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Accounting for Income Taxes Considerations for Foreign Tax Credits Following Notice 2023-55

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The IRS recently issued a notice that allows an optional deferral of the effective date of the foreign tax credit final regulations published on January 4, 2022. This article discusses accounting for income taxes considerations of the notice under U.S. generally accepted accounting principles (“US GAAP”).

Background

On July 21, 2023, the IRS released an advance version of [Notice 2023-55](#) announcing temporary relief for taxpayers determining whether a foreign tax is eligible for a foreign tax credit under sections 901 and 903.¹

For foreign taxes paid during tax years 2022 and 2023, taxpayers may apply:

- Former section 1.901-2(a) and (b), before it was amended by Treasury Decision 9959 (the 2022 foreign tax credit final regulations), but subject to a modification to the non-confiscatory gross basis tax rule as described in the notice
- Existing section 1.903-1 without the attribution requirement

Accounting for Income Taxes Considerations of the Issued Notice

The issuance of the notice does not change or revise existing legislation or regulations; however, it provides a new administrative practice or precedent of the taxing authority that is permitted under ASC 740, *Income Taxes*, to be taken into consideration when assessing if the recognition threshold has been met. In accordance with ASC 740 on evaluating uncertainties in the tax law, only information that is available at the reporting date is considered in the recognition and measurement analyses. Any changes in available facts after the reporting date but prior to issuance of the financial statements should be recognized in the period in which the change in facts occurs, even if that new information provides a better estimate of the ultimate outcome.

¹ Unless otherwise indicated, section references are to the Internal Revenue Code of 1986, as amended (the “Code”) or the applicable regulations promulgated pursuant to the Code (the “regulations”).

Accordingly, under US GAAP, we believe the effects of the notice should be accounted for in the interim period that includes the publication of the notice. This includes any potential effects the notice may have on the amount of foreign tax credits generated, the evaluation of the technical merits of positions taken by the entity, as well as the analysis of the realizability of the entity's deferred tax assets.

Notwithstanding the above, to the extent the notice was published subsequent to the end of a financial reporting period but prior to the issuance of the financial statements and is expected to have a material impact, entities should disclose the effect of the notice as a subsequent event.

Conclusion

In assessing the impact of Notice 2023-55, entities should carefully consider the appropriate period to account for the effects within the financial statements and evaluate if disclosure as a subsequent event is necessary.

Related content

[KPMG TaxNewsFlash – Notice 2023-55: Temporary relief for foreign tax credit under sections 901 and 903](#)

[KPMG Handbook: Accounting for income taxes](#)

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