

DRAFT – FOR DISCUSSION PURPOSES ONLY

FASB Staff Q&A on the Accounting for the Base Erosion Anti-Abuse Tax

Background

Under the Tax Cuts and Jobs Act, an entity must pay a Base Erosion Anti-Abuse Tax (BEAT) if the BEAT is greater than its regular tax liability. The BEAT calculation eliminates the deduction of certain payments made to foreign affiliates (referred to as base erosion payments), but applies a lower tax rate on the resulting BEAT income.

Question

Does the FASB staff believe that deferred tax assets and liabilities should be measured at the statutory tax rate of the regular tax system or the lower BEAT tax rate if the taxpayer expects to be subject to BEAT?

Response

The FASB staff believes that the BEAT is similar to the alternative minimum tax (AMT) under prior tax law. The AMT was a parallel tax system that resulted in a minimum level of corporate taxation in situations in which regular taxable income was lower than the alternative minimum taxable income due to “preference items” that were not deductible for AMT purposes. An entity that paid the AMT received a tax credit for the tax paid in excess of the amount computed on the basis of the regular tax system. An entity subject to the BEAT does not receive a tax credit for the tax paid in excess of the amount computed on the basis of the regular tax system, but the FASB staff believes that the BEAT is similar to the AMT in that it is designed to be an incremental tax in which an entity can never pay less, and may pay more, than the statutory tax rate of 21 percent.

Paragraphs 740-10-30-11 and 740-10-55-32 address the AMT and require an entity to measure deferred taxes using the statutory tax rate under the regular tax system. Paragraph 740-10-30-11 states:

...it would be counterintuitive if the addition of alternative minimum tax provisions to the tax law were to have the effect of reducing the amount of an entity's income tax expense for financial reporting, given that the provisions of alternative minimum tax may be either neutral or adverse but never beneficial to an entity.

Therefore, the FASB staff believes that an entity that is subject to BEAT should measure deferred tax assets and liabilities using the statutory tax rate under the regular tax system. The FASB staff believes that measuring a deferred tax liability at the lower BEAT rate would not reflect the amount an entity would ultimately pay because the BEAT would exceed the tax under the regular tax system using the 21 percent statutory tax rate.

Although an entity may believe that it expects to be subject to the BEAT for the foreseeable future, paragraph 740-10-30-11 further states that “no one can predict whether an entity will always be an alternative minimum tax taxpayer.” The FASB staff believes that a similar

conclusion could be applied to BEAT. In addition, taxpayers may take measures to reduce their BEAT exposure and, therefore, ultimately pay taxes at or close to the 21 percent statutory tax rate.

The FASB staff believes that the guidance in Topic 740 therefore indicates that the incremental effect of BEAT should be recognized in the year the BEAT is incurred. Regardless of any year-over-year effective tax rate fluctuations, the effective tax rate (excluding other permanent items) under this approach would always be equal to or in excess of the statutory tax rate of 21 percent.