



# TWIST-Q | Summary of Developments - 1st Quarter 2022

This checklist includes developments for the first calendar quarter of 2022 that have occurred prior to the date of publication. Please note that certain Quarter 1 items may be dated earlier, as these items were first made publicly available during the first quarter of 2022. In addition, 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.

Rate Changes and Developments	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740-10?	Other/ Comments
Effective January 1, 2022, the corporate income tax rate is reduced from 6.5 percent to 6.0 percent. House Bill 436 (signed Feb. 4, 2022).	ID				
Iowa's tax rate will be reduced if the amount of corporate income taxes collected by the state exceeds a base amount of \$700 million. If that occurs, the Department of Revenue is instructed to determine what tax rates would have generated \$700 million in the fiscal year that just concluded by adjusting the top or top two marginal tax rates as necessary. New rates will be published by December 31 following the determination date. House File 2317 (signed March 1, 2022).	IA				
Effective for tax years beginning on or after January 1, 2022, the corporate income tax rate is reduced from 4.95 percent to 4.85 percent. Senate Bill 59 (signed Feb. 11, 2022).	UT				

IRC Conformity	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740-10?	Other/ Comments
Idaho has adopted the Internal Revenue Code as in effect on January 1, 2022. House Bill 472 (signed Feb. 23, 2022).	ID				
Ohio has adopted the Internal Revenue Code as in effect on February 17, 2022. House Bill 51 (signed Feb. 17, 2022).	OH				
South Dakota has adopted the Internal Revenue Code as in effect on January 1, 2022. House Bill 1010 (signed Feb. 10, 2022).	SD				
Virginia's conformity to the Internal Revenue Code has been advanced to the Internal Revenue Code as of December 31, 2021. House Bill 971 (signed Feb. 23, 2022).	VA				
For corporate net income tax purposes, all amendments made to the laws of the United States after December 31, 2020, but prior to January 1, 2022, shall be given effect to the same extent those changes are allowed for federal income tax purposes, whether the changes are retroactive or prospective, but no amendment to the laws of the United States made on or after January 1, 2022, shall be given any effect. Senate Bill 451 (signed Feb. 21, 2022).	WV				

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
California has adopted aspects of the MTC's revised "Model Statement of Information Concerning Practices of Multistate Commission and Supporting States Under P.L. 86-272." The model statement addresses P.L. 86-272 in the context of internet activities, concluding that when a business interacts with a person or entity across state lines via the business's website or app, such business engages in an activity within the state. If that activity goes beyond solicitation of sales, then the business is not protected under P.L. 86-272. Examples of activities conducted over the Internet that would cause the loss of P.L. 86-272 protection include providing post-sales assistance, branded credit card solicitation, solicitation of non-sales job applicants, marketing information-gathering via cookies, extended warranties solicitation, remote upgrades, and streaming. Technical Advice Memo. 2022-01 (Cal. Franchise Tax Bd. Feb. 14, 2022).	CA				

Tax Base	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, 2022, the net operating loss deduction is reinstated for all taxpayers, and the temporary \$5 million limit on allowable business credits is eliminated. Senate Bill 113 (signed Feb. 9, 2022).	CA				

Tax Base	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740-10?	Other/ Comments
Under California law, future installment sale payments are accelerated when the entire income from a sale has not been reported before dissolution or cessation of a business. The Office of Tax Appeals rejected a company's argument that although the S corporation dissolved, the business continued California operations as a C corporation and thus, it should not be subject to accelerated reporting. When an election under I.R.C. § 338(h)(10) is made, the S corporation target is treated as if it sold its assets, liquidated, and ceased to exist and the C corporation succeeding to the assets is treated as a different corporation. As a result, the company also ceased to exist for purposes of the accelerated future payment requirement under California law. <i>Matter of Appeal of Amarr Co.</i> (Cal. OTA Dec. 9, 2021).	CA				
When taxable members are allocated a portion of a combined unitary group's NOLs, and one or more of the taxable members merges with another taxable member of the combined unitary group, those NOLs may continue to be shared and utilized by the surviving taxable members that were included in the Connecticut combined group in the year of the loss. Ruling 2022-1 (Conn. Dep't of Revenue Svcs. Jan. 18, 2022).	CT				
From and after January 1, 2020, Paycheck Protection Program (PPP) loan funds, and funds and grants awarded to taxpayers under certain other COVID relief assistance programs, are exempted from Mississippi gross income and expenses paid with such funds are deductible if a deduction is allowed for federal income tax purposes. House Bill 1529 (signed March 17, 2022).	MS				

Tax Base	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740-10?	Other/ Comments
Taxpayers that claim an Employee Retention Tax Credit for federal tax purposes are not entitled to an additional New Jersey Corporation Business Tax deduction for the expenses disallowed at the federal level due to the taxpayer taking the federal credit. Employee Retention Credit (N.J. Div. of Taxation March 4, 2022)	NJ				
Effective for tax years beginning on or after January 1, 2020, corporations are allowed a deduction for the amount by which the federal deduction for wages was reduced because the employer claimed a federal retention tax credit against employment taxes in lieu of a deduction. House Bill 243 (signed March 17, 2022).	NC				
Taxpayers that claim an Employee Retention Tax Credit for federal tax purposes are not entitled to an additional Pennsylvania Corporate Net Income Tax deduction for the expenses disallowed at the federal level due to the taxpayer taking the federal credit. COVID-19 Information – Employee Retention Credit (Penn. Dep’t of Revenue March 8, 2022).	PA				
For tax years beginning on and after January 1, 2020, businesses were allowed a deduction for \$100,000 of expenses paid with forgiven PPP loans. The deduction for up to \$100,000 in business expenses funded by forgiven PPP loan proceeds and the Virginia-specific subtraction of up to \$100,000 for Rebuild Virginia grant recipients has been revised to apply to all tax years beginning before January 1, 2021, thus extending the \$100,000 deduction to fiscal year taxpayers. As a result of the state’s advanced conformity, Virginia allows full deductibility of expenses paid with forgiven PPP loan proceeds and expenses paid or incurred with Economic Injury Disaster Loan program funding for taxable year 2021 and thereafter. House Bill 971 (signed Feb. 23, 2022).	VA				

Apportionment Changes and Developments	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740-10?	Other/ Comments
A taxpayer providing asset management services globally to pension funds, large institutions and individuals was considered a financial organization under Florida law and was required to source its receipts (management fees, incentive fees, performance allocations, and advisory and transaction fees) to the location of the customer to whom such services were provided. Technical Assistance Advisement 21C1-010 (Fla. Dep't of Revenue March 5, 2021).	FL				
Effective January 1, 2022, Idaho has generally adopted single sales factor apportionment to apportion the income of most multistate corporations. Certain corporations (e.g., electrical corporations, telephone and communications companies, and companies using special industry apportionment) may elect to apportion their income using an evenly weighted three-factor formula. House Bill 563 (signed March 16, 2022).	ID				
Effective January 1, 2022, market-based sourcing rules apply for purposes of sourcing receipts from sales other than sales of tangible personal property. House Bill 563 (signed March 16, 2022).	ID				
An eligible corporation that sells more than \$1 billion of tangible personal property into Indiana and that has an apportionment percentage of greater than 10 percent may make an election to use an alternate apportionment method. Senate Bill 382 (signed March 15, 2022).	IN				
A regulation applicable to the sourcing of various types of financial institution or organization receipts has been revised. 103 Ky. Admin. Regs. 16:270(6)(3) (effective March 1, 2022).	KY				

Apportionment Changes and Developments	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740-10?	Other/ Comments
A taxpayer was engaged in manufacturing through the development and sale of software as a service. As such, it qualified as a manufacturing corporation required to use single-sales factor apportionment for the tax years at issue. <i>Akamai Technologies, Inc. v. Comm’r of Revenue</i> (Mass. App. Tax Bd. Dec. 10, 2021).	MA				
The corporate owner of a disregarded SMLLC that was an SEC-registered broker-dealer could not source receipts that were derived outside of that SMLLC broker-dealer using the state’s broker-dealer customer sourcing rules for the tax years at issue. Accordingly, investment advisory service revenues, earned by the corporate owner in the pre-2015 litigated years outside of the SMLLC broker-dealer, were required to be sourced by the relative costs of performance approach, which generally looked to where the services were performed. <i>BTG Pactual NY Corp v. New York State Tax Appeals Tribunal</i> (N.Y. App. Div. March 10, 2022).	NY				
A taxpayer engaged in activities subject to both a special apportionment formula and the standard single sales factor formula is required to use the state’s split apportionment methodology. Corporation Tax Bulletin 2022-01 (Penn. Dep’t of Revenue Feb. 17, 2022).	PA				
Leaf tobacco stored at in-state facilities was properly excluded from the Virginia property factor because mere storage did not constitute “use,” a necessary element for inclusion the Virginia property factor. <i>Dep’t of Taxation v. R.J. Reynolds Tobacco Co.</i> (Va. Feb. 10, 2022).	VA				

Filing Methodologies	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740-10?	Other/ Comments
In the case of the sale of a corporation or an acquisition of a corporation by a consolidated group, the filing status of the remaining or acquiring members will continue absent an election of the group to file separately or on a combined basis. In the case of a merger, the previous filing status of the surviving corporation will continue. If the surviving corporation is part of an affiliated group that filed a consolidated return in the immediately preceding taxable year, the surviving corporation will be considered to be part of the consolidated return, provided that the surviving corporation would otherwise be part of the affiliated group. Senate Bill 382 (signed March 15, 2022).	IN				

Franchise Tax	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740-10?	Other/ Comments
For the tax years at issues, North Carolina law required taxpayers to add back deductions for affiliate receivables owed by corporations not doing business in North Carolina in computing the capital stock base component of the state's franchise tax. Such differential treatment based on the location of the debtor's business was found to constitute discrimination against interstate commerce, prohibited by the Commerce Clause of the U.S. Constitution. <i>Philip Morris USA Inc v. N.C. Dep't of Revenue</i> (N.C. Office of Admin. Hearings Dec. 30, 2021).	NC				

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