of Fin. and Admin. Apr. 26, 2021).	AR				
Gross income excludes all forgiven Paycheck Protection Program (PPP) loans for taxable years beginning on or after January 1, 2019. Unless the taxpayer is an "ineligible entity," expenses paid for with forgiven loan amounts can be deducted. "Ineligible entities" are certain publicly traded companies and companies that did not experience at least a 25 percent reduction in gross receipts (as determined under the CAA). Assembly Bill 80 (signed April 29, 2021).	CA				
Hawaii adopts now-obsolete federal Revenue Ruling 2020-27 for income tax purposes. Recipients of Paycheck Protection Program (PPP) loan proceeds cannot take deductions for expenses that are paid with forgiven loan amounts. Deductions are not allowed even if the PPP loan forgiveness is not expected until a future taxable year. Taxpayers that do not have a reasonable expectation of forgiveness may claim deductions for expenses paid. Tax Info. Release No. 2021-03 (Haw. Dep't of Tax. May 10, 2021).	HI				

Tax Base	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
For qualified property placed in service on or after January 1, 2021, Iowa conforms to federal 100 percent bonus depreciation. Further, a provision in the law that decoupled from IRC section 163(j) only if Iowa decoupled from bonus depreciation was eliminated. Therefore, Iowa conforms to bonus depreciation and remains decoupled from IRC section 163(j). Senate File 619 (signed June 16, 2021).	IA				
For tax years ending on or after December 31, 2021 and prior to December 31, 2024, for corporations (other than S Corporations), including combined filing groups, no NOL carryover deduction can exceed $100,000 for any taxable year. In determining the 12-year NOL carryforward period, no tax year for which NOL utilization is limited to $100,000 will be counted. Senate Bill 2017 (signed June 17, 2021).	IL				
For tax years ending on after June 30, 2021, corporations are required to add back an amount equal to the deduction allowed under IRC section 250(a)(1)(B)(i). An addback is also required for an amount equal to the deductions allowed under IRC sections 243(e) and 245A(a). In computing the foreign dividends-received deduction for tax years ending on or after June 30, 2021, the term "dividend" does not include any amount treated as a dividend under IRC section 1248, and the dividends-received deduction does not apply to dividends for which a deduction is permitted under IRC section 245(a). Senate Bill 2017 (signed June 17, 2021).	IL				

Tax Base	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
For tax years ending on or after December 31, 2021, the subtraction modification for assets on which 100 percent bonus depreciation was taken is adjusted to equal the depreciation that would have been computed for federal purposes had the taxpayer elected out of bonus depreciation under IRC section 168(k)(7). Senate Bill 2017 (signed June 17, 2021).	IL				
Effective for tax years beginning after December 31, 2020, a subtraction is allowed for 100 percent of GILTI included in income under IRC section 951A before the deduction allowed under IRC section 250(a)(1)(B). Senate Bill 250 (veto overridden May 3, 2021).	KS				
Effective for tax years beginning after December 31, 2020, Kansas effectively decouples from IRC section 163(j) by allowing a subtraction for the amount disallowed as a deduction under IRC section 163(j) as in effect on January 1, 2018. Senate Bill 250 (veto overridden May 3, 2021).	KS				
Effective for tax years beginning after December 31, 2020, a subtraction applies to the amount allowed as a deduction pursuant to IRC section 274 for meal expenditures to the extent such expense was allowed and in effect on December 31, 2017; IRC section 118, which requires corporations to include in income certain contributions from state and local governments, is applied as in effect on December 21, 2017; and, a subtraction applies to the amount disallowed as a deduction for FDIC premiums pursuant to IRC section 162(r) as in effect on January 1, 2018. Senate Bill 50 (veto overridden May 3, 2021).	KS				

Tax Base	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
For NOLs incurred in tax years beginning after December 31, 2017, a deduction is allowed in the same manner that it is allowed under the IRC, except that NOLs cannot be carried back. NOLs were previously allowed to be carried forward for 10 years, so the indefinite NOL carryforward allowed under federal law now applies in Kansas. Senate Bill 50 (veto overridden May 3, 2021).	KS				
For tax years ending after March 3, 2020, in determining gross business profits, no amount shall be included in the gross business income of the eligible recipient by reason of forgiveness of indebtedness issued or created under the federal Paycheck Protection Program. Senate Bill 3 (signed June 10, 2021).	NH				
South Carolina does not adopt (1) the provisions of the CARES Act that temporarily suspend the 80 percent limitation on the use of NOLs generated in 2018, 2019 and 2020, (2) the CARES Act provision that modifies the charitable contribution limitation for corporations from 10 percent to 25 percent of taxable income for 2020, or (3) the provisions of the CAA that temporarily allow 100 percent deduction for business meals. House Bill 4017 (signed May 18, 2021).	SC				
For the 2020 and 2021 tax years, forgiven PPP loans are not taxable in Vermont, and ordinary deductible business expenses paid using forgiven PPP loans are also deductible. House Bill 315 (enacted without signature April 17, 2021); House Bill 436 (signed June 8, 2021).	VT				

Apportionment Changes and Developments	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
Taxpayers are not required to prepare 2020 tax returns in accordance with the proposed changes to CCR section 25136-2, which address sourcing of sales of other than tangible personal property. Applicability Date of Proposed Revisions to California Code of Regulations, Title 18, Section 25136-2 (Cal. Franchise Tax Bd. Apr. 15, 2021).	CA				
A pharmacy benefit management company was providing services, not selling tangible personal property, and was therefore required to use the income-producing activity test that applied to sales of other than tangible personal property for the tax year at issue. *Express Scripts, Inc. v. Indiana Dep't of State Rev.* (Ind. Tax Ct. May 14, 2021).	IN				
A group of related corporations that each owned less than 20 percent of a limited partnership were required under an alternative formula to use the single sales factor apportionment formula applicable to manufacturing corporations. The limited partnership's primary business was designing, manufacturing, distributing, and selling medical devices. *Lafayette Pharma. Inc. v. Comptroller of Maryland* (Md. Ct. Spec. App. May 6, 2021).	MD				
Effective for tax years beginning after June 30, 2021, income is apportioned to Montana through the use of a double weighted sales factor formula. Senate Bill 376 (signed May 11, 2021).	MT				

Apportionment Changes and Developments	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
In determining where a service was performed or what portion of the service was performed in New York City, the activities and compensation of all employees who contributed to the performance of services provided to clients, including salespeople, IT staff, consulting managers, as well as core consultants, were counted. The court rejected the taxpayer's position that only the locations and amounts paid to consultants and research managers who provided services directly to clients should be counted. *Gerson Lehrman Grp., Inc. v. New York City Tax App. Trib.* (N.Y. App. Div. Apr. 6, 2021).	NYC				
For taxpayers engaged in broadcasting sales, a taxpayer's market for sales is in Oregon if the taxpayer's audience or subscribers are in Oregon. The numerator of the sales factor will include sales determined using third-party ratings information where available, and a taxpayer with sales from broadcasting will make actual information from the taxpayer's books, papers, records or memoranda available to the Department of Revenue to determine the taxpayer's audience or subscribers. The denominator of the sales factor will generally include the total gross receipts derived by the taxpayer from transactions in the regular course of the taxpayer's trade or business, including receipts from real or tangible personal property. Senate Bill 136 (signed May 21, 2021).	OR				

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 all tax years beginning on or after January 1, 2022, income is apportioned to West Virginia by use of single-sales factor apportionment. Effective January 1, 2022, (1) market-based sourcing provisions apply to attribute service receipts to the location where the services are delivered and receipts from intangibles generally to the location where the intangibles are used, and (2) the throwout rule that applies to sales of tangible personal property shipped to a purchaser in a state where in which the taxpayer is not taxable is repealed. Senate Bill 2026 (signed April 9, 2021).	WV				

Filing Methodologies	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
A unitary business group does not include the income of those members whose business activity outside of the United States makes up 80 percent or more of the member's total business activity measured by means of the property and payroll factors. Applying a substance over form analysis, the Tribunal concluded that an entity was not the true employer of certain expatriated employees and therefore did not meet the test for being an excluded 80/20 company. *Pepsico, Inc. and Affiliates v. Illinois Dep't of Revenue* (Ill. Tax. Trib. May 4, 2021).	IL				
Certain companies constitute a single company for purposes of the gross premiums tax, and therefore Indiana will treat the companies as one filer not subject to Indiana adjusted gross income tax. Rev. Ruling No. IT 21-01 (Ind. Dep't of Rev. Feb. 23, 2021).	IN				

Administration	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
For tax years beginning from and after December 31, 2020, the due date for a corporate or exempt organization income tax return that has been extended is seven months after the initial due date of the return. Small business corporations, as defined in Arizona law, do not qualify for the enhanced extension. Senate Bill 1350 (signed April 5, 2021).	AZ				
The Arkansas income tax return deadline is extended to one month after the due date of the federal income tax return effective for tax years beginning on or after January 1, 2021. Act 629 (signed April 13, 2021).	AR				
For any tax year commencing after December 31, 2019, the due date of the Kansas corporate income tax return is not later than one month after the due date of the federal corporate income tax return, including any applicable extensions. Senate Bill 50 (veto overridden May 3, 2021).	KS				
For tax years beginning after December 31, 2020, the deadline for filing corporate net income tax returns has been modified from 30 days after the due date of the federal return to the 15th day of the month following the due date of the federal return. House Bill 766 (signed April 22, 2021).	PA				
For tax years beginning on or after January 1, 2021, taxpayers may request an extension of seven months to file a franchise and excise tax return. Previously, extension requests for franchise and excise tax returns were limited to six months. House Bill 1011 (signed May 26, 2021).	TN				

Franchise Tax	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740–10?	Other/ Comments
The phase-out of the capital tax, which was scheduled to be completed by 2024, has been slowed down. For income tax years commencing prior to January 1, 2024, the tax will be imposed at a rate of 3.1 mills ($.0031) on each dollar of capital. Thereafter, the rate will be reduced each year until the tax is phased out for income years commencing on or after January 1, 2028. Senate Bill 1202 (signed June 23, 2021).	CT				
The Illinois franchise tax imposed on paid-in capital was scheduled to be fully phased out by gradually increasing the amount of tax liability considered exempt through 2024. The phase-out is reversed with the exemption level remaining at only $1,000 through 2024 and beyond. House Bill 2017 (signed June 17, 2021).	IL				
The tax on business capital that was phased out for tax years beginning after 2020 is reinstated. For tax years beginning on or after January 1, 2021, and prior to January 1, 2024, the business capital tax is imposed at a 0.1875 percent rate. Assembly Bill 3009/Senate Bill 2509 (signed April 19, 2021).	NY				