

Quarterly tax developments

Things to know about this quarter's tax developments and related US GAAP accounting implications

Updated through 30 June 2024

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Building a better working world

Tax developments

Welcome to our June 2024 Quarterly tax developments publication. This edition is updated for certain developments identified from 16 June through 30 June 2024. New developments are designated by an asterisk (*) after the state or country name.

Here we describe certain tax developments previously summarized in Tax Alerts or other EY publications or identified by EY tax professionals or EY foreign member firms. These developments may affect your tax provision or estimated annual effective tax rate.

We compile this information because we recognize that, for many companies, the most challenging aspect of accounting for income taxes is identifying changes in tax law and other events when they occur so the accounting can be reflected in the appropriate period. However, this publication is not a comprehensive list of all changes in tax law and other events that may affect income tax accounting.

We list EY publications that you can access through our [Tax News Update website](#), if you are registered. Anyone interested in registering should contact Amy Herlihy at amy.herlihy@ey.com.

See our [previous editions](#) for additional tax developments.

Legislation enacted in the second quarter for US GAAP purposes

Companies are required to account for the effects of tax law changes on their deferred tax assets and liabilities in the period the legislation is enacted. Similarly, companies must reflect the effects of an enacted change in tax laws or rates in their annual effective tax rate computation in the period the changes are enacted. If an interim change is significant, temporary differences may need to be estimated as of the enactment.

Federal, state and territories

California* – On 27 June 2024, California enacted legislation suspending the use of net operating losses (NOLs) for California taxpayers with net business income of \$1 million or more. The suspension applies to tax years beginning on or after 1 January 2024 and before 1 January 2027 (i.e., tax years 2024, 2025 and 2026). California's NOL carryforward period, however, may be extended for each year of suspension.

The new legislation also limits the use of California business credits (including the research and development (R&D) credit) to a combined total of \$5 million, applied on a combined-group basis, for tax years 2024, 2025 and 2026. The limited credit carryover period may be extended for each year of limitation.

Other changes include:

- ▶ Clarifying that the apportionment rules do not permit taxpayers to include certain excluded income when calculating their apportionment factor (applies retroactively and prospectively to all years)
- ▶ Eliminating accelerated expensing for intangible drilling and development costs for oil and gas wells (retroactively effective to 1 January 2024)
- ▶ Eliminating percentage depletion rules for oil, gas, coal and oil shale fossil fuels (retroactively effective to 1 January 2024)
- ▶ Eliminating the credit for qualified enhanced oil recovery costs (retroactively effective to 1 January 2024)

See [Tax Alert 2024-1299](#), dated 3 July 2024.

On 29 June 2024,* California enacted legislation allowing business tax credits that are limited during tax years 2024, 2025 and 2026 to be refunded after the limitation period ends. Affected taxpayers may irrevocably elect, on an original timely filed return for tax years 2024, 2025 or 2026, to receive an annual refund of their qualified credits. The refund will be available for the five consecutive tax years beginning the third tax year after the election is made. For each of these five years, the refund will equal 20% of the qualified credits that would have otherwise been available but for the \$5 million limitation on credit use. See [Tax Alert 2024-1299](#), dated 3 July 2024.

Colorado – On 10 May 2024, Colorado enacted an apprenticeship tax credit that qualified taxpayers in new and emerging industries may claim against their state income tax liability for each apprentice employed in Colorado for at least six months. The credit, which is available for tax years beginning on or after 1 January 2025 but before 1 January 2035, is up to \$6,300 for six months of employment plus \$1,050 for each additional month of employment and is capped at \$12,600 per apprentice per year.

Qualified taxpayers may not claim a credit for (1) more than 10 apprentices per tax year, (2) the same apprentice for more than two consecutive tax-years and (3) months in which the apprentice did not receive wages from the taxpayer. Excess credit will be refunded to the taxpayer. The credit cannot be carried forward. Taxpayers claiming this credit may not claim the Colorado job growth incentive tax credit, the Colorado credit for new enterprise zone business employees or the rural jump-start zone program benefits for the same apprentice. See the [State and Local Tax Weekly for 24 May 2024 and 31 May 2024](#).

On 14 May 2024, Colorado enacted legislation that changes, starting in 2026, its combined reporting standard to require members of an affiliated group of C corporations that are members of a “unitary group” to file a combined report. Combined group members will compute their net income in accordance

with existing law but will eliminate dividends and intercompany transactions. Federal consolidated return rules will apply when determining intercompany eliminations, as if the combined group was a consolidated filing group. Other changes include requiring combined filers to include receipts from all group members when apportioning income to Colorado, regardless of whether a member has Colorado nexus (i.e., the *Finnigan* method).

The changes are effective the day after the expiration of the 90-day period after the legislature finally adjourns. If, however, a referendum petition is filed against this legislation within that period, the changes would not take effect unless approved by voters during the 5 November 2024 general election. See [Tax Alert 2024-0986](#), dated 16 May 2024.

Also on 14 May 2024, Colorado enacted legislation temporarily reducing the corporate income tax rate to 4.25% from 4.4% for tax years beginning on or after 1 January 2024. The decreased rate is intended to refund excess state revenues to Colorado taxpayers. Rate reductions could occur in tax years 2025 through 2035, depending on the size of the surplus after 2024. See [Tax Alert 2024-1127](#), dated 3 June 2024.

Connecticut – On 6 June 2024, Connecticut extended its NOL carryforward period to 30 years from 20 years. The change applies to NOLs incurred in income years beginning on or after 1 January 2025. Other changes include introducing an optional-valuation-allowance deduction for taxpayers that timely filed Form CT-DTLD to claim the 30-year deduction designed to offset the effects of the state's previous enactment of combined reporting. A combined group intending to claim this additional deduction has until 1 July 2025 to file a statement with Connecticut's revenue commissioner specifying the total deduction to be claimed. See the [State and Local Tax Weekly for 7 June 2024 and 14 June 2024](#).

Georgia – On 18 April 2024, Georgia enacted legislation reducing the corporate income tax rate to 5.39% from 5.75%. The change takes effect 1 July 2024 and applies to tax years beginning on or after 1 January 2024.

If relevant future revenue targets are met, additional annual reductions of 0.10% will apply starting 1 January 2025 until the tax rate reaches 4.99%. The reductions will be delayed by one year for each year that revenue requirements are not met. See [Tax Alert 2024-0908](#), dated 3 May 2024.

On 6 May 2024, Georgia enacted legislation reducing the carryforward period for various tax credits. A new three-year carryforward limit applies to income tax credits for:

- ▶ Clean energy property
- ▶ Business enterprises for leased motor vehicles, daily ridership and implementation
- ▶ Class III railroads and reporting

A three-year carryforward limit (from five years) also applies to income tax credits for:

- ▶ Film, gaming, video or digital production and postproduction expenditures
- ▶ Alternative fuel, low-emission and zero-emission vehicles, and electric vehicle chargers
- ▶ Businesses engaged in manufacturing cigarettes for export
- ▶ Certain qualified equipment that reduces business or domestic energy or water usage
- ▶ Certain qualified investments for limited periods

A five-year carryforward limit (reduced from 10 years) applies to income tax credits for:

- ▶ Qualified research expenses
- ▶ Qualified investments in a research fund
- ▶ Existing manufacturing and telecommunications facilities in tiers 1, 2, 3 or 4 counties (a five-year carryforward also would apply to the optional tax credit for such facilities)
- ▶ Employers providing approved retraining programs
- ▶ Certain job-related credits



A 10-year carryforward limit (from 15 years) applies to unused income tax credits for investments in expanding existing manufacturing facilities and enhancements for high-impact aerospace defense projects. Other tax credits expire on 31 December 2029, including those for (1) qualified investments in a research fund, (2) alternative fuel, low-emission and zero-emission vehicles and electric vehicle chargers, and (3) business enterprises for leased motor vehicles, daily ridership and implementation. The new limits apply to unused tax credits generated during tax years beginning on or after 1 January 2025.

Other legislation enacted the same day requires companies to deduct, for corporate income tax purposes, certain grants or subgrants received for purposes of investing in broadband infrastructure, to the extent the grant/subgrant is included in the company's federal taxable income. The change is effective for tax years beginning on or after 1 January 2024 and before 1 January 2029. See [Tax Alerts 2024-0908](#), dated 3 May 2024, and [2024-0956](#), dated 10 May 2024, and the [State and Local Tax Weekly for 24 May 2024 and 31 May 2024](#).

Illinois – On 7 June 2024, Illinois enacted legislation modifying the method for apportioning a multistate financial organization's investment and trading income to Illinois. This new method attributes income to Illinois in the same proportion as a financial organization's other Illinois business activities. The change is effective for tax years ending on or after 31 December 2024.

Other changes include limiting net loss deductions (NLD) to \$500,000 for each tax year ending on or after 31 December 2024 and before 31 December 2027. For purposes of the NLD carryover period, taxpayers will not count any year in which the NLD to be used would have exceeded \$500,000. See [Tax Alert 2024-1178](#), dated 13 June 2024.

Iowa – On 1 May 2024, Iowa enacted legislation allowing financial institutions with an investment subsidiary to elect to include that subsidiary's income and expenses on their Iowa bank franchise tax return. The election, once made, remains in place so long as the investment subsidiary remains a subsidiary of the financial institution, unless the Iowa Department of Revenue grants leave to file separate returns. For purposes of apportionment, the financial institution and investment subsidiary will have the same commercial domicile. The change is effective for tax years beginning 1 January 2025. See [Tax Alert 2024-0941](#), dated 9 May 2024.

Kansas – On 24 April 2024, Kansas enacted legislation clarifying how the limitation on business interest deductions under Internal Revenue Code (IRC) Section 163(j) affects Kansas taxpayers. For tax year 2021, corporations may deduct, for Kansas income tax purposes, interest expense from tax years 2018, 2019 and 2020 that was disallowed under IRC Section 163(j).

For tax years beginning after 31 December 2021, corporations may deduct any federal credit disallowed under IRC Section 280C(a). For tax years beginning after 31 December 2019, and ending before 1 January 2022, corporations may deduct, for Kansas income tax purposes, 50% of the expenses used to claim the federal Employee Retention Credit, which have been disallowed for federal income tax purposes. See [Tax Alert 2024-0943](#), dated 9 May 2024.

Kentucky – On 10 April 2024, Kentucky enacted legislation delaying the deferred tax deduction for certain combined taxpayers (i.e., publicly traded companies and certain affiliates) until 1 January 2026. The deduction was designed to mitigate the financial statement effects of Kentucky's move to combined reporting in 2019 and was scheduled to begin on 1 January 2024. (Taxpayers seeking the deduction would have had to file a statement with the Kentucky Department of Revenue by 1 July 2019.) See [Tax Alert 2024-0813](#), dated 18 April 2024.

Minnesota – On 8 April 2024, Minnesota enacted legislation retroactively extending by one year the effective date of its decoupling from the federal 80% limitation on corporate net operating losses. The change now applies to tax years beginning after 31 December 2023.

The change retroactively returns the limit on Minnesota's NOL deduction to 80% (rather than 70%) of taxable net income for tax years beginning after 31 December 2017 and before 1 January 2024. For tax years beginning after 31 December 2023, the limit on the NOL deduction decreases to 70% of taxable net income. See [Tax Alert 2024-0816](#), dated 18 April 2024.

Nebraska – On 23 April 2024, Nebraska enacted legislation allowing corporations to immediately deduct 60% of the full cost of depreciable business assets that are:

- ▶ Qualified property or qualified improvement property under IRC Section 168
- ▶ Placed in service after 31 December 2024

Corporations may only claim the 60% deduction to the extent the expenditures were not deducted for federal income tax purposes. Alternatively, they may irrevocably elect to amortize the expenses over five years, rather than taking an immediate deduction.

Additionally, the legislation permits corporations to immediately deduct research and experimental expenditures (as defined in Treas. Reg. Section 1.174-2) that they incurred during the tax year and elected to treat as expenses. The changes apply for tax years beginning on or after 1 January 2025. See [Tax Alert 2024-1021](#), dated 20 May 2024.

New Jersey* – On 28 June 2024, New Jersey enacted a 2.5% corporate surtax on top of the current 9% Corporation Business Tax for corporations with New Jersey taxable income over \$10 million. The tax applies for privilege periods beginning on and after 1 January 2024 through 31 December 2028 (e.g., five privilege periods). See [Tax Alert 2024-1298](#), dated 3 July 2024.

New York – On 20 April 2024, New York extended the expiration date of its anti-tax shelter provision five years to 1 July 2029. Other legislation enacted on the same day introduces income tax credits for hiring and retaining newspaper and broadcast media jobs. The hiring credit equals \$5,000 per net new full-time job, while the retention credit equals 50% of annual wages (up to \$50,000) per eligible employee. The aggregate credit available is \$30 million per year, with \$4 million allocated to the new job creation credit and \$26 million allocated to the job retention credit. The cap on an eligible business is \$300,000. This credit is available for tax years beginning on or after 1 January 2025 and ending before 1 January 2028. See the [State and Local Tax Weekly for 26 April 2024 and 3 May 2024](#).

Virginia – On 8 April 2024, Virginia enacted legislation reducing the per-taxpayer cap on its Major Research and Development Expense Tax Credit to \$300,000 (\$400,000 for research conducted with a Virginia higher education institution). The new law also changes the credit's structure into a tiered regime for tax years beginning on and after 1 January 2023 but before 1 January 2025. Under this structure, a taxpayer can claim a credit equal to 10% of the first \$1 million and 5% over \$1 million of the difference between (1) any Virginia qualified R&D expense paid or incurred by the taxpayer during the tax year and (2) 50% of the average Virginia qualified R&D expense paid or incurred by the taxpayer for the three tax years immediately preceding the tax year for which the credit is being determined. See the [State and Local Tax Weekly for 12 April 2024 and 19 April 2024](#).

IRC conformity

The chart below lists the states that enacted legislation this quarter updating their conformity to the US IRC. The chart includes enactment and effective dates, the date of conformity and IRC provisions to which the state decided not to conform. Additional information on the state's IRC conformity can be found in the cited reference.

State	Enactment date	Date of conformity	Effective date	Reference
Florida	7 May 2024	1 January 2024	Retroactively effective to 1 January 2024	State and Local Tax Weekly for 10 May 2024 and 17 May 2024
Georgia	22 April 2024	1 January 2024	Applies to tax years beginning on or after 1 January 2023	Tax Alert 2024-0908 , dated 3 May 2024
Kentucky	10 April 2024	31 December 2023	Applies to tax years beginning	Tax Alert 2024-0813 , dated 18 April 2024

			on or after 1 January 2024	
Maine	12 April 2024	31 December 2023	Applies to tax years beginning on or after 1 January 2023 and to any prior tax year specifically provided by the IRC as of 31 December 2023	<u>State and Local Tax Weekly for 12 April 2024 and 19 April 2024</u>
Oregon	4 April 2024	31 December 2023	Generally applies to transactions or activities occurring after 1 January 2024	<u>State and Local Tax Weekly for 29 March 2024 and 5 April 2024</u>
South Carolina	20 May 2024	31 December 2023	Effective upon enactment	<u>State and Local Tax Weekly for 24 May 2024 and 31 May 2024</u>
Vermont	3 June 2024	31 December 2023	Effective retroactively to 1 January 2024, and applicable to tax years beginning on and after 1 January 2023	<u>State and Local Tax Weekly for 7 June 2024 and 14 June 2024</u>

International

Belgium¹ – On 29 May 2024, Belgium enacted legislation allowing domestic companies to deduct only a portion of their Innovation Income Deduction (IID) under the IID regime (i.e., an intellectual property (IP) regime) and carry forward the remaining IID as a nonrefundable credit. The change is effective from tax assessment year 2025 (i.e., financial years ending 31 December 2024 through 30 December 2025).

Canada – On 20 June 2024, Canada enacted legislation limiting deductions for net interest and financing expenses to 40% of tax earnings before interest, taxes, depreciation and amortization (EBITDA) for tax years beginning on or after 1 October 2023 and 30% of tax EBITDA for tax year 2024 and onward. The new law generally defines tax EBITDA as taxable income before taking interest income and expense, income tax, and deductions for depreciation and amortization into account.

Other changes include:

- ▶ Denying financial institution deductions for dividends (other than certain dividends received by an insurance corporation) from Canadian company shares that are mark-to-market property unless the shares are taxable preferred shares
- ▶ Implementing anti-hybrid mismatch arrangement rules that would generally align with the recommendations in the Action 2 report under the Base Erosion and Profit Shifting (BEPS) project for the Organisation for Economic Co-operation and Development (OECD)
- ▶ Extending the phase-out and expiration dates of the 7.5% rate on eligible income of qualifying manufacturers of zero-emission technology by three years, so the reduced rate will be phased out for tax years beginning in 2032 and the general 15% rate will apply for tax years beginning after 2034, and broadening eligibility for the rate to include certain nuclear manufacturing and processing activities

¹ A Tax Alert has not been published on the legislation's enactment. For discussion of the legislation's passage by Parliament, see [Tax Alert 2024-1024](#), dated 20 May 2024.

- ▶ Introducing new capital cost allowance classes 59 and 60, which would permit accelerated depreciation rates (100% for class 59 and 30% for class 60) for intangible exploration expenses and development expenses from storing captured carbon
- ▶ Expanding the critical mineral exploration tax credit and flow-through share regime to include eligible expenses from exploration and development activities for lithium from brines
- ▶ Amending the general anti-avoidance rule (GAAR) by lowering the threshold for considering a transaction to be an avoidance transaction, adding an economic substance test for determining whether abusive tax avoidance exists, introducing a penalty equal to 25% of the tax benefit for undisclosed transactions and extending the normal period for GAAR assessments by three years for undisclosed transactions

The effective dates for these changes vary.

See Tax Alerts [2024-1111](#), dated 31 May 2024, and [2024-1242](#), 24 June 2024.

Also on 20 June 2024, Canada enacted legislation broadening the income tax exemption for international shipping income, which currently applies to certain nonresident companies, to include certain Canadian resident companies. This change is effective for tax years that begin on or after 31 December 2023. See Tax Alerts [2024-0947](#), dated 10 May 2024, and [2024-1243](#), dated 24 June 2024.

Pakistan^{*2} – On 29 June 2024, Pakistan enacted a flat 15% rate on capital gains from sales of stock/securities acquired on or after 1 July 2024, regardless of how long the stock/securities are held. A higher rate applies for taxpayers that file their income tax return late. Other changes include:

- ▶ Increasing the tax rate on gains from redemptions of shares in mutual funds, collective investment schemes or real-estate investment trusts to 15% from 10% for stock funds and 25% from 10% for other funds
- ▶ Increasing the withholding tax rate on stock funds with fewer dividends than capital gains to 15% from 12.5%
- ▶ Eliminating capital gains tax on the sale of securities that were acquired on or before 30 June 2024 and held for more than six years
- ▶ Increasing the withholding tax rate to 9% from 5% on a company's payment to a toll manufacturer for goods
- ▶ Limiting banks' deductions of bad debts to those classified as a loss from nonperforming assets under the Prudential Regulations
- ▶ Allowing a company to deduct 75% of payments to a related party for sales promotion, advertisement and publicity if it also paid the related party, directly or indirectly, a royalty for the tax year or the two preceding tax years

The changes are effective 1 July 2024.

² A Tax Alert on the legislation's enactment is forthcoming. For discussion of the draft legislation, see [Tax Alert 2024-1192](#), dated 14 June 2024.

Other considerations

Court decisions, regulations issued by tax authorities and other events may constitute new information that could trigger a change in judgment in recognition, derecognition or measurement of a tax position. These events also may affect your current or deferred tax accounting.

Federal, state and territories

Federal – In final regulations, the Treasury Department (Treasury) and Internal Revenue Service (IRS) provided guidance on when qualified investment entities, which include real estate investment trusts and certain regulated investment companies, are considered domestically controlled for purposes of the Foreign Investment in Real Property Tax Act rules of IRC Section 897. The final regulations retain the general approach and structure of proposed regulations published on 22 December 2022, with certain modifications. See [Tax Alert 2024-0885](#), dated 30 April 2024.

In another set of final regulations, Treasury and the IRS adopt, with few modifications, proposed regulations on transferring renewable energy credits. The final regulations lay out the steps for transferring a tax credit, along with issues such as which entity is liable if there is a recapture event, the ability to transfer part of the tax credit, examples concerning when there are “excess credits” and how partnerships may deal with tax credit transfers. The final regulations are effective 1 July 2024. See [Tax Alert 2024-0933](#), dated 8 May 2024.

In a third set of final regulations, the IRS clarified the requirements for new and used clean vehicle tax credits under IRC Sections 30D and 25E. The final regulations adopt most of the proposed regulations but modify the requirements for determining whether the battery components and applicable critical minerals contained in a vehicle battery are foreign-entity-of-concern compliant. See [Tax Alert 2024-1142](#), dated 5 June 2024.

In a revenue procedure, the IRS updated the list and substantive content of certain automatic accounting method changes and made numerous changes to existing automatic change guidance. Revenue Procedure 2024-23 (subject to transition rules) is generally effective for Forms 3115 that are filed (1) on or after 30 April 2024 for a year of change ending on or after 30 September 2023 and (2) under the automatic change procedures of Revenue Procedure 2015-13. See [Tax Alert 2024-0938](#), dated 9 May 2024.

In a notice, the IRS updated the guidance on how taxpayers can qualify for the domestic content bonus credits under IRC Sections 45, 45Y, 48 and 48E for qualified facilities, energy projects and energy storage technology. The notice creates a new elective safe harbor that lists applicable project components and the “domestic cost percentage” for these components in determining a project’s eligibility to qualify for the bonus under the safe harbor election. See [Tax Alert 2024-1041](#), dated 22 May 2024.

The US Supreme Court held in a 7-2 opinion³ that Congress may impose a mandatory repatriation tax (MRT) on accumulated and undistributed income of US-controlled foreign corporations under IRC Section 965. The majority declined to rule whether realization is a constitutional requirement of an income tax but held that Congress may attribute a business entity’s realized and undistributed income to the shareholders or partners of that entity. In doing so, it emphasized that its holding “applies when Congress treats the entity as a pass-through.”

In a separate opinion,* a 6-3 majority of the Court overturned the 40-year precedent in *Chevron U.S.A. Inc v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had been a mainstay precedent instructing courts to defer to the decisions of federal agencies when a statute is ambiguous. In place of the so-called *Chevron* deference, the majority opinion held that courts must exercise their independent judgment and not defer to an agency’s interpretation, when interpreting statutory language. A Tax Alert is forthcoming.

Wisconsin – A circuit court agreed with the Wisconsin Tax Appeals Commission (WTAC) that a California footwear company could not deduct intercompany royalty and interest expenses paid to an affiliate that held the company’s IP and licensed it back to the company. In affirming the WTAC, the circuit court focused on the substance and reality of the transactions, also noting the circular flow of funds between the affiliates. See [Tax Alert 2024-1094](#), dated 29 May 2024.

³ A Tax Alert on the opinion is forthcoming.



International

Canada* – On 28 June 2024, Canada enacted a digital services tax (DST), which applies to certain revenue earned by large businesses from certain digital services offered in Canada or generally used by Canadians (for example, a targeted advertisement to a Canadian user rendered by a nonresident company). The DST is effective 28 June 2024, and applies retroactively to tax years beginning on or after 1 January 2022. Although not an income tax under ASC 740, the DST will have financial reporting implications for companies that provide digital services subject to the tax. Companies will need to evaluate the applicability of the DST from 1 January 2022 and, if applicable, accrue an obligation (i.e., tax payable to the taxing authority) as of the period ended 30 June 2024 and prospectively. Because the DST is not an income tax in the scope of ASC 740, it should not be reported as an income tax expense in the statement of operations. See Tax Alerts [2024-1242](#), 24 June 2024, and [2024-1339](#), dated 10 July 2024.

Colombia – The tax authority (DIAN in Spanish) concluded that the 15% limitation on deductions for expenses incurred abroad does not apply to loss/expense deductions from futures and forward agreements reached with nonresident entities. The DIAN reasoned that the expenses were not related to Colombian-source income, which would otherwise trigger the applicability of the 15% limitation. See [Tax Alert 2024-0901](#), dated 3 May 2024.

The Council of State, Colombia's highest tax court, held that taxpayers could not invoke the most-favored-nation clause (MFNC) in Colombia's income tax treaties with Chile, Spain and Switzerland based on Colombia's subsequent treaty with the United Kingdom (UK), which does not impose a 10% withholding tax on payments for certain services. The court reasoned that the UK-Colombia treaty did not lower a tax rate, which would then trigger the MFNC for the other tax treaties. Instead, it characterized the income from those services as business profits, rather than royalties, which effectively exempted them from the 10% withholding tax. See [Tax Alert 2024-0839](#), dated 22 April 2024.

In a ruling, the DIAN clarified that domestic companies could deduct 100% of payments to foreign companies with a significant economic presence (SEP) in Colombia, even if a foreign company opted to file a tax return to pay a 3% annual income tax rather than paying a 10% withholding tax on the payment. The DIAN also clarified that:

- ▶ The 10% withholding tax/3% annual tax applies to payments for imported goods, regardless of whether the importer paid for the goods using a foreign compensation account.
- ▶ Digital services that are not listed in the SEP rules are taxed under Colombia's general income tax laws.
- ▶ Colombia's general income tax law, rather than SEP rules, apply to payments received by nonresidents that offer accommodations/housing in Colombia through a digital platform (intermediation services offered via the digital platform may be covered under SEP rules).

See [Tax Alert 2024-1039](#), dated 22 May 2024.

France – The Supreme Administrative Court held that a French company with a Luxembourg permanent establishment (PE) could not offset the PE's losses against the profits of the French tax-consolidated group. The court reasoned that both French domestic law and the France-Luxembourg treaty precluded the company from offsetting the losses against tax-consolidated group profits. The ability to deduct a French branch company's loss against tax-consolidated group income did not change the conclusion, as the differential tax treatment does not violate European Union law. See [Tax Alert 2024-0939](#), dated 9 May 2024.

India – The High Court of Delhi held that an Indian subsidiary's performance of back office and technical support services for its US parent did not create a PE in India. The court reasoned that (1) the subsidiary's role was limited to providing support services, which qualified as preparatory or auxiliary, and not as core business operations; (2) the subsidiary's employees only reported to the US parent's personnel to achieve compliance with global best practices; (3) the US parent did not control the subsidiary's premises; (4) the subsidiary's premises were not at the US parent's disposal; (5) the subsidiary was not authorized to conclude contracts for its US parent and (6) the US parent's employees did not render services to the subsidiary. See [Tax Alert 2024-1177](#), dated 13 June 2024.

Saudi Arabia – In guidelines, the Zakat, Tax and Customs Authority (ZATCA) offered additional details on its Regional Headquarters program, which grants tax benefits to eligible multinational companies that relocate their regional headquarters to Saudi Arabia. The ZATCA confirmed that the 30-year tax holiday applies only to the 0% corporate income tax rate and the 0% withholding tax rates for dividends, related party payments and certain payments to unrelated service providers. It also reiterated that regional headquarters must meet certain economic substance requirements, such as owning or leasing a physical office in Saudi Arabia, locating at least three executives in Saudi Arabia who are expected to make key decisions and hiring sufficient full-time employees. See [Tax Alert 2024-0827](#), dated 19 April 2024.

Turkey – The Constitutional Court upheld a one-time additional 10% tax that Turkey enacted in 2023 and retroactively applied to certain corporate exemptions and deductions in fiscal year 2022 to help address damage caused by prior earthquakes. Rejecting challenges to the tax's constitutionality, the court reasoned that laws may be applied retroactively due to events that deeply affect society, such as unforeseen natural disasters. See [Tax Alert 2024-0966](#), dated 13 May 2024.

Things we have our eyes on

National, state and local governments continue to seek to increase their revenues. Companies should continue to monitor developments in this area. Some of these potential tax law changes are summarized here.

Federal, state and territories

FDII – A bill was introduced in the House of Representatives that would repeal the scheduled reduction in the deduction for foreign-derived intangible income (FDII). Under the legislation, the FDII deduction would remain at 37.5% rather than dropping to 21.9% at the end of 2025. See [Tax Alert 2024-0898](#), dated 3 May 2024.

Capitalization – In proposed regulations, the IRS would modify the interest capitalization requirements for improvements to property temporarily withdrawn from service. Under the proposed changes, taxpayers would capitalize only the direct and indirect costs of the property improvements, rather than the improvement costs and imputed interest based on the property's temporary removal from service. See [Tax Alert 2024-1010](#), dated 17 May 2024.

Exemption from state taxation – A bill introduced in the US House of Representatives would modify the federal prohibition (P.L. 86-272) on state taxation of out-of-state businesses whose only connection to the state is soliciting orders for sales of tangible personal property. The bill would expand the definition of solicitation of orders to include any business activity that facilitates the solicitation of orders, even if that activity serves an independently valuable business function apart from solicitation. See the [State and Local Tax Weekly for 26 April 2024 and 3 May 2024](#).

Treaties – The US Treasury Department announced that it has formally notified the Russian Federation of the suspension of specific provisions of the US-Russia Tax Treaty and its accompanying protocol, by mutual agreement. The suspended provisions are paragraph 4 of Article 1 (relating to the exceptions to the savings clause of paragraph 3), Articles 5 through 21 (substantive provisions) and Article 23 (non-discrimination in taxation matters), as well as the protocol, which detailed each country's respective rights to tax certain categories of income (these provisions were suspended by Russia in 2023). The suspension reportedly responds to Russia's notification on 8 August 2023 of its intent to suspend specific provisions in tax treaties with 38 countries, including the United States. Suspension of these provisions will be effective for taxes withheld at source and for other taxes on 16 August 2024, and will continue until otherwise decided by the two governments. See [Tax Alert 2024-1294](#), dated 28 June 2024.

District of Columbia – In her FY2025 budget, the mayor proposed modifying the combined reporting rules to require combined filers to include receipts from all group members when apportioning income to the District, regardless of whether a member has District nexus (i.e., the *Finnigan* method). The change would apply for tax years beginning after 31 December 2025. See the [State and Local Tax Weekly for 29 March 2024 and 5 April 2024](#).

International

Australia – In the 2024/25 federal budget, the federal treasurer proposed deferring the 1 July 2024 effective date of Australia's GAAR to income years beginning on or after the date that the proposed change is legally enacted. Once enacted, the new rules would apply to affected transactions regardless of when a taxpayer entered into them.

The GAAR would be expanded to apply to transactions that:

- ▶ Reduce Australian tax by accessing a lower withholding tax rate on income paid to foreign residents
- ▶ Achieve an Australian tax benefit even where the transaction's dominant purpose is to reduce foreign income tax

Other budget proposals include:

- ▶ Broadening applicability of the capital gains tax regime for foreign residents so the regime applies to more types of assets and uses a 365-day period as a testing period rather than the point-in-time principal asset test



- ▶ Introducing a tax incentive to support renewable hydrogen production in Australia
- ▶ Introducing a tax incentive to support refining and processing of critical minerals such as lithium, nickel, cobalt, rare earth elements, high purity alumina and graphite
- ▶ Generally penalizing groups with more than AUD1b in global receipts annually that are found to have mischaracterized or undervalued royalties to which withholding tax would otherwise apply

See [Tax Alert 2024-0985](#), dated 16 May 2024.

Canada – In the 24/25 federal budget, the government proposed increasing the rate of gains subject to capital gains tax to two-thirds from one-half. The proposed increase would apply to capital gains realized on or after 25 June 2024. Transitional rules would separate gains and losses realized before and after that date.

Other proposals would:

- ▶ Temporarily increase to 10% from 4% the depreciation rate (i.e., capital cost allowances) for certain rental housing construction projects that begin after 15 April 2024 and before 2031
- ▶ Allow 100% expensing for certain property (e.g., patents, data network infrastructure equipment, computer equipment and systems software) acquired on or after 16 April 2024 and available for use before 2027
- ▶ Allow the deduction of interest and other expenses incurred before 1 January 2036 on arm's-length financing used to build or acquire certain rental properties without imposing new interest and financing expense limitation rules (applicable to tax years beginning on or after 1 October 2023)
- ▶ Strengthen anti-avoidance rules that deny deductions for inter-corporate dividends received under a synthetic equity arrangement by removing certain exceptions
- ▶ Strengthen the conditions that must be met for a corporation to qualify as a mutual fund corporation

See Tax Alerts [2024-0825](#), dated 19 April 2024, and [2024-1000](#), dated 16 May 2024.

Hong Kong – In draft legislation, the government proposed a new patent box regime that would allow eligible income from patents or patent-like intellectual property in Hong Kong to be taxed at a 5% rate. The new regime would comply with Action 5 of the OECD's BEPS initiative. The regime, if enacted, would apply retroactively to financial years ending on or after 1 April 2023. See [Tax Alert 2024-0817](#), dated 18 April 2024.

Ireland – In a Feedback Statement, the Department of Finance outlined a possible approach to exempting foreign dividends from Irish corporation tax. The proposed approach identifies the conditions required to be eligible for the exemption, the dividends to which the exemption would apply, applicable anti-abuse provisions and how eligible companies would claim the exemption. See [Tax Alert 2024-0759](#), dated 8 April 2024.

Kenya – The National Assembly is considering a bill that would broaden the definition of a royalty to include payments for off-the-shelf software and distribution of software. It would also decrease the carryforward period for foreign-exchange losses to three years from five years for certain entities. Other changes include:

- ▶ Introducing a preferential capital gains tax rate of 5% for firms that are certified by the Nairobi International Financial Centre authority, provided certain conditions are met
- ▶ Consolidating the three definitions of "related party" in the Income Tax Act into one revised definition
- ▶ Eliminating the threshold for applying withholding tax to payments for management, professional, contractual or training services rendered by resident persons
- ▶ Repealing income tax exemptions for interest income from certain listed bonds, notes or other similar securities
- ▶ Exempting gain on the transfer of property within a special economic zone from income tax when conducted by a licensed special economic zone developer, enterprise or operator

- ▶ Repealing the 15% preferential tax rate for income from the construction of certain housing
- ▶ Expanding the types of digital content subject to income tax to include creative works, creating or sharing of material and any other material not exempt under the Income Tax Act

The bill is generally proposed to be effective 1 July 2024. See [Tax Alert 2024-1032](#), dated 21 May 2024.

Luxembourg – The Parliament is considering a bill that would give eligible domestic companies and PEs the option of waiving income tax exemptions for dividends and capital gains, provided certain conditions were satisfied. The waiver, which would be exercised annually for each affected stock, would allow eligible companies and PEs to use otherwise exempt dividends and capital gains to offset losses that may be limited to a 17-year carryforward. See [Tax Alert 2024-1138](#), dated 5 June 2024.

OECD – In new Administrative Guidance, the OECD outlined simplified procedures that will allow Multinational Enterprise Groups to aggregate various categories of deferred tax liabilities for determining whether they will reverse within five years and, therefore, do not need to be recaptured in the Pillar Two Global Anti-Base Erosion (GloBE) Model rule computations. The administrative guidance also:

- ▶ Clarifies how to determine deferred tax assets and liabilities for GloBE purposes when the rules result in divergences between GloBE and the accounting carrying value of assets and liabilities
- ▶ Addresses the allocation, for purposes of making the GloBE computations, of cross-border current and deferred taxes and the profits and taxes on certain flow-through tax structures
- ▶ Addresses the treatment in the GloBE computations of securitization vehicles under a jurisdiction's domestic minimum top-up tax

See [Tax Alert 2024-1225](#), dated 20 June 2024.

Appendix

Status of local global minimum tax laws passed

Status as of 20 June 2024

No.	Country	QDMTT		IIR		UTPR		IFRS substantively enacted as of 20 June 2024	US GAAP enacted as of 20 June 2024	IAS 12 IFRS adapted local country endorsement
		Adopted	Entry into effect	Adopted	Entry into effect	Adopted	Entry into effect			
1	Austria	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
2	Barbados	Yes	1-Jan-24	No	Not applicable	No	Not applicable	Yes	Yes	TBC
3	Belgium	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
4	Bulgaria	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
5	Canada	Yes	31-Dec-23	Yes	31-Dec-23	No	Not applicable	Yes	Yes	No
6	Croatia	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
7	Czech Republic	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
8	Denmark	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
9	Estonia	No	Not applicable	No	Delayed	No	Delayed	Yes	Yes	Yes
10	Finland	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
11	France	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
12	Germany	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
13	Greece	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
14	Hungary	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
15	Ireland	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
16	Italy	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
17	Japan	No	Not applicable	Yes	1-Apr-24	No	Not applicable	Yes	Yes	Yes
18	Latvia	No	Not applicable	No	Delayed	No	Delayed	Yes	Yes	Yes
19	Liechtenstein	Yes	1-Jan-24	Yes	1-Jan-24	Yes	1-Jan-25	Yes	Yes	Yes
20	Luxembourg	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
21	Malaysia	Yes	1-Jan-25	Yes	1-Jan-25	No	Not applicable	Yes	Yes	Yes
22	Malta	No	Delayed	No	Delayed	No	Delayed	Yes	Yes	Yes
23	Netherlands	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
24	New Zealand	No	Not applicable	Yes	1-Jan-25	Yes	1-Jan-25	Yes	Yes	Yes
25	Norway	Yes	31-Dec-23	Yes	31-Dec-23	No	Not applicable	Yes	Yes	No
26	Romania	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
27	Slovakia	Yes	31-Dec-23	No	Delayed	No	Delayed	Yes	Yes	Yes
28	Slovenia	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
29	South Korea	No	Not applicable	Yes	1-Jan-24	Yes	1-Jan-25	Yes	Yes	Yes
30	Sweden	Yes	31-Dec-23	Yes	31-Dec-23	Yes	31-Dec-24	Yes	Yes	Yes
31	Switzerland	Yes	1-Jan-24	No	Not applicable	No	Not applicable	Yes	Yes	Yes
32	United Kingdom	Yes	31-Dec-23	Yes	31-Dec-23	No	Not applicable	Yes	Yes	Yes
33	Vietnam	Yes	1-Jan-24	Yes	1-Jan-24	No	Not applicable	Yes	Yes	No

IFRS substantively enacted: Legislation is substantively enacted when any future steps in the enactment process will not change the outcome.

US GAAP enacted: Legislation is considered enacted when any further procedures in respect to the particular legislation being passed at the time are unable to change the outcome.

IFRS adapted local country endorsement: Whether the jurisdiction has endorsed the amendments to IAS 12 (Income Taxes) by the International Accounting Standard Board for IFRS adapted version.

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