



TWIST-Q | Summary of Developments – 1st Quarter 2023



This checklist includes developments for the first 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 first 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.

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, 2023, Idaho's corporate income tax rate was reduced to 5.8 percent. As originally enacted, the rate reduction was effective January 3, 2023. House Bill 172 (signed March 16, 2023).	ID				
For tax years beginning on or after January 1, 2023, the corporate income tax rate is reduced from 4.85 percent to 4.65 percent. House Bill 54 (signed March 22, 2023).	UT				
IRC Conformity	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740-10?	Other/ Comments
For taxable years beginning from and after December 31, 2022, "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended, in effect on January 1, 2023, including those provisions that became effective during 2022 with the specific adoption of all retroactive effective dates, but excluding any changes to the code enacted after January 1, 2023. Senate Bill 1171 (signed March 3, 2023).	AZ				

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, 2023. House Bill 21 (signed Feb. 15, 2023).	ID				
For tax years beginning on or after January 1, 2023, Kentucky adopts the Internal Revenue Code as in effect on December 31, 2022. House Bill 360 (signed March 24, 2023).	KY				
Minnesota's conformity to the Internal Revenue Code has been updated to generally adopt the Internal Revenue Code as amended through December 15, 2022 for both individual and corporate franchise tax purposes, with certain exceptions. The change is effective upon enactment, but "the changes incorporated by federal changes are effective retroactively at the same time the changes were effective for federal purposes." House File 31 (signed Jan. 12, 2023).	MN				
South Dakota has adopted the Internal Revenue Code as in effect on January 1, 2023. Senate Bill 29 (signed Feb. 2, 2023).	SD				
Virginia's conformity to the Internal Revenue Code has been advanced to the Code as of December 31, 2022, except for the Code sections that the Commonwealth had previously decoupled from. Senate Bill 882 (signed Feb. 27, 2023).	VA				

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 on or after January 1, 2023, Virginia would conform to the Internal Revenue Code on a rolling basis. However, subject to certain exceptions, the Commonwealth would not adopt any amendment enacted after January 1, 2023 that would increase or decrease General Fund revenues by more than \$15 million in the fiscal year in which the amendment was enacted or the succeeding four fiscal years. Virginia would also decouple from amendments enacted on or after January 1, 2023, and occurring between adjournment sine die of the previous regular session of the General Assembly and the first day of the subsequent regular session of the General Assembly if the cumulative impact of such amendments would increase or decrease General Fund revenues by more than \$75 million in the fiscal year in which the amendments were enacted or any of the succeeding four fiscal years. House Bill 2193 (pending signature).	VA				
For corporate net income tax purposes, all amendments made to the laws of the United States after December 31, 2021, but prior to January 1, 2023, 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, 2023, shall be given any effect. House Bill 2777 (signed Feb. 14, 2023).	WV				

Tax Base	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740-10?	Other/ Comments
Minnesota law retroactively incorporates the changes in the Internal Revenue Code as amended through December 15, 2022, subject to certain exceptions. For corporations, those exceptions include, but are not limited to, the increased charitable contributions deduction for C Corporations, and the temporary 100 percent deduction allowed for business meals. While taxpayers may not retroactively deduct business interest expense that could have been deducted under the CARES Act IRC section 163(j) amendments, one-fifth of this amount may be deducted over the five tax years beginning after December 31, 2022. House File 31 (signed Jan. 12, 2023).	MN				
For purposes of computing income tax for tax years beginning after December 31, 2022, a taxpayer may immediately deduct research or experimental expenditures paid or incurred by the taxpayer during the tax year in connection with the taxpayer's trade or business, or may depreciate such research or experimental expenditures in accordance with the schedule provided in IRC section 174. Likewise, 100 percent bonus depreciation applies for qualified property or qualified improvement property placed in service during the tax year, notwithstanding any changes to federal law related to cost recovery beginning on January 1, 2023 or some other date, unless the taxpayer elects to depreciate such assets under IRC section 168. The method elected by the taxpayer is irrevocable unless the Commissioner of Revenue specifically allows a change. House Bill 1733 (signed March 27, 2023).	MS				

Tax Base	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740-10?	Other/ Comments
Because the statute of limitations precluded Pennsylvania from assessing taxpayers that benefitted from the flat dollar NOL cap, the only remedy available to cure the Uniformity Clause violation was to issue the taxpayer a refund of the taxes paid after it applied the percentage cap. <i>Alcatel-Lucent USA Inc. v. Commonwealth of Pennsylvania</i> (Pa. Comm. Ct. Dec. 28, 2022).	PA				
While Tennessee has decoupled from IRC section 250 for purposes of GILTI, it has not decoupled for purposes of the FDII deduction. Therefore, in computing “net earnings” under Tenn. Code Ann. § 67-4-2006, a taxpayer is entitled to the full amount of the IRC section 250(a) deduction to which it is entitled under federal law as it relates to FDII. Franchise Excise Tax Manual (Tenn. Dep’t of Rev. Jan. 26, 2023).	TN				
For tax years beginning on or after January 1, 2023, net losses from tax years beginning on or after January 1, 2008 may be carried forward indefinitely. For a Utah net loss carried forward to a taxable year beginning on or after January 1, 2023, the amount of Utah net loss that a taxpayer may carry forward to a taxable year may not exceed 80 percent of Utah taxable income calculated before deducting any Utah net loss from Utah taxable income. Senate Bill 203 (signed March 23, 2023).	UT				
Wisconsin does not conform to the TCJA changes to IRC section 174 that apply for tax years beginning on or after January 1, 2022. Taxpayers with Research & Experimental expenses have the following options: (1) Elect to deduct the expenses in the year paid or incurred; (2) Elect to defer the expenses and deduct ratably over at least 60 months; or (3) Elect to treat the expenses as capital expenditures amortizable over a useful life, if determinable. WTB 220 (Wisc. Dep’t of Rev. January 2023).	WI				

Apportionment Changes and Developments	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740-10?	Other/ Comments
Proceeds from real estate sales were not included in the Colorado receipts factor because the taxpayer was regularly engaged in the rental of real estate and had rarely sold properties. As such, the receipts from the sales were not in the regular course of the taxpayer's trade or business and were excluded from the Colorado receipts factor. However, because the two properties sold were related to the operation of the taxpayer's trade or business, the income arising from the sale of the two properties was apportionable income. PLR 23-002 (Colo. Dep't of Rev. March 13, 2023).	CO				
Service receipts are sourced to Florida if the income-producing activity giving rise to the receipts is performed wholly within Florida or if a greater proportion of the income-producing activity is performed in Florida, based on the costs of performance. Although the Department had essentially applied this rule to the taxpayers' service receipts in a manner that resulted in market-based sourcing, a court concluded that under the plain language of this rule, receipts are sourced using a cost of performance method that focuses on the transactions and activities of the taxpayer and not of the taxpayer's customer. <i>Billmatrix Corp., et. al. v. Florida Dep't of Rev.</i> (Fla. Cir. Ct. March 1, 2023).	FL				
Effective for tax years beginning after December 31, 2024, apportionable income will be apportioned to Montana by use of a single receipts factor apportionment formula. Senate Bill 124 (signed March 13, 2023).	MT				

Apportionment Changes and Developments	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740-10?	Other/ Comments
The Department of Revenue's interpretation of the income producing activity test for the tax year at issue was upheld on appeal. This interpretation sourced sales of services to where the service was fulfilled and the income finally produced, which was at the customer's location. Such treatment was in conformity with previous judicial decisions interpreting the sourcing rules for sales of tangible personal property. <i>Synthes USA HQ, Inc. v. Commonwealth of Pennsylvania</i> (Pa. Feb. 22, 2023).	PA				
For taxable years beginning on or after January 1, 2023, affiliated corporations filing on a consolidated basis may elect to apportion the taxable income of all members of such affiliated group using the sales factor alone. The election is valid only for tax years in which 80 percent or more of the sales of such affiliated group after consolidation and eliminations is derived from activities of a retail company. Such an election, once made, shall not be changed without permission of the Department. House Bill 1978/Senate Bill 1346 (signed March 17, 2023).	VA				

Filing Methods	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740-10?	Other/ Comments
For applications filed on or after July 1, 2023, the requirements for an affiliated group to change its filing status have changed. Specifically, an affiliated group may elect to change its corporate income tax filing status even if its tax liability for the previous tax year would be decreased by such a change in filing status. However, the other requirements to make a change remain. The affiliated group must have filed on the same basis for the preceding 12 years and must agree to compute its tax liability under both the requested filing basis and the currently elected filing basis and will be liable for the greater of the two amounts for the taxable year in which the requested method is effective and the immediately succeeding taxable year. House Bill 1405/ Senate Bill 796 (signed March 27, 2023).	VA				
Administrative Developments	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740-10?	Other/ Comments
A taxpayer was allowed to introduce evidence of timely mailing a return when the envelope was missing and was most likely last possessed by the state. The taxpayer's evidence "was reasonable and credible in the context of the highly unusual circumstances surrounding business and governmental operations during the height of the COVID-19 pandemic." <i>Mitutoyo America Corp. v. Illinois Dep't of Rev.</i> (Ill. Tax Trib. Jan. 2023).	IL				

Credits	State	Potential impact on current tax?	Potential impact on deferred taxes?	Potential impact on ASC 740-10?	Other/ Comments
Once the statute of limitations for a tax year closes, a taxpayer may not create an R&D credit by amending a closed year report to reflect previously unreported eligible expenses so that the credit can be carried forward and applied in an open tax year. Policy Letter Ruling No. 202301007L (Tex. Comp. Jan. 19, 2023).	TX				

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