



Insurance Tax Update

2023 Insurance Insight Conference

Meet the Presenters



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Overview of Topics

Federal Tax Legislation

- Enacted & potential tax provisions to consider

Key Tax Laws & Expiring Provisions

- Highlights of recent tax developments affecting the industry

Income Tax Accounting Developments

- GAAP & STAT updates

Employee Retention Credit

- Latest updates

International Tax Issues

- Pillar Two & Bermuda CIT

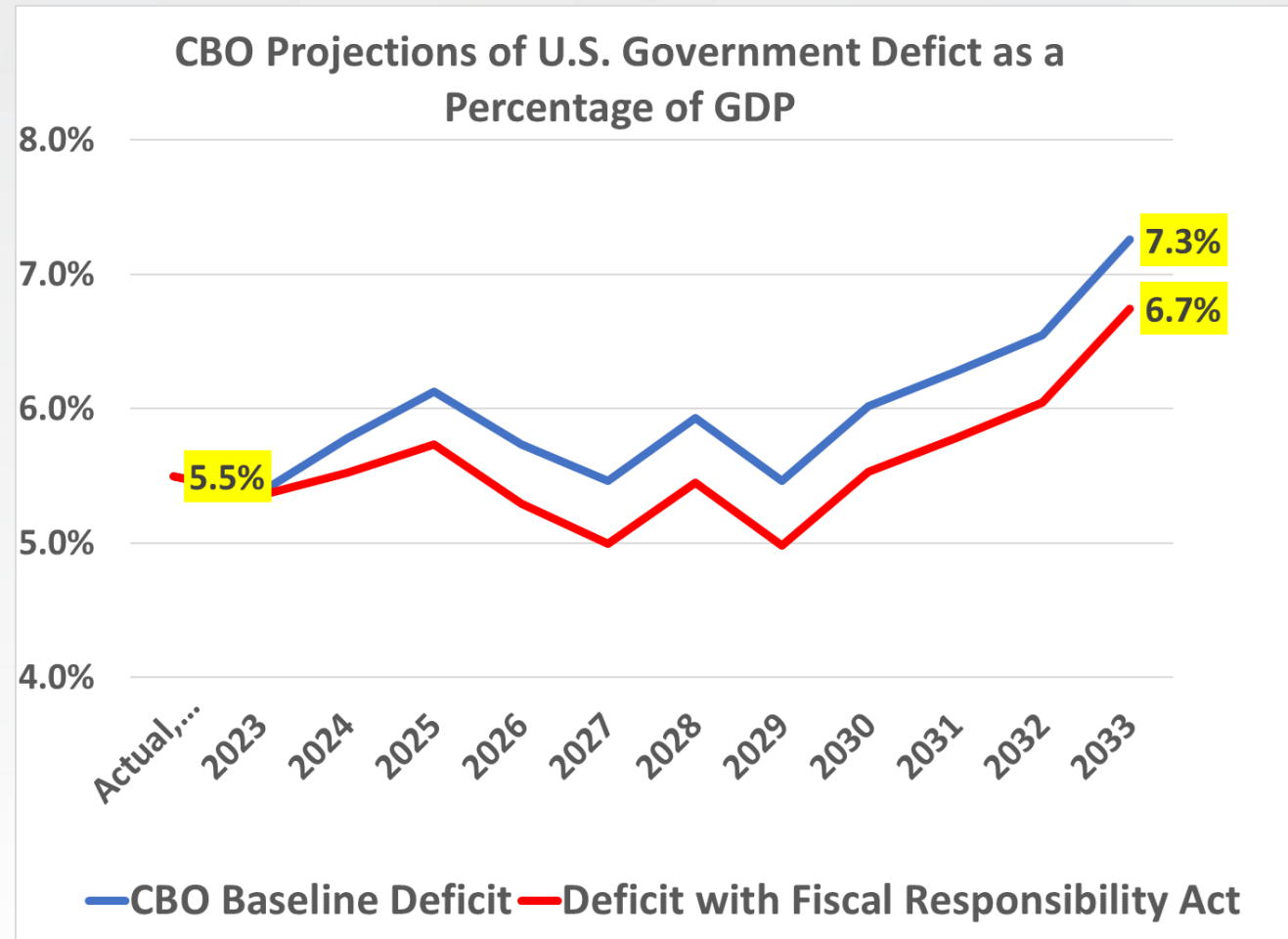
Federal Tax Legislation

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Tax Legislation Policy Update

- Fiscal Responsibility Act (1/1/2025)
- IRS funding reduction side agreements
- Revenue still an issue
- 12 Appropriations Acts required to fund government (CR expiration 11/17)
- Magic numbers: 218 & 60



Biden Administration Priorities

- Raise Corporate Rate from 21% to 28%
- Increase excise tax on stock repurchases to 4%
- Revise global minimum tax regime & limit inversions
- Expand Child Tax Credit/make permanent full refundability

Near-Term Prospects for Tax Legislation

Divided government control—with one political party controlling the White House & Senate, & the other party controlling the House—will limit the scope of new tax & spending legislation.

Key TCJA Business Tax Issues With Bipartisan Support

Current deductibility of Section 174 research expenditures

Four-year phase-out of Section 168(k) 'bonus' depreciation deductions

Tighter Section 163(j) interest deduction limitations

Potential Other Areas of Bipartisan Support

1099-K Information Reporting

SECURE 2.0 Technical Corrections

Broker Reporting on Digital Assets

Cryptocurrency

Housing Affordability

Tax Treaties (Taiwan, Chile)

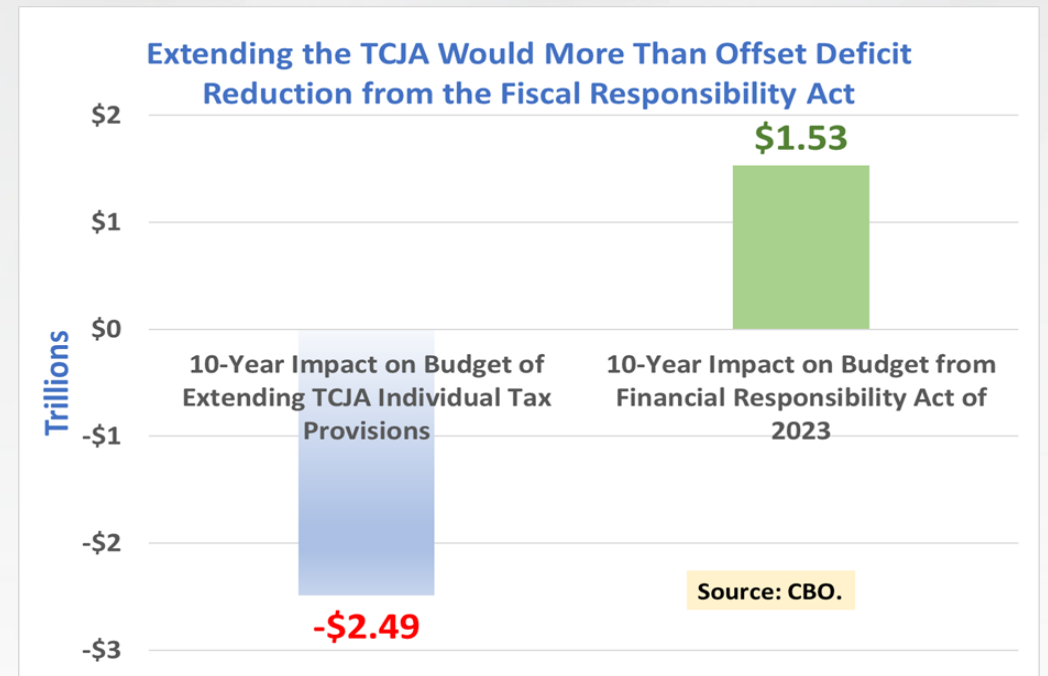
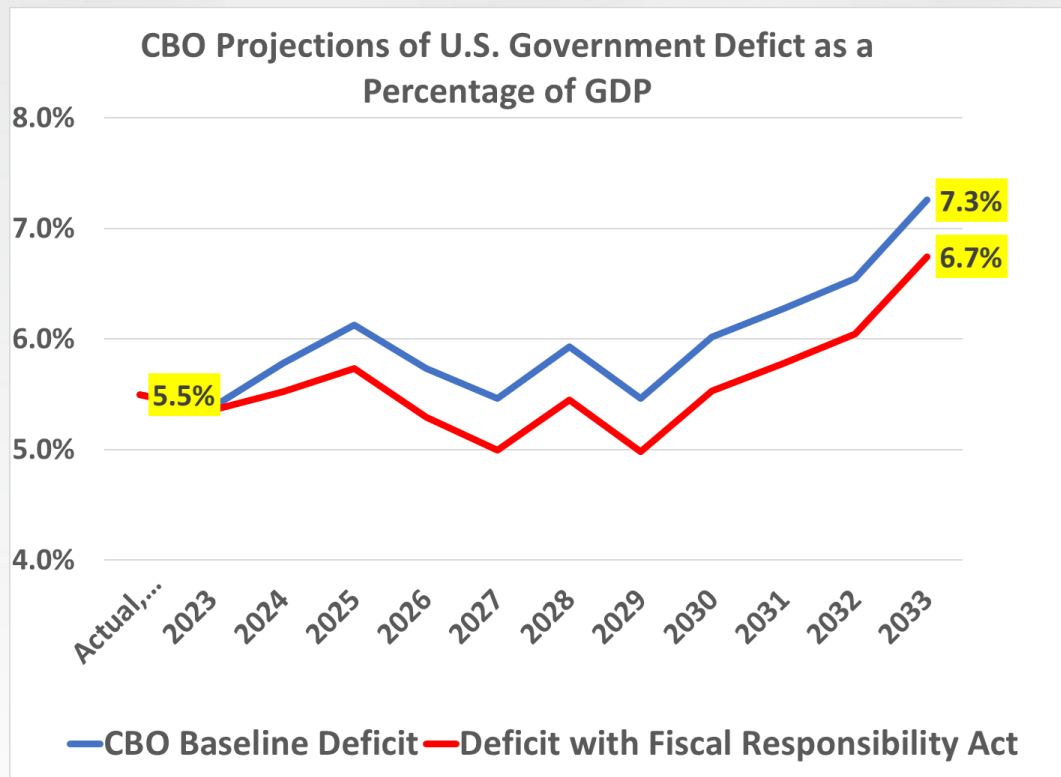
Near-Term Prospects for Tax Legislation

- House Ways & Means Package (Build it in America etc.) – opening bid
- Farm Bill (once every five years)
- FAA Reauthorization Bill
- Broad Omnibus Bill?
- September 30 government shutdown was averted with a continuing resolution that expired on November 17
 - Current status of appropriations bills
 - Republicans wanted the appropriations bills passed individually so that an opportunity remains to propose amendments

Near-Term Prospects for Tax Legislation

- House Ways & Means
 - Tax Cuts for Working Families Act (HR 3936)
 - The Small Business Jobs Act (HR 3937)
 - Build it in America Act (HR 3938)
 - TCJA provisions: 163(j), Bonus, 174
 - Main Street Tax Certainty Act
 - Fostering Innovation & Research to Strengthen Tomorrow Act
- Senate Democrats
 - Working Families Relief Act
- House Republicans
 - Appropriations Bill

2025 & Beyond



2025 & Beyond

2025 and Beyond

Key TCJA tax provisions set to expire at end of 2025

Current 37% top individual ordinary income tax rate

20% deduction for pass-through business income

Higher standard deduction

Higher exemption amount and phase-out threshold for the individual alternative minimum tax

Increased estate tax exemption

\$2,000 child tax credit

\$10,000 SALT deduction cap

GILTI, BEAT & FDII become more restrictive

OECD
Pillar 1
Pillar 2

Key Tax Laws & Expiring Provisions

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Net Operating Losses

- For the 2021 tax year & forward
 - C corporations & Life companies: No carryback & indefinite carryforward, but limited taxable income offset (80%)
 - P&C companies: Two-year carryback & 20-year carryforward for 2021; no limitation on taxable income offset

Bonus Depreciation

- Taxpayers may deduct 100% of the cost of bonus eligible property in the first year for property acquired & placed in service after September 27, 2017, & before January 1, 2023
- Bonus rate will decrease by 20% each year until it fully phases out to 0% for assets placed in service in 2027
 - 100% was allowed for property placed in service through 2022
 - 80% for 2023
 - 60% for 2024
 - 40% for 2025
 - 20% for 2026
- Definition of qualified property expanded in 2018 by removing requirement that original use begin with taxpayer

Inflation Reduction Act of 2022

- Based on the Build Back Better framework
 - Passed by the House in November 2021
 - Originally included the Biden Administration's policy goals
 - Passed by the Senate in August 2022 after months of negotiations by Senate Democrats & Senator Joe Manchin
 - Signed into law on August 16, 2022 by President Biden

Inflation Reduction Act of 2022 – Key Provisions

- Corporate Alternative Minimum Tax (CAMT) is a 15% minimum tax imposed on corporations with greater than \$1 billion in average adjusted financial statement income (AFSI) over the preceding three years & is effective for tax years beginning after December 31, 2022
- Excise tax of 1% on certain stock repurchases by public companies, also effective for tax years beginning after December 31, 2022

Inflation Reduction Act of 2022 – Key Provisions

- Increased IRS Funding for tax enforcement
 - IRA gives the IRS an additional \$80 billion over the course of 10 years to fund
 - Taxpayer services
 - Tax enforcement activities
 - Business system modernization
 - Debt ceiling deal reduced funding by \$20 billion
 - Republicans looking to cut another \$14.5 billion

§174 Required Capitalization of R&D Costs

- For tax years beginning in 2022, businesses are no longer able to immediately deduct the full cost of R&E expenditures
- Instead, the TCJA requires companies to amortize their costs over five years for research conducted inside the United States
 - For research conducted abroad, amortization of 15 years is required
 - Software development costs are now specifically included in the definition of Section 174 costs

§174 Required Capitalization of R&D Costs

- Who does this change impact?
 - All U.S. taxpayers, regardless of size & industry, who perform research & development activities, including software development
- When are these changes applicable?
 - These rules are effective for tax years beginning on or after January 1, 2022. Businesses were required to comply with these new rules for **2022 tax return filings**

§174 Required Capitalization of R&D Costs

	Prior (for tax years prior to 1/1/22)	Future (for tax years starting after 1/1/22)
R&E Expenditures	<ul style="list-style-type: none"> • May deduct as incurred, under 174(a) OR • Elect to capitalize & amortize over 60 months, under 174(b) OR • Elect to amortize R&E expenditures over 10 years under 59(e) 	Shall be amortized over 5 years.
Foreign Research	Same treatment	Amortize over 15 years for foreign research
Recovery of costs	Write-off when abandoned/disposed	TP cannot recover costs of disposed/abandoned R&D earlier than end of the required amortization period
Amortization Convention	Amortization begins with the month that the TP realizes benefit from expenditures	Mid-year in which the specified R&D expenditure is paid or incurred
Software Development	Utilized 2000-50 to expense immediately, OR Amortize for: <ul style="list-style-type: none"> - 5 years starting when development is completed, or - 36 months from date software is placed in service 	Specifically included in definition of 174 expenditure, therefore must be capitalized

Updated Accounting Method Change Guidance

Rev. Proc. 2023-11 (Modifies Rev. Proc. 2022-14 & 2023-08)

- Complying with Section 174 capitalization represents an accounting method change
- Taxpayers may file a statement (in lieu of Form 3115) with original returns & include
 - ✓ Name, EIN of applicant that paid/incurred R&E expenses after 12/31/21
 - ✓ Beginning & ending dates of first taxable year change takes effect
 - ✓ Designated accounting method change number (DCN #265)
 - ✓ Description of the types of expenditures included as R&E expenditures
 - ✓ Amount of R&E expenditures paid or incurred during the year of change
 - ✓ Declaration the applicant is changing method of accounting for R&E expenditures to capitalize to capital account & amortize
- **Requirement to file a duplicate copy of a Form 3115 is waived for taxpayers filing the statement in lieu of Form 3115**

§174 Required Capitalization of R&D Costs

- Substantive Section 174 guidance farther behind & may not be issued until late-2023, or later (Ever? We're all patiently waiting for a repeal)

Several unanswered technical issues

- Examples:

1. Research performed under contract
2. Definition of “incident to”/how wide of a net
3. Definition of “software development”

Income Tax Accounting Developments

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Tax Accounting for IRA Provisions

- Corporate AMT – Follow accounting for prior AMT. Consider VA impacts
- Excise Tax on Stock Repurchases – Not an income tax. Account for above the line or in equity
- Section 174 Capitalization – Consider VA impacts & current/deferred split

Corporate Alternative Minimum Tax (“CAMT”)

- New tax enacted Aug 16, 2022, as a provision of the Inflation Reduction Act
- Applies to certain corporations that have reported financial statement income over \$1B
- Not a revival of the old corporate AMT under §55(b)(1)(B), but rather institutes new AMT framework under IRC §55(b)(2)
- Applies to tax years beginning after 12/31/2022
- AMT is 15% of “Adjusted Financial Statement Income” (“AFSI”) of an “Applicable Corporation”
- Liability equal to excess of AMT over (Regular Tax + BEAT)

Corporate Alternative Minimum Tax (“CAMT”)

- Framework similar to treatment of old AMT pre-TCJA
 - AMT is a current period expense
 - DTA for AMT Credits (pending VA)
 - No DTA for AMT NOLs
 - No deferred accounting (other than AMT Credits) for AMT rate
 - Consider impact on valuation allowance considerations

CAMT – Timeline

- Inflation Reduction Act – August 2022
- Notice 2023-07 – December 27, 2022
 - Interim guidance pending proposed regulations effective for tax years beginning 1/1/2023
- Notice 2023-20
 - Intended to help avoid substantial unintended adverse consequences to the insurance industry
- Statutory Accounting Principles Working Group
 - INT 22-02 Third Quarter 2022 Through Second Quarter 2023 Reporting
 - INT 22-03 Fourth Quarter 2022 & Interim 2023 Reporting
 - INT 23-XX (DRAFT) Year End 2023 Reporting

CAMT – Insurance Industry

- Notice 2023-20
 - Intended to help avoid substantial unintended adverse consequences to the insurance industry
 - Adjusted Financial Statement Definition/Adjustments to Income of Applicable Corporations
 - Treatment of Variable & Similar Contracts
 - Funds Withheld & Modco
 - Formerly Tax-Exempt Entities

CAMT – SSAP 101 Interpretation

Statutory Accounting Principles Working Group

INT 23-XX (DRAFT) Year End 2023 Reporting

- Statutory Tax Accounting for the CAMT for reporting entities included in a consolidated return should be matched to the CAMT charges & credits that actually are expected to be paid by or to the reporting entity
 - Paragraph 16. of *SSAP No. 101* – applicable to a reporting entity that files a consolidated income tax return - transactions between the affiliated parties shall be recognized if such transactions are economic transactions as defined in *SSAP No. 25*; are pursuant to a written TSA; & income taxes incurred are accounted for in a manner consistent with the principles of ASC 740, as modified by *SSAP No. 101*
 - Consistent with paragraph 4 of *SSAP No. 3 – Accounting Changes & Corrections of Errors*, application of the interpretation shall not be considered a change in accounting principle

CAMT – SSAP 101 Interpretation

Statutory Accounting Principles Working Group
INT 23-XX (DRAFT) Year End 2023 Reporting

➤ Operational Rules

- Reporting entities are required to take CAMT into account under *SSAP No. 101* to the extent it is reasonably expected that the tax is or could be incurred the entity or the consolidated tax return group of which the reporting entity is a member
 - Such reporting entities recognize CAMT, if any, as a current tax expense for the taxable year that includes the reporting period & recognize CAMT credit utilization as a current tax benefit for such period
- A reporting entity is allowed an accounting policy election to either consider or disregard CAMT when evaluating the need for a valuation allowance for its regular tax DTAs
- An adjusted gross deferred tax asset is recognized for any CAMT credit carryforward that is more likely than not to be recognized (after reduction of the gross DTA by any required valuation allowance) & is admissible under modified conditions

CAMT – SSAP 101 Interpretation

Statutory Accounting Principles Working Group
INT 23-XX (DRAFT) Year End 2023 Reporting

➤ Disclosures

The reporting entity shall disclose whether it is a category a., b., c., or d. reporting entity. Additionally, the following disclosures shall be made in the notes to the financial statements of category d. reporting entities

- The accounting policy election regarding consideration of CAMT when evaluating a need for a VA
- Application of the RBC reporting threshold described in paragraph 10.a. of this interpretation
- Any disclosure required by paragraph 10.d. of this interpretation
- In the disclosure required by paragraph 28.b. of *SSAP No. 101*, a statement as to whether the reporting entity may be charged with a portion of CAMT incurred by the consolidated group (or credited with a portion of the consolidated group's CAMT credit utilization)
- Inclusion of CAMT credit carryforwards, if any, in the disclosure required by paragraph 26.a. of *SSAP No. 101*
- The impact of CAMT tax-planning strategies, if any, in the disclosure required by paragraph 22.f. of *SSAP No. 101*

CAMT – SSAP 101 Interpretation

Statutory Accounting Principles Working Group
INT 23-XX (DRAFT) Year End 2023 Reporting

➤ Transition Guidance

Although the CAMT was enacted in 2022 & generally became effective January 1, 2023, the requirements for statutory tax accounting for the CAMT have effectively been deferred by INT 22-02. Reporting entities have been awaiting the guidance to file requests for approval of TSA amendments or a new TSA relating to the CAMT

- TSAs in effect for periods prior to the 2023 taxable year include no explicit provisions relating to the CAMT. Thus, TSAs will need to be amended to deal with the CAMT effective for the entire 2023 taxable year. A reporting entity must file a request for amendment to a TSA or a new TSA on Form D – Prior Notice of a Transaction with its applicable domiciliary regulator(s) & commercial domiciliary regulator(s)
- Time is of the essence in both requesting & approving TSA amendments or a new TSA relating to the CAMT for the 2023 taxable year to be applicable to the 2023 reporting period. If, within [45] days after adoption of this interpretation, a reporting entity files the applicable Form D request(s) for TSA amendment or a new TSA to address the CAMT for 2023 & subsequent taxable years, such TSA amendment or new TSA shall be accounted for as applicable for the entire 2023 reporting period, regardless of whether the approved TSA allocates consolidated CAMT (or utilization of consolidated AMT credit carryforwards) to the reporting entity

FASB Income Tax Disclosure Project

- Third iteration of this initiative
- FASB vote on August 30, 2023 to move forward with provisions in March proposal
- ASU to be issued during Q4 2023
- Yearly disclosures effective 2025 for Public Entities/2026 for Non-Public Entities
- Quarterly disclosures effective 2026 for Public Entities/2027 for Non-Public Entities
- Retrospective adoption was being considered, but in the end it is optional

FASB Income Tax Disclosure Project

- New Disclosures
 - Yearly amount of income tax paid, net of refunds, to state, federal, & foreign jurisdictions
 - Changes to Reconciliation of Statutory to Effective Income Tax Rate

FASB Income Tax Disclosure Project

Eight Newly Defined Rate Reconciliation Categories

1. State & local income tax (net of FBOS)
2. Enactment of new tax laws
3. Effects of cross-border tax laws
4. Tax credits
5. Changes in valuation allowances
6. Nontaxable or nondeductible items
7. Changes in reserves for uncertain tax positions
8. Foreign tax effects (separately disclosed by material jurisdiction & item)

FASB Updates – Income Tax Disclosure Project

	Year Ended December 31, 20X2			Year Ended December 31, 20X1			Year Ended December 31, 20X0		
	Amount	Percent	%	Amount	Percent	%	Amount	Percent	%
U.S. Federal Statutory Tax Rate	\$ AA	aa	%	\$ BB	bb	%	\$ CC	cc	%
State and Local Income Taxes, Net of Federal Income Tax Effect ⁽¹⁾	AA	aa		BB	bb		CC	cc	
Foreign Tax Effects									
United Kingdom									
Tax rate differential	(AA)	(aa)		(BB)	(bb)		(CC)	(cc)	
Share-based payment awards	AA	aa		BB	bb		CC	cc	
Changes in unrecognized tax benefits	(AA)	(aa)		(BB)	(bb)		(CC)	(cc)	
Other	(AA)	(aa)		BB	bb		(CC)	(cc)	
Ireland									
Tax rate differential	(AA)	(aa)		(BB)	(bb)		(CC)	(cc)	
Valuation allowances adjustments	(AA)	(aa)		(BB)	(bb)		(CC)	(cc)	
Enactment of new tax laws	-	-		BB	bb		-	-	
Other	AA	aa		(BB)	(bb)		(CC)	(cc)	
Switzerland	(AA)	(aa)		(BB)	(bb)		(CC)	(cc)	
Mexico	AA	aa		BB	bb		CC	cc	
Other foreign jurisdictions	(AA)	(aa)		(BB)	(bb)		CC	cc	
Enactment of New Tax Laws									
Change in tax rate	-	-		-	-		(CC)	(cc)	
Effect of Cross-Border Tax Laws									
Global intangible low-taxed income	AA	aa		BB	bb		CC	cc	
Foreign-derived intangible income	(AA)	(aa)		(BB)	(bb)		(CC)	(cc)	
Base erosion and anti-abuse tax	AA	aa		BB	bb		CC	cc	
Other	AA	aa		-	-		-	-	
Tax Credits									
Research and development tax credits	-	-		(BB)	(bb)		(CC)	(cc)	
Energy-related tax credits	(AA)	(aa)		-	-		-	-	
Foreign tax credits	(AA)	(aa)		(BB)	(bb)		(CC)	(cc)	
Other	-	-		(BB)	(bb)		-	-	
Valuation Allowances	AA	aa		(BB)	(bb)		(CC)	(cc)	
Nontaxable or Nondeductible Items									
Share-based payment awards	AA	aa		BB	bb		CC	cc	
Goodwill impairment	AA	aa		BB	bb		-	-	
Other	AA	aa		(BB)	(bb)		CC	cc	
Changes in Unrecognized Tax Benefits	(AA)	(aa)		BB	bb		(CC)	(cc)	
Other Adjustments	AA	aa		(BB)	(bb)		(CC)	(cc)	
Effective Tax Rate	\$ AA	aa	%	\$ BB	bb	%	\$ CC	cc	%

(1) State taxes in California and New York contributed to the majority of the tax effect in this category.

Employee Retention Credit

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Employee Retention Credit (ERC)

- Refundable wage-based credit against the employer's share of social security taxes under IRC 3111(a)
- Infrastructure Bill repealed the Employee Retention Credit, effective September 30, 2021

Employee Retention Credit (cont'd)

- Two ways to qualify for the employee retention credit
 - Sustained a full or partial suspension of operations due to orders from an appropriate governmental authority due to COVID-19 during 2020 or the first three quarters of 2021, or
 - Experienced a significant decline in gross receipts during 2020 or a decline in gross receipts during the first three quarters of 2021

Employee Retention Credit (cont'd)

ERC 2020

- Required decrease in gross receipts is 50% compared to 2019
- Credit is 50% of annual qualified wages up to \$10,000 per employee
 - All wages between March 12 & December 31 count toward qualified wages for eligible businesses with less than 100 employees

ERC 2021

- Required decrease in gross receipts is 20% compared to 2019
- Credit is 70% of quarterly qualified wages up to \$10,000 per employee
 - All wages between January 1 & September 30 count toward qualified wages for eligible businesses with less than 500 employees

Employee Retention Credit (cont'd)

Current Status

- Made the Dirty Dozen list
- IRS announced on Sept. 14 an immediate moratorium on processing of new ERC claims
 - Will last until at least the end of this year
- IRS created a special withdrawal process to help those who filed an ERC claim & are concerned about its accuracy
 - Allows certain employers that filed an ERC claim but have not yet received a refund to withdraw their submission & avoid future repayment, interest, & penalties

Employee Retention Credit (cont'd)

Current Status

- As of Sept. 30, 2023, IRS-CI has initiated 301 investigations involving over \$3.4 billion of potentially fraudulent ERC claims
 - 15 of the 301 investigations have resulted in federal charges
 - 8 have resulted in convictions

International Tax Issues

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The Road to OECD Pillars One & Pillar Two – How Did We Get Here?

- “Broken” international tax system
- Perceived abuse by multinational enterprises (MNEs)
- Original EU/OECD proposals to counter harmful tax competition
- Base erosion & profit shifting – 2012 onwards
- OECD Base Erosion & Profit Shifting (BEPS) Action Plan published 2013
- Action 1 – Digital Economy
- Relaunched as BEPS 2.0 in 2019
- October 2021 Inclusive Framework
- December 2021 – OECD model rules, commentary, & examples

Pillar 1 & Pillar 2

The Pillar Two Model Rules (also referred to as the “Global Anti-Base Erosion” or “GloBE” Rules), released on 20 December 2021, are part of the Two-Pillar Solution to address the tax challenges of the digitalization of the economy that was agreed by 137 member jurisdictions of the OECD/G20 Inclusive Framework on BEPS & endorsed by the G20 Finance Ministers & Leaders in October 2021. They were developed by delegates from all Inclusive Framework member jurisdictions & agreed & approved by consensus. The Pillar Two Model Rules are designed to ensure large multinational enterprises (MNEs) pay a minimum level of tax on the income arising in each jurisdiction where they operate. The rules are drafted as model rules that provide a template that jurisdictions can translate into domestic law, which should assist them in implementing Pillar Two within the agreed timeframe & in a coordinated manner.

PILLAR 1

- Focused on changing *where* companies pay taxes
- For companies with global revenues of more than €20 billion (US \$26.4 billion) & profitability above 10 percent, 25 percent of profits above 10 percent would be taxed according to a new formula based on where a company’s customers are located
- Includes dispute resolution processes meant to improve tax certainty for companies

PILLAR 2

- Establishes a minimum effective tax (15%) applied to cross-border profits of large multinational corporations that have a “significant economic footprint” across the world
- Includes dispute resolution processes meant to improve tax certainty for companies

Pillar 2 includes three rules that apply to companies with more than €750 million (\$991.9 million) in revenues

- *Income inclusion rule*: determines when a company’s foreign income should be included in the parent (main) company’s taxable income
- *Under-taxed profits rule*: allows a country to increase taxes on a business if that business is part of a larger company that pays less than 15 percent in another jurisdiction
- *Subject to tax rule*: makes it possible for countries to tax inter-company payments that would be under-taxed

Bermuda Corporate Income Tax

- Prompted by Pillar Two & BEPS
- Three Public Consultations on the introduction of a 15% corporate income tax effective for tax years beginning on or after 1/1/2025.
Comment period ends 11/24/2023
- Applies to Bermuda tax “resident entities” in a MNE group with revenue over €750 million

Thank you!

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