



# TWIST-Q | Summary of developments - First Quarter 2019

This checklist includes developments for Quarter 1 of 2019 that have occurred prior to the date of publication. Please note that certain Quarter 1 items are dated earlier. These items were released after our 2018 year end checklist or were first made publicly available during the first quarter of 2019. Please note that there may be developments that occur or legislation that will be enacted during the first quarter of 2019 after we release this checklist

IRC conformity	State	Potential Impact on Current Tax?	Potential Impact on Deferred Taxes?	Potential Impact on ASC 740-10?	Other/ Comments
Effective January 2019, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, and in effect on the first day of January 2019. House Bill 13 (signed Feb. 4, 2019). <sup>1</sup>	ID				
Retroactively to tax years beginning on or after January 1, 2018, Virginia conforms to the Internal Revenue Code as of December 31, 2018. Language explicitly not adopting the 2018 TCJA changes has been eliminated. House Bill 2529 and Senate Bill 1372 (signed Feb. 15, 2019).	VA				
All amendments made to the laws of the United States after December 31, 2017, but prior to January 1, 2019, shall be given effect in determining the taxes imposed under the corporation net income tax article. Senate Bill 268 (signed Feb. 4, 2019). <sup>1</sup>	WV				

<sup>1</sup> The state had previously (in 2018) adopted conformity legislation post-federal tax reform.

Tax rates	State	Potential Impact on Current Tax?	Potential Impact on Deferred Taxes?	Potential Impact on ASC 740-10?	Other/ Comments
Each combined group member that has nexus with New Jersey is subject to the \$2,000 minimum tax. A member of a combined group has nexus if the member meets the New Jersey's nexus standards as either part of the unitary business of the combined group or independent of the combined group. If one member in the combined group has nexus and sufficient activities in New Jersey to be taxed based on income, no member that has nexus with New Jersey may claim P.L. 86-272 protection. Technical Bulletin 86 (N.J. Div. of Tax. Jan. 3, 2019).	NJ				

Nexus	State	Potential Impact on Current Tax?	Potential Impact on Deferred Taxes?	Potential Impact on ASC 740-10?	Other/ Comments
A corporate owner of a limited partnership that owned a minority interest in an LLC doing business in the City was subject to the City General Corporation Tax on the gain from the sale of an interest in the entity operating within the city. Although the corporate taxpayer was not unitary with the LLC, the LLC had nexus with the City and enjoyed benefits provided by the City during the time when the taxpayer owned its minority interest in the LLC. <i>In the Matter of Goldman Sachs Petershill Fund Offshore Holdings Corp.</i> (N.Y.C. Tax App. Trib. Dec. 6, 2018).	NYC				
Effective for tax years beginning on or after January 1, 2019, the definition of "doing business" for corporate income tax purposes has been amended to include when a taxpayer is selling or performing a service in Utah or earning income from the use of intangibles in Utah. Senate Bill 28 (pending signature).	UT				

Tax base	State	Potential Impact on Current Tax?	Potential Impact on Deferred Taxes?	Potential Impact on ASC 740-10?	Other/ Comments
<p>The IRC section 367 regulations will be applied in cases involving the transfer of appreciated property to an insurer. Absent FTB-promulgated regulations, the FTB will apply the federal regulations to the extent they “address similar substantive transactions to those described under California law.” Notice No. 2019-01 (Cal. Franchise Tax Bd. Feb. 25, 2019).</p>	CA				
<p>Florida adopts the IRC section 163(j) limitations on the deductibility of interest expense. Because the federal interest expense limitation is determined at the filer level, the amount of interest expense included in federal taxable income for Florida income tax purposes will depend on how a taxpayer files its Florida return (i.e., whether the taxpayer is required to include a pro forma federal return with its Florida filing). Examination of the Impact of the Tax Cuts and Jobs Act of 2017 (Fla. Dep’t of Rev. Feb. 1, 2019).</p>	FL				
<p>Florida adopts the federal 80 percent limitation and the indefinite carryforward period for net operating losses generated in taxable years beginning after December 31, 2017. Florida had already decoupled from the federal NOL carryback provisions. Examination of the Impact of the Tax Cuts and Jobs Act of 2017 (Fla. Dep’t of Rev. Feb. 1, 2019).</p>	FL				
<p>Effective retroactively for tax years beginning on or after January 1, 2018, Iowa’s IRC section 179 deduction limitation for corporations is increased to \$70,000. This amount is reduced, but not below zero, by the amount by which the total cost of section 179 property placed in service by the taxpayer during the tax year exceeds two hundred eighty thousand dollars. Senate Bill 220 (signed March 15, 2019).</p>	IA				

Tax base	State	Potential Impact on Current Tax?	Potential Impact on Deferred Taxes?	Potential Impact on ASC 740-10?	Other/ Comments
<p>Mississippi will not conform to certain provisions of the TCJA including 100 percent bonus depreciation, limitations on use of net operating losses, and limitations under IRC section 163(j). Mississippi will follow the new federal provisions for IRC section 179 expensing and the changes to federal deductions for entertainment expenses, meals, fringe benefits, fines and penalties. With regard to changes to IRC section 1031 like-kind exchanges, exclusions of gain for Mississippi purposes will not be limited to exchanges involving real property not held primarily for sale. Notice 80-19-001 (Miss. Dep't of Rev. Jan. 28, 2019).</p>	MS				
<p>New Jersey follows IRC section 1400Z-2 for Corporation Business Tax (CBT) purposes because the state follows the same method of accounting as for federal purposes and New Jersey's starting point is an entity's federal taxable income, before federal net operating losses and other special deductions, subject to certain modifications under the CBT Act. Federal Tax Cuts and Jobs Act—Opportunity Zones (N.J. Div. of Tax. Feb. 5, 2019).</p>	NJ				
<p>In computing its separate New Jersey Corporation Business Tax liability, a corporation must add back (as state income taxes) amounts paid to its parent corporation to compensate the parent for taxes paid by the parent on behalf of the filing group in non-separate reporting states. The add back is based on the taxpayer's liability as calculated by its pro rata share of the parent's total tax obligation in the non-separate reporting states. <i>Daimler Investments U.S. Corp. v. Division of Taxation</i> (N.J. Tax Ct. Jan. 31, 2019).</p>	NJ				

Tax base	State	Potential Impact on Current Tax?	Potential Impact on Deferred Taxes?	Potential Impact on ASC 740-10?	Other/ Comments
A taxpayer was entitled to a full deduction for royalties paid to a subsidiary when the subsidiary filed Corporation Business Tax returns and paid tax on the royalty income despite the fact that the subsidiary's royalty income did not match the taxpayer's royalty deduction due to the difference in their respective apportionment factors. <i>Lorillard Tobacco Company v. Division of Taxation</i> (N.J. Tax Ct. Feb. 27, 2019).	NJ				
GILTI and FDII are not treated as dividends or deemed dividend income for New Jersey Corporation Business Tax (CBT) purposes. The section 250 deductions are allowed only to the specific taxpayer that included the respective GILTI and FDII income on its federal and New Jersey CBT returns, and that actually took the deductions for federal tax purposes. Technical Bulletin-85(Revised) (N.J. Div. of Tax. Dec. 24, 2018).	NJ				
Under North Carolina law in effect for the tax years at issue, a taxpayer's net economic loss carryforwards could only be deducted to the extent that the loss carried forward from the prior year exceeded any "income not taxable" received in the same year in which the deduction was claimed. Dividend income received from a subsidiary was considered "income not taxable." <i>N.C. Dep't of Rev. v. Graybar Electric Co.</i> (N.C. Super. Ct. Jan. 9, 2019).	NC				
Taxpayers that compute their Philadelphia Business Income and Receipts Tax (BIRT) based on federal taxable income can deduct their net repatriation transition tax as dividends received from another corporation of the same affiliated group or dividends received from a corporation of which the receiving corporation or partnership owns at least 20 percent voting power of all classes of stock or at least 20 percent of each class of nonvoting stock. Advisory Notice – Repatriation Transition Tax Policy Update (Phil. Dep't of Rev. Jan. 31, 2019).	PA				

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<p>Taxpayers that compute their Philadelphia Business Income and Receipts Tax (BIRT) based on federal taxable income will include GILTI income in the BIRT base. GILTI income may be excluded from taxable receipts as dividends received from another corporation of the same affiliated group or from a corporation of which the receiving corporation or partnership owns at least 20 percent of the voting power of all classes of stock and at least 20 percent of each class of nonvoting stock. For BIRT purposes, Philadelphia does not conform to the federal GILTI or FDII deductions under IRC section 250. Advisory Notice – Global Low Intangible Low-Taxed Income (“GILTI”) and Foreign-Derived Intangible Income Deduction (“FDII”) Tax Policy Update (Phil. Dep’t of Rev. Feb. 11, 2019).</p>	PA				
<p>Effective for taxable years beginning on and after January 1, 2018, C-Corporations can subtract from federal taxable income any amount included in income under IRC section 951A “to the extent included in and not otherwise subtracted from federal taxable income.” House Bill 2529 and Senate Bill 1372 (signed Feb. 15, 2019).</p>	VA				
<p>Effective for taxable years beginning on or after January 1, 2018, taxpayers will be allowed to deduct 20 percent of the business interest disallowed as a deduction under IRC section 163(j). House Bill 2529 and Senate Bill 1372 (signed Feb. 15, 2019).</p>	VA				

Apportionment developments	State	Potential Impact on Current Tax?	Potential Impact on Deferred Taxes?	Potential Impact on ASC 740-10?	Other/ Comments
<p>A service provider’s receipts from non-personal services provided to customers located in Florida should be included in both the numerator and denominator of the Florida sales factor. Technical Assistance Advisement 18C1-011 (Fla. Dep’t of Rev. Sept. 27, 2018).</p>	FL				

Apportionment developments	State	Potential Impact on Current Tax?	Potential Impact on Deferred Taxes?	Potential Impact on ASC 740-10?	Other/ Comments
The delivery location specified by a transportation broker taxpayer's client would be the location where the benefit of the taxpayer's transportation brokerage services were considered received. If the delivery address was located in Iowa, receipts from that sale should be included in the Iowa sales factor numerator. <i>In the Matter of BLX, Inc.</i> (Iowa Dep't of Rev. Dec. 31, 2018).	IA				
New Jersey Corporation Business Taxpayers filing a CBT-100 or BFC-1 must calculate the portion of GILTI and FDII that is subject to New Jersey tax by taking the ratio of New Jersey's GDP (currently 3.1 percent) over the total GDP of every state (including D.C.) in which the taxpayer has economic nexus. GDP amounts should be based on the most recent quarter's data published by the US Bureau of Economic Analysis as of the end of the taxpayer's privilege period. Technical Bulletin-85(Revised) (N.J. Div. of Tax. Dec. 24, 2018).	NJ				
Equitable adjustment of a taxpayer's apportionment is permissible even if the taxpayer's income is apportioned based on special industry apportionment regulations. Although the Department's view was that a payroll factor of under three percent of income was de minimis, distortive, and should be eliminated from the formula, the Department failed to present evidence as to how there was distortion beyond a de minimis mathematical ratio between total payroll and income. <i>In the Matter of the Protest of Discover Bank</i> (N.M. Dep't Tax. and Rev. Dec. 21, 2018).	NM				
For New York corporate franchise tax purposes, the corporate member of two SMLLCs, a broker-dealer SMLLC and an investment advisor SMLLC, was not entitled to use the broker-dealer customer-based sourcing provisions to source the receipts of the SMLLC that was not a broker-dealer. <i>In the Matter of the Petition of BTG Pactual NY Corporation</i> (N.Y. Div. Tax App. March 7, 2019).	NY				

Apportionment developments	State	Potential Impact on Current Tax?	Potential Impact on Deferred Taxes?	Potential Impact on ASC 740-10?	Other/ Comments
<p>For tax years beginning after December 31, 2018, receipts from hedging transactions are excluded from both the numerator and denominator of the sales factor. Excluded receipts include (1) gross receipts from gain or losses from a transaction identified as a hedge under federal law; (2) receipts attributable to accrued interest income or expense, gain or loss on debt instruments, a payable, a receivable or forward contract payable in foreign currency for foreign currency gain or loss, and (3) receipts from foreign exchange gain or loss on distributions of previously taxed income. Corporate Tax Bulletin 2019-01 (Penn. Dep't of Rev. Jan. 4, 2019).</p>	PA				
<p>Taxpayers that compute their Philadelphia Business Income and Receipts Tax (BIRT) based on federal taxable income can deduct their net repatriation transition tax as dividends. Only dividends received from less than 20 percent owned subsidiaries will be included in the sales factor because they are included in the BIRT income tax base. Advisory Notice – Repatriation Transition Tax Policy Update (Phil. Dep't of Rev. Jan. 31, 2019).</p>	PA				
<p>Under Texas law, receipts from sales of tangible personal property are sourced to Texas if the property is delivered or shipped to a buyer in the state. A taxpayer's receipts from the sale of bunker fuel oil delivered to foreign-registered vessels in Texas ports and waters were considered Texas-sourced receipts. Comptroller's Decision, No. 114,752 (Tex. Comptroller Jan. 7, 2019).</p>	TX				

Apportionment developments	State	Potential Impact on Current Tax?	Potential Impact on Deferred Taxes?	Potential Impact on ASC 740-10?	Other/ Comments
A taxpayer was not entitled to use an alternative apportionment method although certain of its receipts were included in the Virginia sales factor and also included the sales factors of market-based sourcing states. Under Virginia’s alternative apportionment regulation, the statutory method is “inequitable” if the double taxation is “attributable” to Virginia and the taxpayer establishes that the double taxation does not result from the other state having employed a “unique” apportionment method. The taxpayer failed to demonstrate that the double taxation was attributable to Virginia and that the other state apportionment methods were not “unique.” <i>Corporate. Executive Bd. Co. v. Va. Dep’t of Tax.</i> (Va. Feb. 7, 2019).	VA				

Filing Methods	State	Potential Impact on Current Tax?	Potential Impact on Deferred Taxes?	Potential Impact on ASC 740-10?	Other/ Comments
The managerial member of each combined group will need to register with the New Jersey Division of Revenue and Enterprise Service via a web-based registration system that is currently being developed. After the managerial member registers, it will receive a New Jersey identification number specific to combined reporting, which will serve as the combined group’s tax identification number and will be used when filing the combined reports and making estimated payments. Mandatory Registration of a Combined Group by a Managerial Member (N.J. Div. of Tax. Jan. 30, 2019).	NJ				

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