Statutory Accounting Principles (E) Working Group
Hearing Agenda
September 21, 2023

ROLL CALL

Dale Bruggeman, Chair	Ohio	Judy Weaver	Michigan
Kevin Clark, Vice Chair	Iowa	Doug Bartlett	New Hampshire
Sheila Travis	Alabama	Bob Kasinow	New York
Kim Hudson	California	Diana Sherman	Pennsylvania
William Arfanis/Michael Estabrook	Connecticut	Jamie Walker	Texas
Rylynn Brown	Delaware	Doug Stolte/David Smith	Virginia
Cindy Andersen	Illinois	Amy Malm/Elena Vetrina	Wisconsin
Melissa Gibson/Stewart Guerin	Louisiana		

NAIC Support Staff: Julie Gann, Robin Marcotte, Jake Stultz, Jason Farr, Wil Oden

Note: This meeting will be recorded for subsequent use.

REVIEW of COMMENTS on EXPOSED ITEMS

The following items received comments during the exposure period that are open for discussion.

1. Ref #2023-12: Residuals in SSAP No. 48 Investments
2. INT 23-02: Third Quarter 2023 Inflation Reduction Act – Corporate Alternative Minimum Tax
3. INT 23-03: Inflation Reduction Act – Corporate Alternative Minimum Tax

Ref #	Title	Attachment #	Agreement with Exposed Document?	Comment Letter Page Number
2023-12 (Julie)	**Residuals in SSAP No. 48 Investments**	**1 – Agenda Item**	**Comments Received**	**IP – 3**

Summary:
This agenda item proposes revisions to clarify the scope and reporting for investment structures that represent residual interests within statutory accounting principles. Previously, revisions have been incorporated in *SSAP No. 43R—Loan-Backed and Structured Securities* to address the reporting of residual interests within securitization structures. With these revisions, residual interests, as defined within SSAP No. 43R, were required to be reported on Schedule BA on designated reporting lines beginning year-end 2022. After reviewing the 2022 reporting results, it was identified that the information for residuals may be underrepresented as a result of the various legal forms that residual investments can take. For example, a reporting entity could hold investments that have the substance of residual interests in the form of limited partnerships, joint ventures, or other equity fund investments. To ensure collective and consistent reporting of all residual interests, this agenda item proposes guidance to clarify the reporting of in-substance residuals regardless of the structure of the investment vehicle.

The discussion of residual interests often compares those securities to equity interests. These two investment structures are not synonymous, and it should not be perceived that all equity interests reflect residuals. A residual interest or a residual security tranche exists in investment structures that are backed directly, or indirectly through a feeder fund, by a discrete pool of collateral assets. These collateral assets generate cash flows that provide interest and principal payments to debt holders, and once those contractual requirements are met, the resulting excess funds generated by (or with the sale of) the collateral assets are provided to the holder of the residual interest. When an asset within the discrete pool of assets does not perform as expected, it impacts the extent cash flows will be generated and distributed. The residual interest holder absorbs these losses (as it reduces what they could receive as a residual holder) while the holders of the debt securities continue to receive interest and principal, so long as there are enough collateral cash flows to cover them. The residual holder may ultimately receive nothing, a reduced amount from original projections, or large returns, based on how the underlying collateral assets perform.

The structural design of a residual interest or residual security tranche can vary, but the overall concept is that they receive 'residual' cash flows after all debt holders receive contractual interest and principal payments. The list below provides common characteristics in residuals, but with varying (and often changing structures), this list should not be used as rules governing whether a security reflects a residual interest. Determining whether a security reflects a residual interest or tranche for reporting purposes shall be based on the substance of the investment held rather than its legal form.

Common Characteristics of Residual Interests / Residual Security Tranches:

- Residuals often do not have contractual principal or interest.
- Residuals may have stated principal or interest, but with terms that result in receiving the residual cash flows of the underlying collateral. The terms allow for significant variation in the timing and amount of cash flows without triggering a default of the structure.
- Residuals do not have credit ratings or NAIC assigned designations. Rather, they provide the subordination to support the credit quality of the typically rated debt tranches.
- Residuals may provide payment throughout the investment duration (and not just at maturity), but the payments received continue to reflect the residual amount permitted after other tranche holders receive contractual principal and interest payments.
- Frequently, there are contractual triggers that divert cash flows from the residual tranche to the debt tranches if the structure becomes stressed.

Interested Parties' Comments:
For clarity and consistency's sake, once the new bond definition in SSAP Nos. 26R and 43R is effective, ABS Issuer can replace the definition of a residual in SSAP No. 43R paragraph 27 and SSAP No. 48 paragraph 19.

As the Form A for Ref #2013-12 would be effective immediately, we suggest that the effective date of December 21, 2023, be noted in the Form A, as that is what we understand the intent to be. This will give companies time to review their investment portfolios.

We also note that the proposed revisions to Annual Statement Instructions guidance is considered to be accounting in nature as it includes a partial definition of what is meant by "residual". As part of Ref #2023-01: Review Annual Statement Instructions for Accounting Guidance, NAIC staff is proceeding with a broad project to review the annual statement instructions and ensure accounting guidance is included in the related SSAPs**.** The focus of this project is to ensure that the annual or quarterly statement instructions are not the source of statutory accounting guidance. Although the annual statements is not the source of this accounting guidance, inclusion of part of the guidance could be misleading. We suggest the following section highlighted *in italics* be deleted.

(Note – Interested Parties' comment letter did not reflect the full scope of changes to the A/S instructions - as some of the exposed edits were shown as clean - and had shown the proposed section to be deleted in yellow. NAIC staff has brought in the full exposed edits and has shown the interested parties' proposed deletions with shading and double-strike outs. These revisions remove the references to SSAP No. 43R and the residual characteristics.)

Schedule BA Annual Statement Instructions:

Residual Tranches or Interests with Underlying Assets Having Characteristics of:

Investment in Residual Tranches or Interests~~, as defined within *SSAP No. 43R—Loan-Backed and Structured Securities or SSAP No. 48—Joint Ventures, Partnerships and Limited Liabilities Companies*~~ should be assigned to the subcategory with the highest underlying asset concentration. There shouldn't be any bifurcation of the underlying assets among the subcategories.

Include: Residual tranches or interests ~~captures~~ from securitization tranches and beneficial interests as well as other structures captured in scope of *SSAP No. 43R – Loan-Backed and Structured Securities*. ~~, that reflect loss layers without any contractual payments, whether interest or principal, or both. Payments to holders of these investments occur after contractual interest and principal payments have been made to other tranches or interests and are based on the remaining available funds. See SSAP No. 43R for accounting guidance.~~

Investments in joint ventures, partnerships and limited liability companies captured in scope of *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies* that represent residual interests, or that predominantly hold residual interests.

This category shall also include residual interests or residual security tranches within investment structures that are not captured in scope of SSAP No. 43R or SSAP No. 48 but that reflect, in substance, residual interests or residual security tranches.

~~The structural design of a residual interest or residual security tranche can vary, but the overall concept is that they receive 'residual' the remaining cash flows after all debt holders receive contractual interest and principal payments. Determining whether an investment in a structure a security reflects a residual interest or tranche shall be based on the substance of the investment held rather than its legal form. Common characteristics of residual interests / residual security tranches include the items noted below, but the presence of absence of any of these factors should not be definitive in determination. Classification as a residual should be based on the substance of the investment and how cash flows to the holder are determined.~~

~~a. Residuals often do not have contractual principal or interest.~~

~~b. Residuals may be structured with terms that appear to be have stated principal or interest but that lack substance, and with terms that result in receiving the residual cash flows of the underlying collateral. The terms allow for significant variation in the timing and amount of cash flows without triggering a default of the structure.~~

~~c. Residuals do not have credit ratings or NAIC assigned designations. Rather, they are first loss positions that provide the subordination to support the credit quality of the typically rated debt tranches.~~

~~d. Residuals may provide payment throughout the investment duration (and not just at maturity), but the payments received continue to reflect the residual amount permitted after other debt tranche holders receive contractual principal and interest payments.~~

~~e. Frequently, there are contractual triggers that divert cash flows from the residual tranche holders to the debt tranches if the structure becomes stressed.~~

We also continue to seek clarification on the issues raised in the interested parties comment letter dated July 14, 2023 (copy attached). We understand that the residual definition is related to investment structures that issue debt securities created for the primary purpose of raising debt capital backed by a discrete pool of collateral assets (ABS issuers as defined in paragraph 8 of the current bond exposure in SSAP Nos. 26R) rather than debt issued for liquidity/operating purposes. As a result, interested parties do not believe the intent was to include the following types of investment structures:

- Private Funds (e.g., equity, debt, hedge)- that issued debt for liquidity / operating purposes rather than to raise capital backed by a discrete pool of collateral assets.
- Real Estate Funds (including REITs and JVs) (i.e., considered Issuer Credit Obligations, or "ICOs", in the proposed bond standard)
- Non-US registered Funds (i.e., considered ICOs in the proposed bond standard)
- Other ICOs in the proposed bond definition, such as 40 Act Funds, Business Development Company, Operating Entities, and Holding Companies supported by operating companies.

We request that the Working Group evaluate this issue and provide clarification.

<u>*Recommendation:*</u>
NAIC Staff recommends that the Working Group adopt the exposed revisions to SSAP No. 48, SSAP No. 43R and to the Annual Statement Instructions to improve consistent reporting classification for residuals on Schedule BA in the dedicated reporting lines, with revisions as proposed by interested parties as follows:

1) **In the Annual Statement Instructions, removal of the reference to SSAP No. 43R in the introduction as well as the residual characteristics.**

2) **Include the effective date in the agenda item for clarity. (The agenda item is effective immediately, which in practice would be December 31, 2023, but interested parties have recommended for this to be explicitly stated. This will not be in the actual revisions but will be stated as part of the action summary in the agenda item.)**

With regards to the other interested parties' comments on this agenda item, NAIC staff agrees that references to the guidance in the new bond definition can be incorporated once the bond definition is effective on January 1, 2025. A subsequent agenda item to consider changes will subsequently be drafted that links the guidance together once the bond definition is effective.

Further, with regards to the comments on clarifications on the type of structures that could be captured as residuals, the following is provided in response:

- Given the principles-based nature of the residual definition, it is not intended to name specific investments as in or out of scope as residual interests.
- If the issued debt meets the definition of an issuer credit obligation under the bond definition, the equity in the issuer would not be expected to constitute a residual tranche.
- It would also not be expected that private funds that issue debt would constitute residual tranches, unless the substance has the characteristics of a residual tranche as defined in the exposed definition. (Again, naming convention is not relevant. So, calling something a fund is not sufficient to be excluded from residual reporting, it would have to be based on the substance of the investment.)
- Ultimately, it is expected that the definition of an ABS issuer under the bond definition will align with the classification of the equity interest as a residual. However, additional refinement may be needed to clarify the evaluation of non-SEC-registered funds. This may likely pull forward the concepts from the exposed residual definition into the ABS Issuer definition in a subsequent agenda item.

Ref #	Title	Attachment #	Agreement with Exposed Document?	Comment Letter Page Number
INT 23-02T (Robin)	**Third Quarter 2023 Inflation Reduction Act – Corporate Alternative Minimum Tax**	**2 – INT 23-02T**	**Comments Received**	**IP – 5 Redline-10**

<u>*Summary:*</u>
On August 13, 2023, the Working Group exposed *INT 23-02: Third Quarter 2023 Corporate Alternative Minimum Tax*, to provide temporary guidance for the third quarter 2023 reporting for the corporate alternative minimum tax (CAMT). The exposed interpretation recommends that for the third quarter 2023, that reporting entities should disclose whatever information is available and their applicable reporting entity status. If the reporting entity is able to make a reasonable estimate regarding the CAMT 2023 liabilities, such an estimate should be disclosed for third quarter 2023. If a reasonable estimate is not possible because of pending material information, the fact that a reasonable estimate is not feasible should be disclosed.

Background - The Inflation Reduction Act (Act) was enacted on August 16, 2022, and included a new corporate alternative minimum tax (CAMT) which goes into effect for 2023 tax years. The CAMT applies only to corporations (determined on a tax-controlled group basis as defined for federal income tax purposes) with average annual adjusted financial statement income in excess of $1 billion for three prior taxable years. The threshold is reduced to $100 million in the case of certain foreign-owned corporations.

The Working Group previously adopted *INT 22-02: Third Quarter 2022 through Second Quarter 2023 Reporting of the Inflation Reduction Act – Corporate Alternative Minimum Tax* which requires disclosure of whether the reporting entity is an applicable entity but does not require accrual of CAMT payable amounts, noting that a reasonable estimate is not possible.

<u>*Interested Parties' Comments:*</u>
The Working Group reached tentative consensuses to the noted issues included in INT 23-02T for comment. The interpretation recommends that for third-quarter 2023, reporting entities should disclosure whatever information is available regarding the corporate alternative minimum tax and their applicable reporting entity status.

Prior submissions to the Working Group by interested parties in connection with the CAMT have advocated a deferral of statutory financial reporting for the CAMT while permanent guidance is being developed. Accordingly, interested parties is supportive of the provisions of this currently exposed version of INT 23-02T. We note, however, a few edits to the exposed INT that would be helpful for clarification in the attached edited version of the exposure. *(Note that industry proposed edits are in the comment letter packet)*

<u>*Recommendation:*</u>
NAIC staff recommends that the Working Group adopt the exposed *INT 23-02: Third Quarter 2023 Corporate Alternative Minimum Tax*, with the edits recommended by interested parties. NAIC staff notes that the proposed revisions are minor clarifications, which do not change the overall principles which were exposed for comment. This INT 23-02 will be effective immediately to allow for third quarter 2023 application. INT 23-02 will be automatically nullified on November 16, 2023 (the day after third quarter filings are due). *INT 23-03: Inflation Reduction Act - Corporate Alternative Minimum Tax* is anticipated to provide guidance beginning with year-end 2023 reporting.

Key revisions proposed by industry to INT 23-02 are summarized below and a few of the items are consistent with revisions to the "description" paragraphs in INT 23-03. The revisions proposed by interested parties recommended for adoption are shown as tracked revisions in Attachment 2.

- **Paragraph 1 – Minor edits to more accurately describe the CAMT.**
- **Paragraph 3 – Delete a duplicative sentence.**
- **Paragraphs 7 and paragraph 16 – Minor clarifications regarding wording around estimates related to subsequent event guidance.**
- **Paragraph 15 – Add a heading and minor editorial item.**

Voting note: The proposed INT 23-02 for third quarter 2023 proposes to override existing SSAP guidance, therefore the policy statement in Appendix F requires 2/3rd (two-thirds) of the Working Group members to be present and voting and a supermajority of the Working Group members present to vote in support of the interpretation before it can be finalized.

Ref #	Title	Attachment #	Agreement with Exposed Document?	Comment Letter Page Number
INT 23-03T (Robin)	**Corporate Alternative Minimum Tax Guidance**	**3 – INT 23-03 4- Form A 2023-04**	**Comments Received**	**IP – 5 Redline-15**

<u>*Summary:*</u>
At the Summer National Meeting, the Working Group exposed *Interpretation INT 23-03: Inflation Reduction Act - Corporate Alternative Minimum Tax* to provide guidance regarding the CAMT for periods on and after the year-end 2023.

Background: The Inflation Reduction Act (Act) was enacted on August 16, 2022, and included a new corporate alternative minimum tax (CAMT) which goes into effect for 2023 tax years. The CAMT applies only to corporations (determined on a tax-controlled group basis as defined for federal income tax purposes) with average annual adjusted financial statement income in excess of $1 billion for three prior taxable years. The threshold is reduced to $100 million in the case of certain foreign-owned corporations.

The CAMT is assessed at the consolidated return level using book income. A corporation that meets the applicable threshold is an "applicable corporation." Applicable corporations generally remain applicable corporations for subsequent taxable years unless certain limited exceptions apply. Applicable corporation status means that CAMT must be tentatively determined and compared to regular tax liability. The tax liability is the higher amount.

Payment of the CAMT results in a tax credit which does not expire. However, the tax credit can only be used to pay "non CAMT" federal taxes which are above the CAMT amount (that is the CAMT credit cannot be used to pay CAMT taxes.) Therefore, as long as the consolidated group is a CAMT payor, the CAMT tax credit cannot be used.

The Working Group has previously adopted temporary guidance to address the CAMT in *INT 22-02: Third Quarter 2022 through First Quarter 2023 Reporting of the Inflation Reduction Act - Corporate Alternative Minimum Tax*. INT 22-02 will expire on August 16, 2023. The meeting agenda has a separate proposed Interpretation for third quarter 2023 CAMT reporting (See INT 23-02).

<u>*Interested Parties' Comments:*</u>
The comments provided in this letter and the attached redline version of INT 23-03 are intended to clarify language that could cause misinterpretation within the industry and inconsistency in treatment. Again, interested parties support the overall accounting approach laid out in the INT.

A summary of our comments is as follows:

1) Interested parties suggests a few wording changes for consistency purposes, such as referring to "CAMT tax" as "CAMT" and "CAMT credit carryforwards" as CAMT credit DTAs". These suggested wording changes are not substantive and do not change the underlying meaning of INT 23-03.

2) A reporting entity determines if it will be an applicable corporation on a tax-controlled basis; however, TSAs are completed for consolidated tax return groups. Interested parties suggests changing "tax-controlled" to "consolidated tax return group" depending on the context of the paragraph.

3) The INT refers to the CAMT as indefinite tax credit. To avoid confusion with DTAs that do not reverse, interested parties suggests replacing "indefinite" with "non-expiring".

4) Paragraph 1.h. describes credit usage against CAMT. Foreign tax credits have specific carryforward rules depending on type and to avoid detailing the exact carryforward structure interested parties suggests removing the paragraph.

5) Paragraph 11.c. provides as a criterion that for reporting entities to have a TSA exclusion the TSA must have a term that the reporting entity reasonably expects or has knowledge that related parties under the TSA are meeting their obligations. Interested parties does not believe the requirement provided in 11.c. would exist in a legal document and would thus preclude most companies from the TSA exclusion. The requirement could also be interpreted to imply additional liquidity or going concern documentation is necessary. We believe the intent of 11.c, to reinforce joint and severable liability of tax liabilities, is covered in paragraph 12. We suggest deleting this paragraph.

6) Paragraph 12 states that even with the TSA exclusions, the guidance for joint and severable liabilities under SSAP No. 5, paragraph 5 continues to apply; however, SSAP 5 includes a specific exclusion for taxes in footnote 2. To address the Working Group's concern that the TSA exclusion could be widely interpreted so that reporting entities do not recognize taxes due of co-obligors unable to meet their tax obligation, we propose referencing SSAP No. 101, paragraph 3.

   SSAP No. 101, paragraph 3 states:
   "Income taxes incurred" shall include current income taxes, the amount of federal and foreign income taxes paid (recovered) or payable (receivable) for the current year.

   The general definition of when a reporting entity recognizes current income taxes is broad enough to cover taxes paid on behalf of another entity (regular tax or CAMT). We propose referencing SSAP No. 101, paragraph 3 which avoids change to SSAP No. 5, but still allows the Working Group to reinforce the reporting still must recognize any CAMT paid or payable on behalf of a co-obligor.

7) Paragraph 13 provides the general accounting considerations for the CAMT. We suggest replacing the term "expected" in this paragraph with "reasonably estimated" to align with accounting standards.

8) Paragraphs 21.a., 28, and 31 reference the allocation of the CAMT credit DTA (or valuation allowance of the CAMT credit DTA). Interested parties proposes specifically stating that the allocations in these instances are to be made consistent with the TSA. Although the reader should assume as such, this language is intended to provide certainty.

9) Paragraph 24 describes the admissibility of deferred tax assets for CAMT credits. The use of CAMT credits depends on the consolidated tax return group, prompting the exception to SSAP No 4. Interested parties agrees with the concept but proposes wording changes to focus on the CAMT credit DTA instead of the current liability.

10) Paragraph 28 references the SSAP No. 101, paragraph 11 realization tables, as well as the ExDTA ACL RBC percentages used in SSAP No. 101, paragraph 11. We suggest adding a footnote or other clarification for non-RBC reporting entities and replacing "RBC" with "ExDTA ACL RBC".

11) Paragraph 28 provides that CAMT credit DTAs not realizable within the timetables for admittance are required to be non-admitted; however, the CAMT credit DTA could be admitted under SSAP No. 101, paragraph 11.c. Although paragraph 34 specifically allows admittance under SSAP No. 101, paragraph 11.c. interested parties proposes clarifying language to paragraph 28.

12) Paragraph 31 states the reporting entity is not required to take CAMT into account in calculating the "with and without" liability. Interested parties is concerned that because the CAMT credit DTA is evaluated for admittance separate from regular reversing DTAs misinterpretation could arise. In other words, explicitly state CAMT is not taken into account in the "with and with-out" calculation and 11.b. admittance is not reduced by projected CAMT of the consolidated group (if any) during the three-year reversal period. This additional language is intended to prevent any potential misreading.

13) Paragraph 34 allows the CAMT credit DTAs to be admitted against DTLs in accordance with SSAP No. 101, paragraph 11.c. The language specifies the CAMT credit DTA can only be admitted against "applicable DTLs". We suggest removing "applicable" to avoid misinterpretation that certain DTLs are not applicable. Paragraph 34 also implies that CAMT credit DTAs can be admitted under SSAP No. 101, paragraph 11.a. The CAMT credit cannot be carried back and therefore interested parties suggests removal of the paragraph 11.a. reference.

14) Paragraph 35 details the consideration of tax projections in the admittance of the CAMT credit DTA. Interested parties suggests additional clarifying language to certain phrases. When projecting the CAMT liability, "groupings" is referenced from SSAP No. 101; however, it is more appropriate to state "groupings of assets and liabilities". Also, when describing modifications to the estimates, interested parties suggests "modifications to the estimate process" to avoid misinterpretation that any modification requires disclosure.

15) Paragraph 37.b. provides that if a reporting entity has filed its TSA and the domiciliary regulatory has confirmed that they have no objections to using the new TSA amendment or new TSA, while under review then the reporting entity can account for the TSA as applicable for the 2023 reporting period. Requiring confirmation from regulators while the TSA is under review raises many concerns. First, interested parties does not believe regulators will provide positive confirmation while under review, especially in writing. Without written confirmation audit firms will likely object to a reporting entity following an unapproved TSA which will result in variances in practices depending on the audit firm. For example, the reporting entity could be forced to account for CAMT in its 11.b. with and without calculation or payments of CAMT between related parties could be recharacterized as contributions/dividends. Finally, to obtain confirmation from regulators while the TSA is under review, reporting entities could seek permitted practices. Although permitted practices would provide a sound solution for 2023, they undermine why INT 23-03 was necessary in the first place – to avoid reporting entities establishing individualized policies for accounting for the CAMT.

    Interested parties agrees that if a reporting entity has filed its TSA while under review the reporting entity should follow the TSA for 2023. We propose updated language allowing reporting entities to follow the TSA for 2023 so long as the domiciliary regulator has not provided formal rejection while during the review period. This approach ensures all reporting entities follow their submitted TSAs without petitioning for a permitted practice for one year.

16) Paragraph 40.b. requires disclosure of the Realization Threshold Limitations Tables; however, these tables are already disclosed under SSAP No. 101. Interested parties suggests removing this disclosure.

17) Paragraph 46 illustrates a situation where an applicable reporting entity meets or exceeds the top line of the relevant SSAP No. 101 Realization Threshold Limitation. Interested parties suggests expanded language to parity the other proposed language in this letter. Specifically, we suggest including a year where the consolidated tax return group expects to pay the CAMT to illustrate 11.b. admittance is not impacted. We also suggest including a statement that if only a portion of the CAMT credit DTA is expected utilized then

the reporting entity would only admit an allocation of the CAMT credit DTA, determined consistent with the TSA. These additions are intended to bridge our comments to the examples.

Recommendation:
NAIC staff recommends that the Working Group adopt the exposed *INT 23-03: Inflation Reduction Act - Corporate Alternative Minimum Tax* effective for year-end 2023 with the edits describe below and after providing direction regarding the edits to paragraph 37b.

- **NAIC Staff has incorporated almost all of the interested parties' recommended edits as shown in Attachment 3 as tracked revisions and with the minor variations described below. Variations from interested parties' recommendations are shown as shaded and or described below.**

- **NAIC staff believes that the interested parties' proposed paragraph 37.b. transition language may be considered by some states to override state authority. NAIC recommends the Working Group adopt the language as exposed or provide directions regarding the interested parties' proposed transition guidance shown below. Interested parties proposed change are described in 15 from their comment letter on the preceding page and the wording from the interested parties redline (Attachment 5) as reflected in Attachments 2 is excerpted below (bolding added). The proposed revision would change regulator review of year-end 2023 tax allocation agreements from domiciliary regulator "has confirmed that they have no objections" to using the TSA while under review by if the domiciliary regulator "has not provided written objections" to using the tax allocation agreement while under review. While "file and use" states may be comfortable with this approach, "review first" states may not.**

37. b. Time is of the essence in both requesting and approving ~~TSA~~tax allocation agreement amendments or a new ~~TSA~~tax allocation agreement relating to the CAMT for the 2023 taxable year to be applicable to the 2023 reporting period. Accordingly, if, a reporting entity files the applicable Form D request(s) for ~~TSA~~tax allocation agreement amendment or a new ~~TSA~~tax allocation agreement prior to the end of 2023 to address the CAMT for 2023 and subsequent taxable years, and the domiciliary regulator~~y~~ **~~has confirmed that they have no~~not provided written objections to using the new** ~~TSA~~tax allocation agreement amendment or new ~~TSA~~tax allocation agreement, while under review. The reporting entity shall be allowed to account for the ~~TSA~~tax allocation agreement as applicable for the entire 2023 reporting period.

Minor variations from interested parties' proposed edits reflected in Attachment 3:

1. Did not replace "CAMT credit carryforwards" as CAMT credit DTAs" in all places. While a tax credit carryforward is a deferred tax asset, the term tax credit carryforward is more descriptive of the characteristics of the CAMT. Added a sentence in paragraph 19 which notes that that the CAMT credit carry forward is a type of DTA. From paragraph 21 on the INT 23-03 on the term deferred tax assets or DTA is used.
2. Did not replace deferred tax assets with DTA in all places to avoid adding additional acronyms which would affect the readability of the document.
3. Removed TSA acronyms and replaced with either tax sharing agreements or tax allocation agreements.
4. Footnote 6 - Added proposed text but did not add the word "neither." Same intent, with a positively worded statement.
5. Paragraph 28 - Added new footnote 7 to address the interested parties' recommendation to reference that SSAP No. 101, paragraph 11.b. also includes realization threshold tables for non-RBC filers.
6. Moved extra language suggested by interested parties to in paragraph 46 to a new paragraph 47.

The comment letters are included in Attachment 5 (29 pages including the industry redline edits to the INTs).

<u>Any Other Matters</u>

- Ref # 2023-22: AG 51 and Appendix A-010 Interaction was exposed at the Summer National Meeting and referred to VAWG and to LTCAWG. This item will likely have an interim email vote to re-expose with expanded details for the proposed illustration.

- The comment deadline for Agenda Item 2023-15: IMR Specific Allocations was extended to Oct. 18, 2023.

https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National Meetings/A. National Meeting Materials/2023/9-21-23/00 - 09.21.23 - SAPWG Hearing Agenda.docx

Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A

Issue: Residuals in SSAP No. 48 Investments

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	☒	☒	☒
New Issue or SSAP	☐	☐	☐
Interpretation	☐	☐	☐

Description of Issue:

This agenda item proposes revisions to clarify the scope and reporting for investment structures that represent residual interests or a residual security tranche (collectively referred to as residuals) within statutory accounting principles. Previously, revisions have been incorporated in *SSAP No. 43R—Loan-Backed and Structured Securities* to address the reporting of residual interests within securitization structures. With these revisions, residual interests, as defined within SSAP No. 43R, were required to be reported on Schedule BA on designated reporting lines beginning year-end 2022. After reviewing the 2022 reporting results, it was identified that the information for residuals may be underrepresented as a result of the various legal forms that residual investments can take. For example, a reporting entity could hold investments that have the substance of residual interests in the form of limited partnerships, joint ventures, or other equity fund investments. To ensure collective and consistent reporting of all residual interests, this agenda item proposes guidance to clarify the reporting of in-substance residuals regardless of the structure of the investment vehicle.

The discussion of residual interests often compares those securities to equity interests. These two investment structures are not synonymous, and it should not be perceived that all equity interests reflect residuals. A residual interest or a residual security tranche exists in investment structures that are backed by a discrete pool of collateral assets. These designs could be backed directly or indirectly through a feeder fund. These collateral assets generate cash flows that provide interest and principal payments to debt holders, and once those contractual requirements are met, the resulting excess funds generated by (or with the sale of) the collateral assets are provided to the holder of the residual interest. When an asset within the discrete pool of assets does not perform as expected, it impacts the extent cash flows will be generated and distributed. The residual interest holder absorbs these losses (as it reduces what they could receive as a residual holder) while the holders of the debt securities continue to receive interest and principal, so long as there are enough collateral cash flows to cover them. The residual holder may ultimately receive nothing, a reduced amount from original projection, or large returns, based on how the underlying collateral assets perform.

The structural design of a residual interest or residual security tranche can vary, but the overall concept is that they receive 'residual' cash flows after all debt holders receive contractual interest and principal payments. The list below provides common characteristics in residuals, but with varying (and often changing structures), this list should not be used as rules governing whether a security reflects a residual interest. Determining whether a security reflects a residual interest or tranche for reporting purposes shall be based on the substance of the investment held rather than its legal form.

Common Characteristics of Residual Interests / Residual Security Tranches:

- Residuals often do not have contractual principal or interest.
- Residuals may have stated principal or interest, but with terms that result in receiving the residual cash flows of the underlying collateral. The terms allow for significant variation in the timing and amount of cash flows without triggering a default of the structure.

- Residuals do not have credit ratings or NAIC assigned designations. Rather, they provide the subordination to support the credit quality of the typically rated debt tranches.
- Residuals may provide payment throughout the investment duration (and not just at maturity), but the payments received continue to reflect the residual amount permitted after other tranche holders receive contractual principal and interest payments.
- Frequently, there are contractual triggers that divert cash flows from the residual tranche to the debt tranches if the structure becomes stressed.

Existing Authoritative Literature:

SSAP No. 43R—Loan-Backed and Structured Securities defines residuals specific to securitizations or beneficial interests and requires these securities to be reported on dedicated Schedule BA reporting lines. (This guidance was effective for year-end 2022 and detailed in agenda item 2022-15.)

26. Loan-backed and structured securities shall be valued and reported in accordance with this statement, the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* (P&P Manual), and the designation assigned in the *NAIC Valuations of Securities* product prepared by the NAIC Securities Valuation Office or equivalent specified procedure. The carrying value method shall be determined as follows:

    a. For reporting entities that maintain an Asset Valuation Reserve (AVR), loan-backed and structured securities, excluding residual tranches or interests, shall be reported at amortized cost, except for those with an NAIC designation of 6, which shall be reported at the lower of amortized cost or fair value.

    b. For reporting entities that do not maintain an AVR, loan-backed and structured securities designated highest-quality and high-quality (NAIC designations 1 and 2, respectively), excluding residual tranches or interests, shall be reported at amortized cost; loan-backed and structured securities that are designated medium quality, low quality, lowest quality and in or near default (NAIC designations 3 to 6, respectively) shall be reported at the lower of amortized cost or fair value.

    c. For residual tranches or interests[FN] captured in scope of this statement, all reporting entities shall report the item on Schedule BA: Other Long-Term Invested Assets at the lower of amortized cost or fair value. Changes in the reported value from the prior period shall be recorded as unrealized gains or losses. For reporting entities that maintain an AVR, the accounting for unrealized gains and losses shall be in accordance with *SSAP No. 7—Asset Valuation Reserve and Interest Maintenance Reserve*.

    Footnote: Reference to "residual tranches or interests" intends to capture securitization tranches and beneficial interests as well as other structures captured in scope of this statement that reflect loss layers without any contractual payments, whether principal or interest, or both. Payments to holders of these investments occur after contractual interest and principal payments have been made to other tranches or interests and are based on the remaining available funds. Although payments to holders can occur throughout an investment's duration (and not just at maturity), such instances still reflect the residual amount permitted to be distributed after other holders have received contractual interest and principal payments.

Annual Statement Instructions also detail specific reporting lines for residuals with instructions for reporting in Schedule BA:

Residual Tranches or Interests with Underlying Assets Having Characteristics of:
Fixed Income Instruments
Unaffiliated...4699999

Affiliated 4799999

Common Stock

Unaffiliated 4899999
Affiliated 4999999

Preferred Stock

Unaffiliated 5099999
Affiliated 5199999

Real Estate

Unaffiliated 5299999
Affiliated 5399999

Mortgage Loans

Unaffiliated 5499999
Affiliated 5599999

Other

Unaffiliated 5699999
Affiliated 5799999

Residual Tranches or Interests with Underlying Assets Having Characteristics of:

Investment in Residual Tranches or Interests should be assigned to the subcategory with the highest underlying asset concentration. There shouldn't be any bifurcation of the underlying assets among the subcategories.

Include: Residual tranches or interests captures securitization tranches and beneficial interests as well as other structures captured in scope of *SSAP No. 43R – Loan-Backed and Structured Securities*, that reflect loss layers without any contractual payments, whether interest or principal, or both. Payments to holders of these investments occur after contractual interest and principal payments have been made to other tranches or interests and are based on the remaining available funds. See SSAP No. 43R for accounting guidance.

Fixed Income Instruments

Include: Investments with underlying collateral which, if held individually, would be reported on *Schedule D – Part 1 – Long-Term Bonds*

Common Stocks

Include: Investments with underlying collateral which, if held individually, would be reported on *Schedule D – Part 2 – Section 2 – Common Stocks*

Preferred Stocks

Include: Investments with underlying collateral which, if held individually, would be reported on *Schedule D – Part 2 – Section 1 – Preferred Stocks*

Real Estate

Include: Investments with underlying collateral which, if held individually, would be reported on *Schedule A – Real Estate Owned*

Mortgage Loans

Include: Investments with underlying collateral which, if held individually, would be reported on *Schedule B – Mortgage Loans*

Other

Include: Items that do not qualify for inclusion in the above subcategories.

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups):

- Under the principles-based bond project, revisions have been proposed to incorporate guidance for residuals in *SSAP No. 21R—Other Admitted Assets*. With the Spring 2023 National Meeting exposure, information was requested from industry on how amortized cost for residuals was determined as well as how other-then-temporary assessments were completed.

- The Investment Risk and Evaluation (IRE) Risk Based-Capital (E) Working Group is considering a structural change and a potential factor change for residuals reported on Schedule BA. The year-end 2022 data was reviewed and was noted to underrepresent the full scope of residual tranche securities held by insurance reporting entities as the current guidance in SSAP No. 43R is specific to securitizations or beneficial interests.

- A March 31, 2023, Valuation of Securities (E) Task Force referral to the Statutory Accounting Principles (E) Working Group identified other structures that could contains residual tranche securities that may not be captured within the year-end 2022 Schedule BA dedicated residual reporting lines.

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group:
None

Convergence with International Financial Reporting Standards (IFRS): NA

Recommendation:
NAIC staff recommend that the Working Group move this item to the active listing, as a SAP clarification, and expose revisions to clarify that investments structures captured in scope of *SSAP No. 48—Joint Ventures, Partnerships, and Limited Liability Companies*, that represent residual interests or that predominantly hold residual interests, shall be reported on the dedicated residual reporting line on Schedule BA. As these investments are already reported on Schedule BA, this revision results in a reporting classification change within the same schedule. These investments are still considered to be in scope of SSAP No. 48 and they are only permitted to be admitted if they qualify as admitted assets pursuant to requirements of SSAP No. 48. (Under SSAP No. 48, investments in scope must be supported by an audit to qualify for admittance.)

Proposed revisions to *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*:

New header and paragraphs 18-20. All other paragraphs will be renumbered accordingly.

Residual Interests and Reporting

18. Investments in scope of this statement are reported on *Schedule BA: Other Long-Term Assets*. Schedule BA includes dedicated reporting categories for joint ventures, partnerships, and limited liability company investments as well as for residual interests, both with reporting lines in accordance with underlying asset characteristics. Investments within scope of this standard shall be divided within these reporting categories, with investments that reflect residual interests, or that predominantly hold residual interests, captured in the residual interest reporting category.

19. A residual interest or a residual security tranche (collectively referred to as residuals) exists in investment structures that are backed by a discrete pool of collateral assets. These designs could be backed directly or indirectly through a feeder fund. These collateral assets generate cash flows that provide interest and principal payments to debt holders, and once those contractual requirements are met, the resulting funds generated by (or with the sale of) the collateral assets are provided to the holder of the residual security /

residual interest holder. When an asset within the discrete pool of assets does not perform as expected, it impacts the extent to which cash flows will be generated and distributed. The residual security holder absorbs these losses first (as it reduces what they could receive as a residual holder) while the holders of the debt securities continue to receive interest and principal so long as there are enough collateral cash flows to cover them. The residual holder may ultimately receive nothing, a reduced amount from original projection, or large returns, based on how the underlying collateral assets perform.

20. The structural design of a residual interest or residual security tranche can vary, but the overall concept is that they receive 'residual' cash flows after all debt holders receive contractual interest and principal payments. Determining whether a security reflects a residual interest or tranche shall be based on the substance of the investment held rather than its legal form. Common characteristics of residual interests / residual security tranches include the items noted below, but the presence of absence of any of these factors should not be definitive in determination. Classification as a residual should be based on the substance of the investment and how cash flows to the holder are determined.

a. Residuals often do not have contractual principal or interest.

b. Residuals may have stated principal or interest, but with terms that result in receiving the residual cash flows of the underlying collateral. The terms allow for significant variation in the timing and amount of cash flows without triggering a default of the structure.

c. Residuals do not have credit ratings or NAIC assigned designations. Rather, they provide the subordination to support the credit quality of the typically rated debt tranches.

d. Residuals may provide payment throughout the investment duration (and not just at maturity), but the payments received continue to reflect the residual amount permitted after other tranche holders receive contractual principal and interest payments.

e. Frequently, there are contractual triggers that divert cash flows from the residual tranche to the debt tranches if the structure becomes stressed.

Corresponding revisions are also proposed to SSAP No. 43R—Loan-Backed and Structured Securities:

Revisions are proposed to pull the residual guidance into a new section, after paragraph 26, rather than a footnote. Remaining paragraphs will be renumbered accordingly.

Reporting Guidance for All Loan-Backed and Structured Securities

26. Loan-backed and structured securities shall be valued and reported in accordance with this statement, the Purposes and Procedures Manual of the NAIC Investment Analysis Office (P&P Manual), and the designation assigned in the NAIC Valuations of Securities product prepared by the NAIC Securities Valuation Office or equivalent specified procedure. The carrying value method shall be determined as follows:

a. For reporting entities that maintain an Asset Valuation Reserve (AVR), loan-backed and structured securities, excluding residual tranches or interests, shall be reported at amortized cost, except for those with an NAIC designation of 6, which shall be reported at the lower of amortized cost or fair value.

b. For reporting entities that do not maintain an AVR, loan-backed and structured securities designated highest-quality and high-quality (NAIC designations 1 and 2, respectively), excluding residual tranches or interests, shall be reported at amortized cost; loan-backed and structured securities that are designated medium quality, low quality, lowest quality and in or near default (NAIC designations 3 to 6, respectively) shall be reported at the lower of amortized cost or fair value.

c. For residual tranches or interests[1] captured in scope of this statement, all reporting entities shall report the item on Schedule BA: Other Long-Term Invested Assets at the lower of amortized cost or fair value. Changes in the reported value from the prior period shall be recorded as unrealized gains or losses. For reporting entities that maintain an AVR, the accounting for unrealized gains and losses shall be in accordance with *SSAP No. 7—Asset Valuation Reserve and Interest Maintenance Reserve*.

Residual Tranches or Interests

27. A residual interest or a residual security tranche (collectively referred to as residuals) exists in investment structures (including securitizations, beneficial interests and other structures captured in scope of this statement) that are backed by a discrete pool of collateral assets. These collateral assets generate cash flows that provide interest and principal payments to debt holders, and once those contractual requirements are met, the resulting funds generated by (or with the sale of) the collateral assets are provided to the holder of the residual security / residual interest holder. When an asset within the discrete pool of assets does not perform as expected, it impacts the extent to which cash flows will be generated and distributed. The residual security holder absorbs these losses first (as it reduces what they could receive as a residual holder) while the holders of the debt securities continue to receive interest and principal so long as there are enough collateral cash flows to cover them. The residual holder may ultimately receive nothing, a reduced amount from original projection, or large returns, based on how the underlying collateral assets perform.

28. The structural design of a residual interest or residual security tranche can vary, but the overall concept is that they receive 'residual' cash flows after all debt holders receive contractual interest and principal payments. Determining whether a security reflects a residual interest or tranche for reporting purposes shall be based on the substance of the investment held rather than its legal form. Common characteristics of residual interests / residual security tranches include the items noted below, but the presence of absence of any of these factors should not be definitive in determination. Classification as a residual should be based on the substance of the investment and how cash flows to the holder are determined.

a. Residuals often do not have contractual principal or interest.

b. Residuals may have stated principal or interest, but with terms that result in receiving the residual cash flows of the underlying collateral. The terms allow for significant variation in the timing and amount of cash flows without triggering a default of the structure.

c. Residuals do not have credit ratings or NAIC assigned designations. Rather, they provide the subordination to support the credit quality of the typically rated debt tranches.

d. Residuals may provide payment throughout the investment duration (and not just at maturity), but the payments received continue to reflect the residual amount permitted after other tranche holders receive contractual principal and interest payments.

e. Frequently, there are contractual triggers that divert cash flows from the residual tranche to the debt tranches if the structure becomes stressed.

Proposed revisions to Annual Statement Instructions:

Residual Tranches or Interests with Underlying Assets Having Characteristics of:

Investment in Residual Tranches or Interests should be assigned to the subcategory with the highest underlying asset concentration. There shouldn't be any bifurcation of the underlying assets among the subcategories.

Include: Residual tranches or interests ~~captures~~ from securitization tranches and beneficial interests as well as other structures captured in scope of *SSAP No. 43R – Loan-Backed and Structured Securities*. ~~, that reflect loss layers without any contractual payments, whether interest or principal, or both. Payments to holders of these investments occur after contractual interest and principal payments have been made to other tranches or interests and are based on the remaining available funds. See SSAP No. 43R for accounting guidance.~~

Investments in joint ventures, partnerships and limited liability companies captured in scope of *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies* that represent residual interests, or that predominantly hold residual interests.

This category shall also include residual interests or residual security tranches within investment structures that are not captured in scope of SSAP No. 43R or SSAP No. 48 but that reflect, in substance, residual interests or residual security tranches.

The structural design of a residual interest or residual security tranche can vary, but the overall concept is that they receive 'residual' cash flows after all debt holders receive contractual interest and principal payments. Determining whether a security reflects a residual interest or tranche shall be based on the substance of the investment held rather than its legal form. Common characteristics of residual interests / residual security tranches include the items noted below, but the presence of absence of any of these factors should not be definitive in determination. Classification as a residual should be based on the substance of the investment and how cash flows to the holder are determined.

a. Residuals often do not have contractual principal or interest.

b. Residuals may have stated principal or interest, but with terms that result in receiving the residual cash flows of the underlying collateral. The terms allow for significant variation in the timing and amount of cash flows without triggering a default of the structure.

c. Residuals do not have credit ratings or NAIC assigned designations. Rather, they provide the subordination to support the credit quality of the typically rated debt tranches.

d. Residuals may provide payment throughout the investment duration (and not just at maturity), but the payments received continue to reflect the residual amount permitted after other tranche holders receive contractual principal and interest payments.

e. Frequently, there are contractual triggers that divert cash flows from the residual tranche to the debt tranches if the structure becomes stressed.

Staff Note: With adoption of guidance to define a residual, corresponding revisions will also be proposed to the SSAPs proposed to be updated under the principles-based bond definition (e.g., *SSAP No. 43R—Asset-Backed Securities* and *SSAP No. 21R—Other Admitted Assets*.)

Staff Review Completed by: Julie Gann - NAIC Staff, April 2023

Status:
On May 16, 2023, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a SAP clarification, and exposed revisions to SSAP No. 48 which clarify that investments structures captured in scope of SSAP No. 48 that represent residual interests or that predominantly hold residual interests, shall be reported on the dedicated residual reporting line on Schedule BA. Corresponding edits to ensure consistent language in SSAP No. 43R and revisions to the Schedule BA Annual Statement Instructions were also exposed.

On August 13, 2023, the Statutory Accounting Principles (E) Working Group exposed revisions as shown below in the updated July 2023 recommendation with a shortened comment deadline ending September 12, 2023. The updated recommendation was based on interim discussions and coordination with industry representatives.

Updated Recommendation - July 12, 2023
NAIC staff has been working directly with regulators and industry on the proposed revisions to ensure consistent reporting classification for residuals. As a result of this coordination, updated revisions are proposed. Changes from the prior proposal are shaded:

SSAP No. 48 - New header and paragraphs 18-20. All other paragraphs will be renumbered accordingly.

Residual Interests and Reporting

18. Investments in scope of this statement are reported on *Schedule BA: Other Long-Term Assets*. Schedule BA includes dedicated reporting categories for joint ventures, partnerships, and limited liability company investments as well as for residual interests, both with reporting lines in accordance with underlying asset characteristics. Investments within scope of this standard shall be divided within these reporting categories, with investments that reflect residual interests, or that predominantly hold residual interests, captured in the residual interest reporting category.

19. A residual interest or a residual security tranche (collectively referred to as residuals) exists in investment structures that issue one or more classes of debt securities created for the primary purpose of raising debt capital backed by collateral assets. The primary source of debt repayment is derived through rights to the cash flows of ~~are backed by~~ a discrete pool of collateral assets. These designs could be backed directly or indirectly through a feeder fund. The~~se~~ collateral assets generate cash flows that provide interest and principal payments to debt holders through a contractually prescribed distribution methodology (e.g., waterfall dictating the order and application of all collateral cash flows). ~~, and~~ Once those contractual requirements are met, the ~~resulting funds~~ remaining cash flows generated by (or with the sale of) the collateral assets are provided to the holder of the residual security / residual interest holder. When an asset within the discrete pool of assets does not perform as expected, it impacts the extent to which cash flows will be generated and distributed. The residual holders in the structure continue to receive payments from the collateral so long as there are cash flows in excess of the debt obligations. ~~security holder absorbs these losses first (as it reduces what they could receive as a residual holder) while the holders of the debt securities continue to receive interest and principal so long as there are enough collateral cash flows in excess of the debt obligations to cover them. The residual holder may ultimately receive nothing, a reduced amount from original projection, or large returns, based on how the underlying collateral assets perform.~~ The payments to the residual holder may vary significantly, both in timing and amount, based on the underlying collateral performance.

20. The structural design of a residual interest or residual security tranche can vary, but the overall concept is that they receive ~~'residual'~~ the remaining cash flows after all debt holders receive contractual interest and principal payments. Determining whether an investment in a structure ~~a security~~ reflects a residual interest or tranche shall be based on the substance of the investment held rather than its legal form. Common characteristics of residual interests / residual security tranches include the items noted below, but the presence or absence of any of these factors should not be definitive in determination. Classification as a residual should be based on the substance of the investment and how cash flows to the holder are determined.

a. Residuals often do not have contractual principal or interest.

b. Residuals may be structured with terms that appear to be ~~have~~ stated principal or interest but that lack substance, and ~~with terms that~~ result in receiving the residual cash flows of the underlying collateral. The terms allow for significant variation in the timing and amount of cash flows without triggering a default of the structure.

c. Residuals do not have credit ratings or NAIC assigned designations. Rather, they are first loss positions that provide ~~the~~ subordination to support the credit quality of the typically rated debt tranches.

d. Residuals may provide payment throughout the investment duration (and not just at maturity), but the payments received continue to reflect the residual amount permitted after ~~other~~ debt tranche holders receive contractual principal and interest payments.

e. Frequently, there are contractual triggers that divert cash flows from the residual ~~tranche~~ holders to the debt tranches if the structure becomes stressed.

Corresponding revisions are then proposed to SSAP No. 43R and the Schedule BA Annual Statement Instructions:

SSAP No 43R:

Residual Tranches or Interests

27. A residual interest or a residual security tranche (collectively referred to as residuals) exists in investment structures that issue one or more classes of debt securities created for the primary purpose of raising debt capital backed by collateral assets. The primary source of debt repayment is derived through rights to the cash flows of ~~are backed by~~ a discrete pool of collateral assets. These designs could be backed directly or indirectly through a feeder fund. The~~se~~ collateral assets generate cash flows that provide interest and principal payments to debt holders through a contractually prescribed distribution methodology (e.g., waterfall dictating the order and application of all collateral cash flows). ~~, and~~ Once those contractual requirements are met, the ~~resulting funds~~ remaining cash flows generated by (or with the sale of) the collateral assets are provided to the holder of the residual security / residual interest holder. When an asset within the discrete pool of assets does not perform as expected, it impacts the extent to which cash flows will be generated and distributed. The residual holders in the structure continue to receive payments from the collateral so long as there are cash flows in excess of the debt obligations. ~~security holder absorbs these losses first (as it reduces what they could receive as a residual holder) while the holders of the debt securities continue to receive interest and principal so long as there are enough collateral cash flows in excess of the debt obligations to cover them. The residual holder may ultimately receive nothing, a reduced amount from original projection, or large returns, based on how the underlying collateral assets perform.~~ The payments to the residual holder may vary significantly, both in timing and amount, based on the underlying collateral performance.

28. The structural design of a residual interest or residual security tranche can vary, but the overall concept is that they receive ~~'residual'~~ the remaining cash flows after all debt holders receive contractual

interest and principal payments. Determining whether an investment in a structure ~~a security~~ reflects a residual interest or tranche shall be based on the substance of the investment held rather than its legal form. Common characteristics of residual interests / residual security tranches include the items noted below, but the presence or absence of any of these factors should not be definitive in determination. Classification as a residual should be based on the substance of the investment and how cash flows to the holder are determined.

a. Residuals often do not have contractual principal or interest.

b. Residuals may be structured with terms that appear to be ~~have~~ stated principal or interest but that lack substance, and ~~with terms that~~ result in receiving the residual cash flows of the underlying collateral. The terms allow for significant variation in the timing and amount of cash flows without triggering a default of the structure.

c. Residuals do not have credit ratings or NAIC assigned designations. Rather, they are first loss positions that provide ~~the~~ subordination to support the credit quality of the typically rated debt tranches.

d. Residuals may provide payment throughout the investment duration (and not just at maturity), but the payments received continue to reflect the residual amount permitted after ~~other~~ debt tranche holders receive contractual principal and interest payments.

e. Frequently, there are contractual triggers that divert cash flows from the residual ~~tranche~~ holders to the debt tranches if the structure becomes stressed.

Schedule BA Annual Statement Instructions:

Residual Tranches or Interests with Underlying Assets Having Characteristics of:

Investment in Residual Tranches or Interests, as defined within *SSAP No. 43R—Loan-Backed and Structured Securities or SSAP No. 48—Joint Ventures, Partnerships and Limited Liabilities Companies* should be assigned to the subcategory with the highest underlying asset concentration. There shouldn't be any bifurcation of the underlying assets among the subcategories.

Include: Residual tranches or interests ~~captures~~ from securitization tranches and beneficial interests as well as other structures captured in scope of *SSAP No. 43R – Loan-Backed and Structured Securities*. ~~, that reflect loss layers without any contractual payments, whether interest or principal, or both. Payments to holders of these investments occur after contractual interest and principal payments have been made to other tranches or interests and are based on the remaining available funds. See SSAP No. 43R for accounting guidance.~~

Investments in joint ventures, partnerships and limited liability companies captured in scope of *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies* that represent residual interests, or that predominantly hold residual interests.

This category shall also include residual interests or residual security tranches within investment structures that are not captured in scope of SSAP No. 43R or SSAP No. 48 but that reflect, in substance, residual interests or residual security tranches.

~~The structural design of a residual interest or residual security tranche can vary, but the overall concept is that they receive 'residual' the remaining cash flows after all debt holders receive contractual interest and principal payments. Determining whether an investment in a structure a security~~

~~reflects a residual interest or tranche shall be based on the substance of the investment held rather than its legal form. Common characteristics of residual interests / residual security tranches include the items noted below, but the presence of absence of any of these factors should not be definitive in determination. Classification as a residual should be based on the substance of the investment and how cash flows to the holder are determined.~~

a. Residuals often do not have contractual principal or interest.

b. Residuals may be structured with terms that appear to be ~~have~~ stated principal or interest but that lack substance, and ~~with terms that~~ result in receiving the residual cash flows of the underlying collateral. The terms allow for significant variation in the timing and amount of cash flows without triggering a default of the structure.

c. Residuals do not have credit ratings or NAIC assigned designations. Rather, they are first loss positions that provide ~~the~~ subordination to support the credit quality of the typically rated debt tranches.

d. Residuals may provide payment throughout the investment duration (and not just at maturity), but the payments received continue to reflect the residual amount permitted after ~~other~~ debt tranche holders receive contractual principal and interest payments.

e. Frequently, there are contractual triggers that divert cash flows from the residual ~~tranche~~ holders to the debt tranches if the structure becomes stressed.

Interpretation of the Statutory Accounting Principles (E) Working Group

INT 23-02~~T~~: Third Quarter 2023 Inflation Reduction Act – Corporate Alternative Minimum Tax

Drafting Note: Tracked revisions to the exposure are for Working Group discussion on 9-21-23.

INT 23-02~~T~~ Dates Discussed
August 13, 2023; September 21, 2023

INT 23-02~~T~~ References

Current:
SSAP No. 9— Subsequent Events
SSAP No. 101—Income Taxes

INT 23-02~~T~~ Issue

Key Provisions of the Inflation Reduction Act

1. The Inflation Reduction Act (Act) was enacted on August 16, 2022, and included a new corporate alternative minimum tax (CAMT). The ~~Act and the~~ CAMT ~~go into~~is effective for tax years beginning after 2022. Reporting entities shall refer to the Act and the resulting regulations and other tax guidance to determine application, but a high-level summary of the CAMT is below.

   a. The tentative CAMT is 15% of the corporation's "adjusted financial statement income" for the tax year, reduced by the corporate alternative minimum foreign tax credit.

   b. The CAMT differs from the previous traditional alternative minimum tax (AMT) that applied under pre-2018 tax law in that it starts at a financial statement measure (book income) – not an Internal Revenue Code taxable income calculation. Adjusted financial statement income does not include other comprehensive income including unrealized gains and losses on available for sale securities. The determination of whether the CAMT applies is made on a tax-controlled group basis (scope determination), the tentative CAMT is based on the group's adjusted financial statement income (not adjusted regular taxable income), and any tax due (liability determination) is based on a comparison of consolidated tentative CAMT to consolidated regular tax.

   c. The CAMT applies only to corporations (determined on a tax-controlled group basis as defined for federal income tax purposes, this could include standalone unaffiliated entities which meet the specified income thresholds) with average annual adjusted financial statement income in excess of $1 billion for three prior taxable years. The threshold is reduced to $100 million in the case of certain foreign-owned corporations. A corporation that meets the applicable threshold is an "applicable corporation." Applicable corporations generally remain applicable corporations for subsequent taxable years unless certain limited exceptions apply. Applicable corporation status means that CAMT must be tentatively determined and compared to regular tax liability.

   d. A corporation's adjusted financial statement income is the amount of net income or loss the corporation reports on its applicable financial statement. The income is adjusted for various purposes including certain adjustments in the case of consolidated returns or for foreign income.

e. The Act includes references to the tax code~~s~~ which provides a hierarchy for determining the "applicable financial statement." At a high level, the first choice is U.S. generally accepted accounting principles (GAAP) financial statements; the second choice is international financial reporting standards (IFRS) financial statements. If GAAP and IFRS financial statements are not available, the financial statements filed by the taxpayer with any other regulatory or government body are acceptable. If the taxpayer is part of a tax-controlled group of corporations, the group's applicable financial statement is the applicable financial statement for each member of the group.

f. To determine its U.S. federal income tax liability, an applicable corporation will need to compute taxes under both systems—the regular tax system and the CAMT system. The CAMT is payable to the extent the tentative CAMT exceeds the sum of the regular corporate income tax plus base erosion and anti-abuse tax (BEAT) liability.

g. Any CAMT paid is available indefinitely as a credit carryover that ~~could~~ would reduce future regular tax in future years when the regular tax liability is in excess of CAMT tax liability. That is, the CAMT tax credit can be used to reduce the regular tax but not below CAMT liability.

h. A foreign tax credit (FTC) ~~will~~ may reduce the tentative minimum CAMT. Note that unused FTCs ~~can~~ may be carried forward for 5 years. General business credits can generally ~~be~~ offset up to 75% of the sum of regular and minimum tax.

2. The Working Group previously issued *INT 22-02: Third Quarter 2022 through Second Quarter 2023 Reporting of the Inflation Reduction Act - Corporate Alternative Minimum Tax* which addressed third quarter 2022 through second quarter 2023. INT 22-02 noted that a reasonable estimate of the CAMT was not possible for those reporting periods and required disclosures.

3. This interpretation is focused on addressing accounting and reporting aspects of the CAMT for third quarter 2023 reporting (reporting period July 1 through September 30, 2023). ~~As most reporting entities will not be above the applicable corporation threshold and will not be subject to the CAMT calculation, this guidance has been developed as an interpretation.~~ While most insurers will not be applicable corporations, this interpretation provides temporary third quarter 2023 statutory accounting guidance for all reporting entities that are or expect to be applicable entities with respect to the CAMT. A separate interpretation is being developed for year-end 2023 and periods thereafter.

4. Although it is likely that most insurers that are applicable corporations will be members of a tax-controlled group of corporations and included in a consolidated federal income tax return with other members of the group, this interpretation applies to all applicable reporting entities. For reporting entities subject to the CAMT, this includes an unaffiliated corporation[1] that files a separate tax return, a member of a tax-controlled group not included in the common parent company's consolidated tax return that files a separate company tax return or a separate consolidated tax return with other members of the group, or as a member of the common parent's consolidated return group.

Interpretation Issues

[1] As used herein, an "unaffiliated" corporation is one that is not a member of a tax-controlled group.

5. *SSAP No. 101—Income Taxes,* paragraph 7.e. requires the statutory valuation allowance adjustment as a direct reduction in the gross DTA if, based on the weight of available evidence, it is more likely than not that some or all of the gross DTAs will not be realized. Gross DTA less the statutory valuation allowance results in adjusted gross DTAs. The statutory valuation allowance adjustment is not reported as a separate line in the statutory financial statements (it is an off-balance sheet item that reduces the gross DTAs). The statutory valuation allowance is disclosed.

6. The statutory accounting calculation for admissible DTAs is determined using adjusted gross DTAs (gross DTAs reduced by the valuation allowance). For statutory accounting, admittance of adjusted gross DTAs in SSAP No. 101 depends on a three-component calculation, for which the second step limits admittance of adjusted gross DTAs to those that are expected to be realized in a timeframe that does not exceed three years. The actual number of years permitted depends on specifics for each reporting entity (type and other information about the reporting entity), but the maximum timeframe is three years. The last step admits DTAs which can be offset by DTLs.

7. Guidance in *SSAP No. 9—Subsequent Events* requires consideration of Type I and Type II[2] subsequent events through the date of the statutory financial statements and the date of issuance of the audited financial statements, or the date in which audited financial statements are available to be issued. For subsequent events identified after the statutory financial statements reporting date (example September 30) but before the statements are filed (example, November 15), reporting entities are generally required by their domestic state to ~~amend~~ reflect estimates in their filed statutory financial statements. Under this guidance, as additional information is made available on the impact of the Act, or information becomes available to update estimates and assessments, under existing statutory accounting guidance in SSAP No. 9, reporting entities would need to identify updated estimates as a Type I subsequent event in the audited financial statements.

Issue 1 – Consideration of the Act for Third Quarter 2023 Financial Statements

8. Under statutory accounting guidance, reporting entities filing statutory financial statements would have to consider the applicability of the CAMT and if applicable, attempt to determine the impact on the statutory valuation allowance as well as assess DTAs for admissibility (e.g., realization timeframe). These elements will be collectively referred to as “calculations impacted by the Act” or “calculations impacted by the CAMT.” Exceptions to these calculations impacted by the CAMT have previously been provided under INT 22-02 through second quarter 2023.

9. This interpretation will address the issue for what reporting entities are required to report or disclose regarding the calculations impacted by the CAMT for third quarter 2023 (July 1 through September 30, 2023, financial statements.)

Issue 2 – Consideration of Subsequent Events for Third Quarter 2023 Financial Statements

10. SSAP No. 9 requires consideration of subsequent events through the date of the statutory financial statements and the date of issuance of the audited financial statements, or the date in which audited financial statements are available to be issued. An exception to this requirement has ~~also~~ previously been provided under INT 22-02 through second quarter 2023.

[2] A Type I subsequent event relates to an event or transaction that provides additional evidence with respect to conditions that existed at the date of the balance sheet, including the estimates inherent in the process of preparing financial statements. Under SSAP No. 9, entities shall recognize in the financial statements the effects of all material Type I subsequent events. A Type II subsequent event pertains to events or transactions that provide evidence to conditions that did not exist at the balance sheet date but arose after that date. Type II events are disclosed in the financial statements.

11. For reporting entities that materially revise or establish calculations impacted by the CAMT during the third quarter 2023 or immediately subsequent to the third quarter (including the statutory valuation allowance, the timing of determination of net admitted DTAs, and the determination of the applicability of the CAMT and any related liabilities), this interpretation will address the extent a Type I or Type II subsequent event assessment is required for third quarter 2023 financial reporting.

INT 23-02~~T~~ Discussion

12. The Statutory Accounting Principles (E) Working Group tentative consensuses to the noted issues are included below.

Response: Issue 1 – Consideration of the Act for Third Quarter ~~2022~~ 2023 Financial Statements

13. Reporting entities that are aware they will be subject to the CAMT would normally have to reflect the effects of the Act on the calculations impacted by the CAMT if reasonably estimable for the third quarter 2023. The Act was adopted in August 2022; however, entities may continue to have a considerable number of unknown variables for September 30, 2023, reporting. As such, the Working Group has determined that a reasonable estimate might not be determinable for third quarter 2023 interim financial statements for the calculations impacted by the CAMT for some entities.

14. If a reporting entity is an applicable corporation and has determined a reasonable estimate, it shall be disclosed. If a reporting entity is an applicable corporation and cannot determine a reasonable estimate, the reporting entity shall disclose that they expect to be an applicable corporation but have not determined a reasonable estimate.

15. Because reasonable estimates of calculations impacted by the CAMT might not be determinable, reporting entities shall only disclose impacts related to CAMT for third quarter 2023 financial statements for which reasonable estimates are possible.~~,~~ If the reporting entity is an applicable corporation, they shall make the following disclosures regarding the CAMT and the Act:

a. A statement regarding whether the reporting entity (or the controlled group of corporations of which the reporting entity is a member) has determined if it expects to be liable for CAMT in 2023. For example:

i. The reporting entity (or the controlled group of corporations of which the reporting entity is a member) has determined that it does not expect to be liable for CAMT in 2023.

ii. The reporting entity (or the controlled group of corporations of which the reporting entity is a member) has not determined as of the reporting date if it will be liable for CAMT in 2023. The third quarter 2023 financial statements do not include an estimated impact of the CAMT because a reasonable estimate cannot be made.

iii. The reporting entity (or the controlled group of corporations of which the reporting entity is a member) has determined that it expects to be liable for CAMT in 2023. The third quarter 2023 financial statements shall disclose the estimated impact of the CAMT.

Response: Issue 2 – Consideration of Subsequent Events for Third Quarter ~~2022~~ 2023 Financial Statements

16. For third quarter 2023 reporting, CAMT updated estimates or other calculations affected by the Act determined subsequent to third quarter statutory financial statement or filing date shall not be recognized as Type I subsequent events. Meaning, ~~amended~~ third quarter financial statements are not required to reflect updated estimates subsequent to the third quarter ~~filing~~reporting date and prior to the filing of the third quarter financial statements. With the disclosure required under Issue 1, additional subsequent event disclosure (such as what would be required for Type II event) is not required.

17. Reporting entities shall be working in good faith to complete the accounting for the changes adopted under the Act.

INT 23-02~~T~~ Status

18. The tentative consensuses in this interpretation were adopted on September 21, 2023~~tbd,~~ to provide reporting guidance regarding the calculations impacted by the CAMT and provide limited-scope, limited-time exceptions to the valuation allowance and DTA calculations in response to legislation under SSAP No. 101 as well as Type I subsequent event requirements in SSAP No. 9 for September 30, 2023, statutory reporting. As detailed, the exceptions to SSAP No. 101 and SSAP No. 9 are effective for the third quarter 2023.

19. This interpretation will be automatically nullified on November 16, 2023, and as additional guidance for year end 2023 reporting is being separately developed.

20. No. f~~F~~urther discussion is planned.

https://naiconline.sharepoint.com/teams/frsstatutoryaccounting/national meetings/a. national meeting materials/2023/9-21-23/02 - int 23-02t 3q camt 9-18-23.docx

Attachment 3

Interpretation of the Statutory Accounting Principles (E) Working Group

INT 23-03T: Inflation Reduction Act - Corporate Alternative Minimum Tax

Note: ~~Drafting notes will not be in the final document and are only included to facilitate exposure review.~~ Tracked revisions to the exposure are for Working Group discussion on 9-21-23.Shaded revisions reflect variations from the interested parties recommendations.

INT 23-03T Dates Discussed
August 13, 2023; September 21, 2023

INT 23-03T References

Current:
SSAP No. 4—Assets and Nonadmitted Assets
SSAP No. 9— Subsequent Events
SSAP No. 101—Income Taxes

INT 23-03T Issue

Key Provisions of the Inflation Reduction Act

1. The Inflation Reduction Act (Act) was enacted on August 16, 2022, and included a new corporate alternative minimum tax (CAMT). The ~~Act and the~~ CAMT ~~go into~~is effective for tax years beginning after 2022. Reporting entities shall refer to the Act and the resulting regulations and other tax guidance to determine application, but a high-level summary of the CAMT is below.

   a. The tentative CAMT is 15% of the corporation's "adjusted financial statement income" for the tax year, reduced by corporate alternative minimum foreign tax credit.

   b. The CAMT differs from the previous traditional alternative minimum tax ~~(AMT)~~ that applied under pre-2018 tax law in that it starts at a financial statement measure (book income) – not an Internal Revenue Code taxable income calculation. Adjusted financial statement income does not include other comprehensive income including unrealized gains and losses on available for sale securities. The determination of whether the CAMT applies is made on a tax-controlled group basis (scope determination), the tentative CAMT is based on the group's adjusted financial statement income (not adjusted regular taxable income), and any tax due (liability determination) is based on a comparison of consolidated tentative CAMT to consolidated regular tax (non-CAMT).

   c. The CAMT applies only to corporations (determined on a tax-controlled group basis as defined for federal income tax purposes, this could include standalone unaffiliated entities which meet the specified income thresholds — ~~-~~ see paragraph 3) with average annual adjusted financial statement income in excess of $1 billion for three prior taxable years. The threshold is reduced to $100 million in the case of certain foreign-owned corporations. A corporation that meets the applicable threshold is an "applicable corporation." Applicable corporations generally remain applicable corporations for subsequent taxable years unless certain limited exceptions apply. Applicable corporation status means that CAMT must be tentatively determined and compared to regular (non-CAMT) tax liability.

d. A corporation's adjusted financial statement income is the amount of net income or loss the corporation reports on its applicable financial statement. The income is adjusted for various purposes including certain adjustments in the case of consolidated returns or for foreign income.

e. The Act includes references to the tax code~~s~~ which provides a hierarchy for determining the ~~“~~applicable financial statement.~~”~~ At a high level, the first choice is U.S. generally accepted accounting principles (GAAP) financial statements; the second choice is international financial reporting standards (IFRS) financial statements. If GAAP and IFRS financial statements are not available, the financial statements filed by the taxpayer with any other regulatory or government body are acceptable. If the taxpayer is part of a tax-controlled group of corporations, the group’s applicable financial statement is the applicable financial statement for each member of the group.

f. To determine its U.S. federal income tax liability, an applicable corporation will need to compute taxes under both systems ~~—~~ — the regular tax system and the CAMT system. The CAMT is payable to the extent the tentative CAMT exceeds the sum of the regular corporate income tax plus base erosion and anti-abuse tax (BEAT) liability.

g. Any CAMT paid is available indefinitely as a credit carryover that ~~could~~ would reduce future regular tax in future years when the regular tax liability is in excess of the tentative CAMT ~~tax~~ liability. That is, the CAMT ~~tax~~ credit can be used to reduce the regular tax but not below tentative CAMT liability.

h. A foreign tax credit (FTC) ~~will~~ may reduce the tentative minimum CAMT. Note that unused FTCs ~~can~~ may be carried forward for 5 years. General business credits can generally ~~be~~ offset up to 75% of the sum of regular and minimum tax.

2. This interpretation is focused on addressing accounting and reporting aspects of the CAMT. As most reporting entities will not be above the applicable corporation threshold and will not be subject to the CAMT calculation, this guidance has been developed as an interpretation. While most insurers will not be applicable corporations, this interpretation provides comprehensive statutory accounting guidance for all reporting entities with respect to the CAMT. This interpretation incorporates a principles-based approach for purposes of statutory accounting for the CAMT.

3. Although it is likely that most insurers that are applicable corporations will be members of a tax-controlled group of corporations and included in a consolidated federal income tax return with other members of the group, this interpretation applies to all reporting entities subject to the CAMT, whether an unaffiliated corporation[1] that files a separate tax return, a member of a tax-controlled group not included in the common parent company’s consolidated tax return that files a separate company tax return or a separate consolidated tax return with other members of the group, or as a member of the common parent’s consolidated return group.

4. For reporting entities that are included in a consolidated tax return, the fundamental statutory tax accounting issue for the CAMT is how to reflect in the reporting entity’s separate company financial statements a portion of what is essentially an add-on tax for a consolidated tax return group that is based on the group’s financial statement income and group tax rate. Even if a member of a tax-controlled group of corporations files its own separate federal income tax return, the tax law does not provide for a separate

[1] As used herein, an “unaffiliated” corporation is one that is not a member of a tax-controlled group.

company scope determination, but rather looks to the tax-controlled group for applicable corporation status and determination of the applicable financial statement.

INT 23-03T Discussion

5. The discussion along with the Statutory Accounting Principles (E) Working Group tentative consensuses are included below.

Categories of Reporting Entities

6. In an annual determination of applicable corporation status, all reporting entities are separated into one of the following categories:

a. Nonapplicable reporting entities

b. Applicable reporting entities

c. Applicable reporting entities with tax allocation agreement also called tax sharing agreement ~~(TSA)~~ exclusions.

Nonapplicable Reporting Entities

7. Nonapplicable reporting entities are reporting entities that do not reasonably expect to be an applicable corporation either as a member of a tax-controlled group of corporations[2] or individually as an unaffiliated corporation, for the taxable year that includes the current reporting period. Nonapplicable reporting entities are not required to calculate or recognize a payable for CAMT. If a reporting entity is not subject to pay CAMT, then they will have no CAMT credit carryforward. For nonapplicable reporting entities, further assessment of the CAMT is not required for current or deferred tax computations, and the remaining accounting components of the interpretation do not apply. Applicable disclosures are required.

8. A reporting entity that was an applicable corporation for the preceding taxable year shall reasonably expect to be an applicable corporation for the current taxable year, unless one of the tax law exceptions to continued applicable corporation status applies.

Applicable Reporting Entities

9. Applicable reporting entities are reporting entities that reasonably expect to be applicable corporations for the taxable year that includes the current reporting period, either individually as an unaffiliated corporation or as a member of a tax-controlled group of corporations[3]. Applicable reporting entities are required to consider CAMT in current and deferred tax computations in the manner set forth in this interpretation.

[2] A reporting entity that is a member of a tax-controlled group that does not reasonably expect to be applicable corporation on a group basis is not required to make a separate company determination as the CAMT is determined on a group basis.

[3] Determination of applicable reporting entity within a tax-controlled group is subject to the tax law. A reporting entity within a tax-controlled group is captured with the group's applicable corporation status regardless of if they were excluded from the consolidated tax return and filed their own separate return. For example, if the reporting entity is a life insurance company and i) the group has not made a "life-nonlife" consolidated return election, or ii) the reporting entity has been recently acquired and is excluded from the life-nonlife consolidated return for a period of 5 years.

10. Because CAMT is not payable by an applicable corporation unless it is in excess of regular tax liability, the CAMT calculations for applicable reporting entities within this interpretation may or may not result in different current and deferred income taxes than if the CAMT was not taken into account. (Applicable reporting entities with ~~TSA~~ tax allocation agreement exclusions that meet the requirements of paragraph 11 of this interpretation shall follow the guidance in paragraph 12 of this interpretation.)

Applicable Reporting Entities with ~~TSA~~ Tax Allocation Agreement Exclusions

11. Applicable reporting entities with ~~TSA~~ tax allocation agreement exclusions are reporting entities that qualify as an applicable corporation as a member of a tax-controlled group of corporations pursuant to paragraphs 9 and 10 of this interpretation, and is a party to a ~~TSA~~ tax allocation agreement that is in effect for the reporting period that has all of the following terms:

a. The reporting entity is excluded from charges for any portion of the group's CAMT, and

b. The reporting entity is not allocated any portion of the group's CAMT credit carryover.

~~c. The reporting entity reasonably expects or has knowledge that the parties liable for the CAMT payables under the TSA are meeting their obligations.~~

12. Reporting entities with ~~TSA~~tax allocation agreement ~~CAMT~~ exclusions which qualify under paragraph 11 of this interpretation, are not required to calculate, or recognize CAMT in their current or deferred tax computations. Even with the ~~TSA~~tax allocation agreement exclusions, the general current tax liability guidance ~~for joint and several liabilities~~ pursuant to SSAP No. ~~5~~101, paragraph ~~5~~ 3 continues to apply. This guidance requires the reporting entity to recognize the amount the reporting entity has paid or is payable, which includes ~~agreed to pay with the agreements of their co-obligors and~~ any additional amount the reporting entity expects to pay on behalf of its co-obligors.

~~**NAIC Staff Note:** NAIC staff do not believe it is possible for an insurer to completely remove themselves from the joint and several tax liability under the tax law. There is guidance in SSAP No. 5, paragraph 5, that addresses joint and several liabilities. Under that guidance, reporting entities are required to measure and report the liability as the sum of 1) the amount the reporting entity agrees to pay on the basis of agreements among co-obligors and 2) any additional amount the reporting entity expects to pay on behalf of its co-obligors.~~

Accounting for Applicable Reporting Entities

Impact of Tax Allocation Agreements

13. This interpretation is based on the principle that the statutory accounting for the CAMT for reporting entities included in a consolidated tax return should be matched to the CAMT charges ~~expected~~ reasonably estimated to be paid by the reporting entity and the corresponding CAMT credits reasonably estimated ~~expected~~ to be received by the reporting entity. For such reporting entities, this interpretation applies the provisions of the intercompany tax allocation agreement[4] (also referred to as a tax sharing agreement ~~or TSA~~) that governs allocation of consolidated taxes to individual members of the group.

[4] SSAP No. 101, paragraphs 16 and 17 provide requirements for tax allocation agreement recognition. Tax allocation agreements are also subject to internal revenue service requirements and are subject to domiciliary regulator review under the Insurance Holding Company System Regulatory Act (Model #440), which also requires that the terms of intercompany agreements be fair and reasonable. In assessing fair and reasonable, state insurance regulators are encouraged to assess the terms of the TSA for allocations to the insurance reporting entity for both CAMT payables and CAMT credit carryforwards.

14. SSAP No. 101, paragraph 16 provides that in the case of a reporting entity that files a consolidated income tax return with one or more affiliates, income tax 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~~tax allocation agreement; and income taxes incurred are accounted for in a manner consistent with the principles of FAS 109 ~~(~~the predecessor of what is now ASC 740~~)~~, as modified by SSAP No. 101.

15. For a reporting entity that is included in a consolidated tax return and is subject to a qualifying ~~TSA~~tax allocation agreement which is consistent with paragraphs 16 and 17 of SSAP No. 101, the amount of CAMT payable (expense) or CAMT ~~tax~~ credit carryforward is recognized in accordance with the ~~TSA~~tax allocation agreement.

> ~~**NAIC Staff Note:** NAIC staff is aware that reporting entities plan to enter into updated TSA agreements based on the results of the guidance from this INT.~~

Recognition of CAMT Payable

16. Reporting entities that are applicable corporations, excluding those ~~captured as~~ having qualifying ~~TSA~~tax allocation agreement exclusions per paragraph 11 of this interpretation, are required to take CAMT payable into account in the calculation of current income tax expense pursuant to SSAP No. 101. Reporting entities shall accrue the CAMT owed, reflecting the amount owed as a separate return filer or in accordance with the amount allocated through the ~~tax-controlled~~consolidated tax return group's tax sharing agreement pursuant to paragraph 15 of this INT.

17. Consistent with SSAP No. 101, paragraph 8, changes in deferred tax assets (DTAs) and DTLs, including changes attributable to changes in tax rates and changes in tax status, if any, shall be recognized as a separate component of gains and losses in unassigned funds (surplus) as "change in net deferred income tax," excluding any change reflected in unrealized capital gains.

18. Paragraph 8.3 of SSAP No. 101 Exhibit A – Implementation Questions and Answers (Q&A) is not applicable to reporting entities subject to CAMT through a tax-controlled group structure. This exclusion is provided due to the consolidated nature of the CAMT calculation. Any theoretical separate entity calculation of the CAMT liability may be unrelated to the actual consolidated tax return computations and to the ~~TSA~~tax allocation agreement allocation of liability.

Recognition of CAMT Credit Deferred Tax Asset ~~(Future Tax Credit)~~

19. Reporting entities shall ~~initially~~ recognize a corresponding DTA which represents the ~~indefinite~~ non-expiring tax credit ~~carryover~~ carryforward equal and offsetting to the current CAMT accrued. The CAMT ~~tax~~ credit can be used to reduce regular tax in future years when the regular tax liability is in excess of the tentative CAMT ~~tax~~ liability as permitted under the tax law. The CAMT credit carryforward is a type of deferred tax asset.

Impact of CAMT to the Statutory Valuation Allowance

20. *SSAP No. 101—Income Taxes*, paragraph 7.e. requires the statutory valuation allowance adjustment as a direct reduction in the gross DTA if, based on the weight of available evidence, it is more likely than not that some or all of the gross DTAs will not be realized. Gross DTA less the statutory valuation allowance results in adjusted gross DTAs. The statutory valuation allowance adjustment is not

reported as a separate line in the statutory financial statements (it is an off-balance sheet item that reduces the gross DTAs). The statutory valuation allowance is disclosed.

21. The determination of a statutory valuation allowance[5] for CAMT credit ~~carryforwards~~ deferred tax assets depends on whether the reporting entity is part of a consolidated tax return group or a separate tax return filer:

a. Consolidated Tax Return Group: A reporting entity that is an applicable entity and a member of consolidated tax return group shall utilize the statutory valuation assessment for the CAMT credit deferred tax assets ~~carryforward~~ completed at the consolidated tax return group level. A reporting entity is not required to adjust the group statutory valuation allowance for CAMT credit deferred tax assets~~carryforwards~~. Rather, the group determined statutory valuation allowance and the resulting credit deferred tax asset ~~carryforward~~ deemed to be more likely than not to be realized, is permitted to be allocated (consistent with tax allocation agreement) to the reporting entity and reflected as an ~~“~~CAMT credit adjusted gross DTA.~~”~~ The reporting entity shall continue to have a separate statutory valuation allowance calculation for non-CAMT ~~DTAs~~ deferred tax assets as required under SSAP No. 101. The combination of the CAMT credit adjusted gross deferred tax asset~~DTA~~ (as received from the group) and the adjusted gross deferred tax assets~~DTAs~~ from non-CAMT deferred tax assets~~DTAs~~ shall equal the total adjusted gross deferred tax assets ~~DTAs~~ reviewed for admittance within the scope of this interpretation.

b. Separate Tax Return Filer: A reporting entity that is an applicable entity and files a separate tax return, is required to complete a statutory valuation allowance for all deferred tax assets, including CAMT credit deferred tax assets~~carryforwards~~, in determining their total adjusted gross DTAs. (The CAMT credit deferred tax assets~~DTA~~ can be assessed separately from non-CAMT deferred tax assets ~~DTAs~~ in determining whether the deferred tax asset~~DTA~~ is more likely than not to be realized.) The total adjusted gross deferred tax assets ~~DTAs~~ are then reviewed for admittance within the scope of this interpretation.

22. 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~~ non CAMT ~~tax~~ deferred tax assets ~~DTA~~s.[6] The accounting policy election applies for valuation allowance purposes only – that is, in the determination of adjusted gross deferred tax asset s~~DTAs~~ other than the CAMT credit ~~-related~~ deferred tax asset s~~DTA~~s~~.~~ This accounting policy election cannot be used to avoid a valuation allowance analysis for CAMT credit ~~carryforward~~ DTAs. The accounting policy election must be disclosed in the notes to the financial statements and applied consistently in subsequent reporting periods.

Admissibility

Admittance - Implications of Group Tax Assessment (Related Parties)

[5] Although reporting entities may conclude that the non-expiring ~~indefinite~~ CAMT DTA more likely than not will ultimately be realized, reporting entities will not be able to utilize the tax credit until the reporting entity if a separate tax return filer, or the tax consolidated group of corporations if the reporting entity is a member of such group , are no longer CAMT payors and have sufficient tax liability that permits the group the ability to use the CAMT ~~tax~~ credits.

[6] SSAP No. 101, FAS 109 and ASC 740 do~~es~~ not specifically address whether future years’ CAMT should be anticipated in a valuation allowance assessment for ~~regular tax~~non-CAMT DTAs. Accordingly, an accounting policy election is allowed for GAAP purposes as to whether to consider or disregard CAMT when evaluating the need for a valuation allowance for ~~regular~~ non-CAMT ~~tax~~ DTAs.

23. For reporting entities that are applicable corporations as they are a member of a tax-controlled group of corporations, the reporting entity may be subject to the CAMT, or be hindered from utilizing the CAMT ~~tax~~ credit, through the actions of their consolidated tax return ~~tax-controlled~~ group related parties. (As noted in footnote 5, although a reporting entity may have earned an non-expiring ~~indefinite~~ tax credit through payment of CAMT, the reporting entity is not eligible to utilize that tax credit until the consolidated tax return~~tax-controlled~~ group has sufficient tax liability that allows the members of the group to utilize their tax credit. This means that on a group basis they are no longer CAMT payors.) SSAP No. 4 requires assets that are restricted by the action of a related party to be nonadmitted assets.

> SSAP No. 4, Footnote 2: If assets of an insurance entity are pledged **or otherwise restricted by the action of a related party, the assets are not under the exclusive control of the insurance entity and are not available to satisfy policyholder obligations due to these encumbrances or other third-party interests. Thus, pursuant to paragraph 2, such assets shall not be recognized as an admitted asset on the balance sheet.** Additional guidance for assets pledged as collateral is included in INT 01-31.

24. A key focus of this interpretation is the admittance of the CAMT deferred tax assets (~~future tax~~ credits)~~ earned from the payment of the CAMT~~. However, it is recognized that under the existing statutory accounting guidance in SSAP No. 4 a reporting entity recognizing CAMT ~~tax~~ credit~~s~~ deferred tax assets would not be permitted to admit those deferred tax assets if as part of a consolidated tax return ~~tax-controlled~~ group ~~as~~ the ability to receive those CAMT credits is explicitly linked to the actions of other entities within the group. If the group on a collective basis does not incur enough tax to allow utilization of the tax credits, then the reporting entity cannot use the tax credits~~ as a reduction of tax liability~~, regardless of the income or tax paid by the reporting entity. This aspect is not impacted by the tax sharing agreement. Although the tax sharing agreement may specify how the CAMT ~~tax~~ credits will be allocated among the group, such tax credits allocated to the reporting entity can only be realized when the group qualifies for the credit.

25. For the CAMT credit adjusted gross deferred tax assets allocated to the reporting entity to be ~~permitted~~ eligible to be~~as~~ admitted~~ assets~~, this interpretation provides an exception to the guidance in SSAP No. 4, footnote 2, recognizing that the impact to ultimately utilize the allocated tax credits is dependent on the actions of the other parties within the group.

Admittance – Adjusted Gross DTAs

26. The guidance in SSAP No. 101 allows admittance of adjusted gross DTAs (gross DTAs reduced by the statutory valuation allowance) pursuant to a three-component calculation, for which the second step limits admittance of adjusted gross DTAs to those that are expected to be realized in a timeframe that does not exceed three years. The actual number of years to realization permitted depends on specifics for each reporting entity (type and other information about the reporting entity), but the maximum timeframe is three years. The last step (SSAP No. 101, paragraph 11.c.) admits DTAs which can be offset by DTLs.

27. Due to the following aspects regarding the CAMT ~~tax~~ credits, specific admittance guidance for the CAMT ~~tax~~ credit DTAs has been established:

a. The CAMT ~~tax~~ credit is ~~an indefinite~~a tax credit ~~carryforward~~DTA that does not expire. As long as the reporting entity is a CAMT payor or is part of a tax-consolidated group that is a CAMT payor, the reporting entity cannot utilize the tax credit.

b. The ability to utilize the CAMT ~~tax~~ credit is contingent on the actions and tax paying behaviors of the consolidated tax return ~~tax-controlled~~ group. Although the reporting entity may be paying sufficient tax above the CAMT threshold, if other parties within the group do not act in a similar manner, putting the group below the CAMT threshold, then the CAMT ~~tax~~ credit cannot be utilized by the reporting entity.

28. With these noted limitations in utilization of the earned tax credits, reporting entities are only permitted to admit CAMT ~~tax~~ credits if the reporting entity tax projections (if a separate tax return filer) or projections of the tax-consolidated group (if a member of such group) indicate that the CAMT ~~tax~~ credit will be realizable within the stated timeframes using the applicable SSAP No. 101, paragraph 11 realization table thresholds[7]. This means that the tax projections, will have sufficient tax liability that permits utilization of the CAMT ~~tax~~ credits. For example, a reporting entity with greater than 300% ExDTA ACL RBC can only admit CAMT ~~tax~~ credits that are expected to be realized (consistent with the tax allocation agreement) in three years. Reporting entities that have ExDTA ACL RBC between 200-300% can only admit CAMT ~~tax~~ credits that are expected to be realized in one year. If a reporting entity cannot project (either on its own if a separate return filer or at the group if a consolidated tax return group member) sufficient tax liability that allows them to utilize the CAMT ~~tax~~ credit within the applicable realizable timeframes for admittance, then the portion of CAMT ~~tax~~ credits that cannot be utilized are required to be nonadmitted under SSAP No. 101, paragraph 11.b. .

29. CAMT ~~tax~~ credits included in the SSAP No. 101, paragraphs 11 and 11.b. calculation as they are expected to be realized within the applicable 1 or 3 year permitted timeframes shall then be combined with non-CAMT adjusted gross deferred tax assets and admitted to the extent that the total DTAs admitted under paragraph 11.b. do not exceed the capital and surplus percentage limit for the company type. All references to SSAP No. 101, paragraph 11b include the modifications in this Interpretation.

30. Reporting entities shall use the Realization Threshold Limitations Tables in SSAP No. 101, paragraph 11.b. as applicable to the entity for determination of the admissibility of the CAMT credits. The percentage limitations of capital and surplus of and the projected realization periods continue to apply to admitted adjusted gross DTAs, including the adjusted gross DTA for any CAMT credit ~~carryforward~~DTA.

31. A reporting entity which meets or exceeds the top line of the applicable of the Realization Threshold Limitation Table (Ex. 3 years and 15%) is **not required** to take the CAMT into account in calculating the "with and without[8]" tax liability for purposes of determining the amount expected to be realized under SSAP No. 101, paragraph 11. b. ~~i.~~ for non-CAMT DTAs. Specifically, the reporting entity's "with and without" regular tax liability is not reduced by CAMT, if any, reasonably expected to be incurred during the SSAP No. 101, paragraph 11.b. applicable period. In the case of a reporting entity included in a consolidated federal income tax return, the amount expected to be incurred refers to the portion of the consolidated CAMT, if any, reasonably expected to be allocable to the reporting entity pursuant to the group's tax allocation agreement. However, any admitted CAMT ~~tax~~ credits in this step must be realizable within the ~~applicant~~ applicable time period specified in the applicable Realization Threshold Limitation Table (Ex, top line - 3 years), determined consistent with the tax allocation agreement. The post-valuation allowance adjusted gross DTA for any CAMT credit ~~carryforward~~ DTA is admitted following the guidance in SSAP No. 101, paragraph 11.b.i. as modified by this Interpretation. The 15% limitation of capital and surplus which is provided in SSAP No. 101, paragraph 11. b. ii. continues to apply to admitted adjusted gross DTAs, including the adjusted gross DTA for any CAMT credit ~~carryforward~~DTA.

[7] The examples in this paragraph reference Ex-DTA ACL RBC, however, SSAP No. 101, paragraph 11.b. also includes realization threshold tables which apply to non-RBC filers.

[8] "With and without" is further described in SSAP No. 101.

32. A reporting entity which meets the second line of the applicable Realization Threshold Limitation Table (Ex. 1 year and 10%), the amount expected to be realized under SSAP No. 101, paragraph 11.b.i. within the applicable period determined under paragraph 11.b. **is based** on the reporting entity's "with and without" regular tax liability reduced by CAMT, if any, reasonably expected to be incurred during the paragraph 11.b. applicable period. In the case of a reporting entity included in a consolidated federal income tax return, the amount expected to be realized is reduced by the portion of the consolidated CAMT, if any, reasonably expected to be allocable to the reporting entity pursuant to the group's ~~TSA~~tax allocation agreement. CAMT credit utilization during the applicable period is recognized based on the same principles, – that is, as an admitted DTA. The purpose of these computations is to account for CAMT in deferred taxes in the same manner as CAMT would be reflected in current taxes.

~~*NAIC Staff Note: The use of the realization threshold limitation tables is consistent with the treatment of other DTAs in SSAP No. 101, paragraph 11b (most entities will use 3 years 15%). NAIC staff suggest this is simpler than trying to create new financial thresholds and realization periods. Overall, the SSAP No. 101 11b admissibility treatment proposed in this INT is the same as existing guidance. This INT allows an exception allowing entities over 300% ex DTA RBC (3 year 15%) to avoid doing "with and without" calculations which determine the impact of CAMT for use of "normal" DTA. This was requested by industry for the higher threshold entities.*~~

33. A reporting entity which meets or is below the third line of the applicable Realization Threshold Limitation Table (Ex. 0 years and 0%), is not permitted to admit either CAMT credit ~~carryforwards~~DTAs or non-CAMT DTAs under SSAP No. 101, paragraph 11.b.

34. The adjusted gross DTA for any CAMT ~~tax~~ credit carryforward which does not qualify for admission under SSAP No. 101, paragraph ~~11. a. or~~ 11. b. is permitted to be recognized as an offset against ~~applicable~~ deferred tax liabilities (DTLs) in accordance with SSAP No. 101, paragraph 11.c. The reporting entity shall admit the remaining amount of adjusted gross DTAs, after application of paragraphs 11.a. and 11.b. that can be offset against existing gross DTLs. The reporting entity shall consider the character (i.e., ordinary versus capital) of the DTAs and DTLs such that offsetting would be permitted in the tax return under existing enacted federal income tax laws and regulations.

Admittance - Projections

35. Projections of CAMT liability, if any, (and CAMT credit utilization) during the applicable period involve forward-looking data, groupings, of assets and liabilities, estimates and other adjustments for both the reporting entity and the group of which it is a member. The manner in which this is done shall be conducted in a reasonable and consistent manner. A reporting entity shall retain internal documentation to support these computations and the methodologies so employed. Modifications to the estimation methodology are permitted should events or circumstances change from a previous period – such as a change in materiality or administrative costs associated with the computations, or system changes that affect the level of detail available. Entities that make such modifications should be prepared to rationalize the changes. Disclosure of material modifications, and the general reason for such, should be made in the notes to the financial statements.[9]

Admittance - Tax Planning Strategies

36. SSAP No. 101 provides that tax-planning strategies are required to be considered in the valuation allowance analysis and may be considered in determining the admission of DTAs under SSAP No. 101,

[9] See paragraph 2.9 of the *SSAP No. 101 Q&A* for similar requirements in the context of grouping of assets and liabilities for measurement.

paragraph 11. For reporting entities that are part of a consolidated tax return group, tax planning strategies impacting the CAMT are determined at a group level, as long as the tax planning strategies at the group level do not conflict with tax planning strategies at the reporting level and vice versa. For reporting entities that are separate tax return filers, a reporting entity must consider tax-planning strategies in making the valuation allowance analysis required under this interpretation.

Transition Guidance

37. Even though the CAMT was enacted in 2022 and generally became effective January 1, 2023, the requirements for statutory tax accounting for the CAMT have effectively been deferred by INT 22-02. This paragraph provides the applicable transition rules for year-end 2023 statutory accounting for requests for a timely-filed ~~TSA~~tax allocation agreement amendment or a new ~~TSA~~tax allocation agreement for the 2023 taxable year.

a. Because the CAMT was newly enacted effective for 2023, ~~TSA~~tax allocation agreements in effect for periods prior to the 2023 taxable year include no explicit provisions relating to the CAMT. Thus, applicable reporting entities (with and without ~~TSA~~tax allocation agreement exclusions) may need to amend ~~TSA~~tax allocation agreements to deal with the CAMT effective for the entire 2023 taxable year. A reporting entity would file a request for amendment to a ~~TSA~~tax allocation agreement or a new ~~TSA~~tax allocation agreement on Form D – Prior Notice of a Transaction as required under the *Insurance Holding Company System Regulatory Act* (Model #440) and the related regulation, (Model #450) with its applicable domiciliary regulator(s) and commercial domiciliary regulator(s).

b. Time is of the essence in both requesting and approving ~~TSA~~tax allocation agreement amendments or a new ~~TSA~~tax allocation agreement relating to the CAMT for the 2023 taxable year to be applicable to the 2023 reporting period. Accordingly, if, a reporting entity files the applicable Form D request(s) for ~~TSA~~tax allocation agreement amendment or a new ~~TSA~~tax allocation agreement prior to the end of 2023 to address the CAMT for 2023 and subsequent taxable years, and the domiciliary regulator~~y has confirmed that they have no~~not provided written objections to using the new ~~TSA~~tax allocation agreement amendment or new ~~TSA~~tax allocation agreement, while under review. The reporting entity shall be allowed to account for the ~~TSA~~tax allocation agreement as applicable for the entire 2023 reporting period.

NAIC staff note: The Working Group will discuss the highlighted paragraph 37b. text. ~~Application of an unsigned agreement prior finalization and approval is inconsistent with statutory accounting contract boundary principles. In addition, we have concerns with providing any guidance which might be perceived as a limitation of the state authority. We have proposed language in paragraph 37b which explicitly defers to the will of the domiciliary state and also requires filing by year end. While NAIC Staff understands the industry's desire for certainty, we don't think it can be provided for an unapproved contract and would alternatively be supportive of deleting this section.~~

c. If the final approved ~~TSA~~tax allocation agreement differs in its treatment of the CAMT allocation from the ~~TSA~~tax allocation agreement originally requested on the Form D, the difference shall be recorded as follows:

i. If Form D approval occurs subsequent to the balance sheet date, but before the issuance of the statutory financial statements and before the date the audited financial statements are issued, or available to be issued, such approval shall be considered a Type I subsequent event within the meaning of SSAP No. 9 – Subsequent Events.

ii. If the Form D approval occurs after the period which defines a subsequent event in SSAP No. 9, the difference created by such approval shall be recognized and disclosed in the period in which the approval is given.

d. The transition guidance in paragraph 37. does not apply to a reporting entity that does not file a Form D request for a CAMT-related ~~TSA~~tax allocation agreement amendment or a new ~~TSA~~tax allocation agreement ~~within~~ prior to the end of 2023.

38. Consistent with *SSAP No. 3—Accounting Changes and Corrections of Errors,* paragraph 4, initial application of this interpretation shall not be considered a change in accounting principle, but instead application of a new principle for the first time.

Disclosures

39. The reporting entity shall disclose whether it is a non-applicable reporting entity; an applicable reporting entity with ~~TSA~~tax allocation agreement exceptions or an applicable reporting entity.

40. Additionally, the following disclosures shall be made in the notes to the financial statements of applicable reporting entities (which do not have ~~TSA~~tax allocation agreement exclusions in accordance with paragraph 11 of this interpretation):

a. If the reporting entity has made an accounting policy election to either consider or disregard CAMT when evaluating the need for a valuation allowance for its ~~regular tax~~ non-CAMT DTAs described in paragraph 22 of this interpretation.

~~b. Application of the Realization Threshold Limitations Tables for the CAMT described in paragraphs 31-33 of this interpretation.~~

~~c.~~b. Any disclosure of material modifications to the methodology used to project~~ions~~ CAMT as ~~is~~ required by paragraph 35 of this interpretation.

41. Relevant disclosures required by SSAP No. 101 also apply including but not limited to, the following:

a. The disclosure of the statutory valuation allowance as required by SSAP No. 101, paragraph 21.

b. The disclosure of tax planning strategies is required by SSAP No. 101. In the disclosure required by SSAP No. 101, paragraph 28.b., 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).

c. Inclusion of CAMT credit ~~carryforwards~~DTAs, if any, in the disclosure required by SSAP No. 101, paragraph 26.a. regarding the origination dates and expiration of tax credit carry forwards.

d. The impact of CAMT ~~tax~~-planning strategies, if any, in the disclosure required by SSAP No. 101, paragraph 22. f.

INT 23-03T: Inflation Reduction Act - Corporate Alternative Minimum Tax

INT 23-03T Status

42. The consensuses in this interpretation are effective beginning with year-end 2023 financial statements and periods thereafter.

43. Further discussion is planned.

~~*NAIC Staff Note: Comments requested regarding whether to add references in SSAP No. 101 scope and / or disclosures section to this INT.*~~

Examples

Basic Facts Used in All Examples

44. The reporting entity is a member of a tax-affiliated group of corporations that files consolidated federal income tax returns which reasonably expects to be an applicable corporation for 20X3.

a. Reporting entity also has $200x of ~~regular tax~~non-CAMT adjusted gross DTAs (i.e., has already reduced by any required valuation allowance of $40x). Of this $200x of which $150x reverses over the 3-year applicable period 20X4-20X6 and is expected to be realized.

b. At the end of 20X3, reporting entity has a $50x CAMT credit ~~carryover~~ DTA (pursuant to the consolidated group's ~~TSA~~tax allocation agreement, reporting entity was allocated a portion of the group's expected 20X3 current CAMT expense, which reporting entity included in its 20X3 current tax expense).

c. The consolidated group of which the reporting entity is a member establishes a $20x valuation allowance against its $50x CAMT credit ~~carryforward~~ DTA, resulting in a CAMT ~~an~~ adjusted gross DTA of $30x that is more likely than not to be realized.

d. The reporting entity makes an accounting policy election to disregard CAMT when evaluating the need for a valuation allowance for its ~~regular tax~~ non-CAMT DTAs.

e. Reporting entity's capital and surplus for purposes of calculating the limitation under SSAP No. 101, paragraph 11.b. ii. is $2,000. Therefore, the 15% of surplus limitation is $300 (based on the top line of the applicable SSAP No. 101 paragraph 11.b. realization threshold limitation table), the 10% limitation is $200 (based on the second line of the applicable SSAP No. 101 paragraph 11.b. realization threshold limitation table).

f. For the purposes of these examples any DTA admittance under SSAP No. 101, paragraphs 11.a. and 11.c. is ignored.

Example 1 – Applicable reporting entity meets or exceeds the top line of the relevant SSAP No. 101, paragraph 11.b. Realization Threshold Limitation table (Ex. 3 years, 15%).

45. The basic facts above apply with the following additional information:

a. For 20x3, the reporting entity exceeds the first line of the applicable realization threshold limitation in SSAP No. 101, paragraph 11.b. for use of a 3-year applicable period and the limitation of capital and surplus is 15%. Pursuant to paragraph 31 of this interpretation, the reporting entity would not have to take the CAMT into account in calculating the "with and without" tax liability for purposes of determining the amount expected to be realized under SSAP No. 101, paragraph 11.b.i.~~.~~

b. The consolidated tax return group ~~reporting entity~~ has assessed and determined that the CAMT ~~tax~~ credit ~~carry forward~~DTA amounts after the valuation allowance of $30x is expected to be utilized in 20x4~~,~~ and 20x5but ~~and~~ $15x of CAMT would be incurred in 20x6. ~~Thereby meeting redeemable within 3 years criteria in SSAP No. 101, paragraph 11b for entities which meet or exceed the top line of the applicable realization threshold limitation.~~

46. The reporting entity admits the $30x adjusted gross DTA for its portion of the allocated CAMT credit ~~carryover~~DTA expected to be utilized within three years and admits the $150x ~~regular tax~~ non-CAMT adjusted gross DTA after valuation allowance than can be utilized within three years ~~of~~. Therefore, the admitted non-CAMT DTA and admitted CAMT ~~tax~~ credit DTA would ~~be~~total $180x ($150 +$30 =$180).

~~46.~~47. Although the consolidated group is expecting to incur CAMT during the 3-year period, the reporting entity does not reduce its non-CAMT admitted DTAs by the $15x the CAMT expected to be allocated under the tax allocation agreement to the reporting entity during the three years (pursuant to paragraph 31 of this Interpretation). Note that if the consolidated tax return group had assessed and determined that only a portion of the CAMT credit DTA after the valuation allowance was expected to be utilized in 20x4 20x5 and 20x6 then the reporting would only admit its allocation (per its tax allocation agreement) of the amount of CAMT credit DTA that will be utilized by the consolidated group during the 3 years.

~~47.~~48. The $180 is less than the $300 15% of surplus limitation in paragraph 11bii., so it is not a limiting factor. (However, if reporting entity's 15% of surplus limitation under paragraph 11.b. ii. was $175x, the reporting entity's admitted adjusted gross DTA would be further reduced to $175).

	DTA	Valuation Allowance	Not Recoverable Within 3 Years	~~Regular~~ DTA Admitted Standalone	Impact of Consol. DTA ~~and VA~~	Admitted DTA under 11bi	15% surplus limitation under 11bii	Non-admitted DTAs
DTAs	240	-40	-50	150		150		50
CAMT credit DTA ~~(excluded)~~	50	-20	0		30	30	-	-
totals	**290**	**-60**	**-50**	**150**	**30**	**180**	**300**	**50**

Example 2. Applicable entity, that meets level 2 on the relevant SSAP No. 101, paragraph 11.b. Realization Threshold Limitation table (Ex.-1 year 10%).

~~48.~~49. The basic facts above apply with the following additional information:

a. For 20x3, the reporting entity meets the second line of the applicable realization threshold limitation in SSAP No. 101, paragraph 11.b. for use of a 1-year applicable period and the limitation of capital and surplus is 10%. Pursuant to paragraph 32 of this interpretation, the reporting entity would have to also apply the with and without calculation of the determination of the impact of the CAMT on the realization of DTAs.

b. The consolidated group of which the reporting entity is a member expects to incur CAMT in 20x4, of which $10 is expected to be allocated under the ~~TSA~~tax allocation agreement to reporting entity. The reporting entity reduces its $150x of ~~regular tax~~non-CAMT admitted adjusted gross DTAs by its $10x share of the consolidated CAMT expected to be incurred in 20x4.

~~49.~~50. The reporting entities admitted DTA would be $140x. The result is an adjusted gross ~~regular~~non-CAMT DTA of $150x, minus the $10 impact of the consolidated ~~DTA~~ CAMT (with and without) equals 140 ~~regular~~ admitted DTA.

~~50.~~51. The resulting $140x of DTA admitted under paragraph 11.b.i., which is less than the $200x paragraph is less than the $200 10% of surplus limitation in paragraph 11bii., so it is not a limiting factor.

	DTA	Valuation Allowance	Not Recoverable Within 1 Year	~~Regular~~ DTA Admitted Standalone	Impact of Consol. DTA and VA	Admitted DTA under 11bi	10% surplus limitation under 11bii	Non-admitted DTAs
DTAs	240	-40	-50	150	-10	140		60
CAMT credit DTA ~~(excluded)~~	50	-20	-30					30
totals	**290**	**-60**	**-80**	**150**	**-10**	**140**	**200**	**90**

Example 3 Applicable entity with qualifying Tax Allocation Agreement ~~SA~~ exclusions

~~51.~~52. The basic facts situation applies.

a. Similar to Example 1, the reporting entity meets the exceeds the first line of the applicable realization threshold limitation in SSAP No. 101, paragraph 11.b. for use of a 3-year applicable period and the limitation of capital and surplus is 15%.

b. The reporting entity is excluded pursuant to the ~~TSA~~tax allocation agreement from any allocation of CAMT or CAMT credit utilization in a qualifying ~~TSA~~tax allocation agreement as described in paragraph 11 of this interpretation.

~~52.~~53. Accordingly, the reporting entity for 20x3, would be excluded from the CAMT calculations, and the reporting entity's admitted adjusted gross DTA would be $150x. which is the amount after the valuation allowance of $40 and the $50 reduction for the amount not recoverable within 3 years.

54. The $150 is less than the $300 15% of surplus limitation in paragraph 11bii., so it is not a limiting factor.

	DTA	Valuation Allowance	Not Recoverable Within 3 Years	~~Regular~~ DTA Admitted Standalone	Impact of Consol. DTA and VA	Admitted DTA under 11bi	15% surplus limitation under 11bii	Non-admitted DTAs
DTAs	240	-40	-50	150		150		50
CAMT credit DTA ~~(excluded)~~	0						-	-
totals	**240**	**-40**	**-50**	**150**		**150**	**300**	**50**

https://naiconline.sharepoint.com/teams/frsstatutoryaccounting/national meetings/a. national meeting materials/2023/9-21-23/03 - 23-04 -int 23-03t camt 9-18-23 edits.docx

Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A

Issue: Corporate Alternative Minimum Tax Guidance

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	☒	☒	☒
New Issue or SSAP	☐	☐	☐
Interpretation	☐	☐	☐

Description of Issue:
The Inflation Reduction Act (Act) was enacted on August 16, 2022, and included a new corporate alternative minimum tax (CAMT). In December 2022, the Working Group adopted temporary guidance to address the CAMT in *INT 22-02: Third Quarter 2022 through First Quar 2023 Reporting of the Inflation Reduction Act - Corporate Alternative Minimum Tax*.

This agenda item is to begin the project of providing guidance regarding the CAMT for periods after the first quarter 2023. Interested parties of the SAPWG have submitted initial informal recommendations to assist with preparing the guidance.

The Act and the CAMT go into effect for tax years beginning after 2022. A high-level summary regarding the CAMT is as follows:

a. The CAMT is 15% of the corporation's "adjusted financial statement income" for the tax year, reduced by corporate alternative minimum foreign tax credit. The CAMT differs from the previous traditional alternative minimum tax (AMT) in that it starts at a financial statement measure (book income) – not an Internal Revenue Code tax calculation.

b. The CAMT will only apply to corporations (determined on an affiliated group basis) with an average adjusted financial statement income in excess of $1 billion for the three prior tax years. This threshold is reduced to $100 million in the case of certain foreign-parented corporations. When a corporation becomes subject to the CAMT, it remains subject to the calculation of the CAMT, even if its average adjusted financial statement income is less than $1 billion, unless an exception applies.

c. A corporation's adjusted financial statement income is the amount of net income or loss the corporation reports on its applicable financial statement. The income is adjusted for various purposes including certain adjustments in the case of consolidated returns or for foreign income tax.

d. The Act includes references to the tax codes which provides a hierarchy for determining the "applicable financial statement." At a high level, the first choice is U.S. generally accepted accounting principles (GAAP) financial statements; the second choice is international financial reporting standards (IFRS) financial statements. If GAAP and IFRS financial statements are not available, the financial statements filed by the taxpayer with any other regulatory or government body is acceptable. If the taxpayer is part of an affiliated group of corporations filing a consolidated return the adjustable financial statement income for the group considers the group's applicable financial statement.

e. To determine its U.S. federal income tax liability, a corporation will need to compute taxes under both systems — the regular tax system and the CAMT system. The CAMT is payable to the extent the tentative CAMT exceeds the regular corporate income tax. The tentative corporate alternative minimum tax will be the excess of the tentative corporate alternative minimum tax over regular income tax + base erosion and anti-abuse tax (BEAT) liability. A foreign tax credit (FTC) will reduce the tentative minimum CAMT. Note that unused FTCs can be carried forward 5 years.

f. General business credits can generally offset up to 75% of regular and minimum tax.

g. Any CAMT paid is available indefinitely as a tax credit carryover that could reduce future regular tax if the regular tax liability plus the base erosion and anti-abuse tax (BEAT) exceeds the tentative minimum tax is in excess of CAMT tax liability. That is, the CAMT tax credit (CAMT DTA) can be used to reduce the regular tax but not below CAMT liability.

h. The Act directs the Treasury to issue regulations and other guidance relate to implementing the CAMT. As of February 2023, several issues are pending detailed clarifications from the Treasury.

The CAMT presents several accounting challenges including:

1. Financial Projections - There will be challenges estimating future applicable financial statement income for a group of companies outside of the reporting entity. In addition, there are challenges related to projecting partnership / alternative investment income for applicable financial statement income projections.

2. Payment of the CAMT creates a deferred tax asset which can be carried forward indefinitely. Determining the future period when the CAMT credit can be used will require projections of future regular tax and CAMT, which may also require information external to the reporting entity.

3. Tax sharing agreements and allocation of the CAMT liability which is determined on a consolidated basis.

4. The CAMT DTA (tax credit) can be used to reduce the general tax liability but not below the CAMT. Therefore, the Working Group will need to review treatment under the statutory valuation allowance and also the interaction of the realizability of the CAMT DTA on other DTAs. That is,use of the CAMT DTA, may reduce the realizability of other DTAs. Related topics are as follows:

    a. Is an estimate of future CAMT required for the determination of DTA realization under the “with and without” calculation? CAMT DTAs would reduce realization under the with and without approach,

    b. Under GAAP, for the analysis of realizably of non-AMT credit deferred tax assets, company may elect to consider or disregard its AMT status as long as it is consistent. If company elects to consider AMT, must book the valuation allowance in the period of enactment (period that includes August of 2022). If material, company has to disclose the accounting policy election.

    c. Admissibility of CAMT DTAs under SSAP No. 101, particularly for the paragraph 11b admissibility calculation, presents challenges.

Existing Authoritative Literature:
SSAP No. 101—Income Taxes provides the federal income tax guidance for statutory accounting.

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups): In December 2022, the Working Group adopted *INT 22-02: Third Quarter 2022 through First Quarter 2023 Reporting of the Inflation Reduction Act - Corporate Alternative Minimum Tax*.

In addition, *INT 22-03: Inflation Reduction Act - Corporate Alternative Minimum Tax* was exposed for comment in October 2022, but not finalized.

In 2019 the Working Group revised the *SSAP No. 101—Income Taxes-Implementation Q&A* to update examples and guidance in response to the federal Tax Cuts and Jobs Act which repealed of the Alternative Minimum Tax in agenda item 2019-09: SSAP No. 101 – Q&A Updates – TCJA.

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group:
None

Convergence with International Financial Reporting Standards (IFRS): None.

Staff Review Completed by: Robin Marcotte– NAIC Staff, February 2023

Staff Recommendation: NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification and direct NAIC staff, to continue to work with industry on developing guidance for the reporting of the CAMT for future Working Group discussion.

The CAMT presents several accounting challenges, Working Group input will be needed on several decisions points including: treatment of tax sharing agreements, consideration regarding the CAMT DTA in the statutory valuation allowance, and the treatment of CMATs DTAs, in the overall DTA admissibility calculation. Staff will also need Working Group input on whether to maintain an RBC threshold for the SSAP No. 101, paragraph 11b admissibility test and the overall extent of admissibility of the CAMT DTAs.

Status:
On March 22, 2023, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a SAP clarification, and directed staff to work with industry on developing guidance for CAMT for interim discussion.

On August 13, 2023, the Statutory Accounting Principles (E) Working Group exposed *INT 23-03: Inflation Reduction Act - Corporate Alternative Minimum Tax* for comment with a proposed effective date of year-end 2023. After discussion, the Working Group also directed that the exposed INT 23-03T, including guidance which provides for the admissibility of CAMT credits under SSAP No. 101, paragraph 11c. should be consistent with the treatment of other DTAs under this step (see exposure paragraph 34).

https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National Meetings/A. National Meeting Materials/2023/8-13-23 Summer National Meeting/Exposures/23-04 - CAMT.docx

Statutory Accounting Principles (E) Working Group
September 21, 2023
Comment Letters Received

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September 12, 2023

Mr. Dale Bruggeman, Chairman
Statutory Accounting Principles Working Group
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

RE: Interested Parties Comments on Items Exposed for Comment with Comments due September 12

Dear Mr. Bruggeman:

Interested parties appreciate the opportunity to comment on the following items that were exposed for comment during the NAIC National Meeting in Seattle by the Statutory Accounting Working Group (the Working Group).

Ref # 2022-11: Collateral for Loans

The Working Group re-exposed this agenda item to allow additional time to submit additional comments regarding the measurement of collateral pledged from SSAP No. 48 and SSAP No. 97 entities, as requested by industry.

Interested parties extend our appreciation to the Working Group for the additional 30 days to consider exposure Reference No. 2022-11—*Collateral for Loans* (the "exposure") and for the opportunity to submit a new comment letter. After further consideration of the exposure, in light of the discussion at the August 13, 2023 Working Group meeting, interested parties continue to support the clarification that collateral pledged to secure a collateral loan must qualify as an admitted asset for the collateral loan itself to qualify as an admitted asset. Therefore, we continue to support the specific clarification that when the collateral pledged to secure a collateral loan would be in the scope of SSAP No. 48 or SSAP No. 97 if held directly by the reporting entity, audited financial statements are required for the collateral (and thus the collateral loan) to qualify as an admitted asset.

Interested parties also agree there should not be optionality in the guidance; however, we believe that fair value, not audited equity value, is the most appropriate measure of the sufficiency of collateral. Fair value is the most representative measure of the value of assets that would be available to support policyholder liabilities in the event a reporting entity forecloses on the pledged collateral. Fair value also reflects the basis that a reporting entity would use to recognize the collateral in its financial statements in the event of foreclosure and the basis used to test collateral loans for impairment. As a result, interested parties propose the following revision to the exposure, which would eliminate the exposed change to the valuation basis used for the collateral test for these types of collateral loans (the underlined red text is the Working Group's currently exposed changes).

b. Nonadmitted Asset – In Accordance with *SSAP No. 20—Nonadmitted Assets*, collateral loans secured by assets that do not qualify as investments which would otherwise be admitted shall be nonadmitted. Further, any amount of the loan outstanding which is in excess of the permitted relationship of fair value of the pledged investment to the collateral loan shall be treated as a nonadmitted asset. ~~For qualifying investments which are pledged as collateral that would be in the scope of SSAP No. 48 or SSAP No. 97 if held directly by the reporting entity, such as joint ventures, partnerships and limited liability companies and investments that would qualify as SCAs if held directly, the proportionate audited equity valuation shall be used for the comparison for the adequacy of pledged collateral. If the collateral loan exceeds the audited equity valuation of these pledged investments, then the excess shall be nonadmitted.~~ To support the admissibility of collateral loans, reporting entities shall maintain documentation sufficient to support the reasonableness of the fair value measurement of the underlying collateral, which shall be made available to the applicable domiciliary regulator and independent audit firm upon request.

Interested parties understand that some insurance regulators have expressed concerns about the uncertainty inherent in fair value measurements, particularly Level 2 and Level 3 measurements, due to the use of unobservable inputs and assumptions, and therefore, would like to see an additional level of third-party validation applied to the fair value measurement of the collateral securing these types of collateral loans. However, we note that these fair value measurements are subject to the same valuation standards per SSAP No. 100R – *Fair Value Measurements*, as all other investments carried at fair value, lower of cost or fair value, or for which the fair value is disclosed in the annual statements and audited financial statements, many of which are also Level 2 and Level 3 measurements. Therefore, interested parties believe it would be appropriate to continue to apply a consistent standard of valuation for all types of investments. Furthermore, interested parties note that the guidance in SSAP No. 21R, which requires the fair value of collateral to equal or exceed the carrying value of the collateral loan, represents an accounting assertion that is subject to audit by each reporting entity's independent auditor. As a result, the fair value measurements underpinning the collateral test are already subject to third-party validation by independent audit firms that either employ qualified valuation experts or would seek the expertise of qualified valuation experts when auditing the admissibility of a reporting entity's collateral loans. Interested parties believe this, along with the clarified requirement for reporting entities to obtain audited financial statements for underlying collateral that represents an interest in an entity within the scope of SSAP No. 48 or SSAP No. 97, provides an appropriate level of assurance and third-party validation that should sufficiently address regulators' concerns without the need to impose a greater cost burden on reporting entities in the form of additional third-party validation requirements..

In summary, interested parties support the proposed clarifications to SSAP No. 21R; however, we believe that fair value remains the best and most appropriate measure of the sufficiency of collateral pledged to secure collateral loans, and we believe the independent audit process provides the necessary level of assurance around these fair value measurements. As a result, we respectfully request that the Working Group revise the exposure to allow reporting entities to continue to use fair value consistently for all types of collateral loans and to continue to apply valuation frameworks and methodologies consistent with current practices and the guidance in SSAP No. 100R.

Ref #2023-12: Residuals in SSAP No. 48 Investments

The Working Group exposed several revisions in the updated July 2023 recommendation. The updated recommendation was based on interim discussions and coordination with industry representatives. We offer the following comments:

For clarity and consistency's sake, once the new bond definition in SSAP Nos. 26R and 43R is effective, ABS Issuer can replace the definition of a residual in SSAP No. 43R paragraph 27 and SSAP No. 48 paragraph 19.

As the Form A for Ref #2013-12 would be effective immediately, we suggest that the effective date of December 21, 2023, be noted in the Form A, as that is what we understand the intent to be. This will give companies time to review their investment portfolios.

We also note that the proposed revisions to Annual Statement Instructions guidance is considered to be accounting in nature as it includes a partial definition of what is meant by "residual". As part of Ref #2023-01: Review Annual Statement Instructions for Accounting Guidance, NAIC staff is proceeding with a broad project to review the annual statement instructions and ensure accounting guidance is included in the related SSAPs**.** The focus of this project is to ensure that the annual or quarterly statement instructions are not the source of statutory accounting guidance. Although the annual statements is not the source of this accounting guidance, inclusion of part of the guidance could be misleading. We suggest the following section highlighted in yellow be deleted.

Schedule BA Annual Statement Instructions:

Residual Tranches or Interests with Underlying Assets Having Characteristics of:
Investment in Residual Tranches or Interests~~, as defined within *SSAP No. 43R—Loan-Backed and Structured Securities or SSAP No. 48—Joint Ventures, Partnerships and Limited Liabilities*~~

~~*Companies*~~ should be assigned to the subcategory with the highest underlying asset concentration. There shouldn't be any bifurcation of the underlying assets among the subcategories.

Include: Residual tranches or interests from securitization tranches and beneficial interests as well as other structures captured in scope of *SSAP No. 43R – Loan-Backed and Structured Securities.*

Investments in joint ventures, partnerships and limited liability companies captured in scope of *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies* that represent residual interests, or that predominantly hold residual interests.

This category shall also include residual interests or residual security tranches within investment structures that are not captured in scope of SSAP No. 43R or SSAP No. 48 but that reflect, in substance, residual interests or residual security tranches.

~~The structural design of a residual interest or residual security tranche can vary, but the overall concept is that they receive 'residual' the remaining cash flows after all debt holders receive contractual interest and principal payments. Determining whether an investment in a structure a security reflects a residual interest or tranche shall be based on the substance of the investment held rather than its legal form. Common characteristics of residual interests / residual security tranches include the items noted below, but the presence of absence of any of these factors should not be definitive in determination. Classification as a residual should be based on the substance of the investment and how cash flows to the holder are determined.~~

a. Residuals often do not have contractual principal or interest.

b. Residuals may be structured with terms that appear to be ~~have~~ stated principal or interest but that lack substance, and ~~with terms that~~ result in receiving the residual cash flows of the underlying collateral. The terms allow for significant variation in the timing and amount of cash flows without triggering a default of the structure.

c. Residuals do not have credit ratings or NAIC assigned designations. Rather, they are first loss positions that provide ~~the~~ subordination to support the credit quality of the typically rated debt tranches.

d. Residuals may provide payment throughout the investment duration (and not just at maturity), but the payments received continue to reflect the residual amount permitted after ~~other~~ debt tranche holders receive contractual principal and interest payments.

e. Frequently, there are contractual triggers that divert cash flows from the residual ~~tranche~~ holders to the debt tranches if the structure becomes stressed.

We also continue to seek clarification on the issues raised in the interested parties comment letter dated July 14, 2023 (copy attached). We understand that the residual definition is related to investment structures that issue debt securities created for the primary purpose of raising debt capital backed by a discrete pool of collateral assets (ABS issuers as defined in paragraph 8 of the current bond exposure in SSAP Nos. 26R) rather than debt issued for liquidity/operating purposes. As a result, interested parties do not believe the intent was to include the following types of investment structures:

- Private Funds (e.g., equity, debt, hedge)- that issued debt for liquidity / operating purposes rather than to raise capital backed by a discrete pool of collateral assets.
- Real Estate Funds (including REITs and JVs) (i.e., considered Issuer Credit Obligations, or "ICOs", in the proposed bond standard)
- Non-US registered Funds (i.e., considered ICOs in the proposed bond standard)
- Other ICOs in the proposed bond definition, such as 40 Act Funds, Business Development Company, Operating Entities, and Holding Companies supported by operating companies.

We request that the Working Group evaluate this issue and provide clarification.

INT 23-02T: Third Quarter 2023 Inflation Reduction Act – Corporate Alternative Minimum Tax

The Working Group reached tentative consensuses to the noted issues included in INT 23-02T for comment. The interpretation recommends that for third-quarter 2023, reporting entities should disclosure whatever information is available regarding the corporate alternative minimum tax and their applicable reporting entity status.

Prior submissions to the Working Group by interested parties in connection with the CAMT have advocated a deferral of statutory financial reporting for the CAMT while permanent guidance is being developed. Accordingly, interested parties is supportive of the provisions of this currently exposed version of INT 23-02T. We note, however, a few edits to the exposed INT that would be helpful for clarification in the attached edited version of the exposure. (Copy is attached.)

Ref #2023-04: Corporate Alternative Minimum Tax Guidance

The Working Group exposed *INT 23-03: Inflation Reduction Act - Corporate Alternative Minimum Tax* for comment with a proposed effective date of year-end 2023. After discussion, the Working Group also directed that the exposed INT 23-03T, including guidance which provides for the admissibility of CAMT credits under SSAP No. 101, paragraph 11c. should be consistent with the treatment of other DTAs under this step (see exposure paragraph 34). The exposure provides a simple and reasonable solution that addresses the nuances of the new alternative tax structure and interested parties commends the Working Group on providing the guidance before year-end.

Interested parties submitted a marked draft of INT 23-03 with comments by email on September 5th to NAIC staff. (Copy is attached.)

The comments provided in this letter and the attached redline version of INT 23-03 are intended to clarify language that could cause misinterpretation within the industry and inconsistency in treatment. Again, interested parties support the overall accounting approach laid out in the INT.

A summary of our comments is as follows:

1) Interested parties suggests a few wording changes for consistency purposes, such as referring to "CAMT tax" as "CAMT" and "CAMT credit carryforwards" as CAMT credit DTAs". These suggested wording changes are not substantive and do not change the underlying meaning of INT 23-03.

2) A reporting entity determines if it will be an applicable corporation on a tax-controlled basis; however, TSAs are completed for consolidated tax return groups. Interested parties suggests changing "tax-controlled" to "consolidated tax return group" depending on the context of the paragraph.

3) The INT refers to the CAMT as indefinite tax credit. To avoid confusion with DTAs that do not reverse, interested parties suggests replacing "indefinite" with "non-expiring".

4) Paragraph 1.h. describes credit usage against CAMT. Foreign tax credits have specific carryforward rules depending on type and to avoid detailing the exact carryforward structure interested parties suggests removing the paragraph.

5) Paragraph 11.c. provides as a criterion that for reporting entities to have a TSA exclusion the TSA must have a term that the reporting entity reasonably expects or has knowledge that related parties under the TSA are meeting their obligations. Interested parties does not believe the requirement provided in 11.c. would exist in a legal document and would thus preclude most companies from the TSA exclusion. The requirement could also be interpreted to imply additional liquidity or going concern documentation is necessary. We believe the intent of 11.c, to reinforce joint and severable liability of tax liabilities, is covered in paragraph 12. We suggest deleting this paragraph.

6) Paragraph 12 states that even with the TSA exclusions, the guidance for joint and severable liabilities under SSAP No. 5, paragraph 5 continues to apply; however, SSAP 5 includes a specific exclusion for taxes in footnote 2. To address the Working Group's concern that the TSA exclusion could be widely interpreted so that reporting entities do not recognize taxes

due of co-obligors unable to meet their tax obligation, we propose referencing SSAP No. 101, paragraph 3.

SSAP No. 101, paragraph 3 states:

> "Income taxes incurred" shall include current income taxes, the amount of federal and foreign income taxes paid (recovered) or payable (receivable) for the current year.

The general definition of when a reporting entity recognizes current income taxes is broad enough to cover taxes paid on behalf of another entity (regular tax or CAMT). We propose referencing SSAP No. 101, paragraph 3 which avoids change to SSAP No. 5, but still allows the Working Group to reinforce the reporting still must recognize any CAMT paid or payable on behalf of a co-obligor.

7) Paragraph 13 provides the general accounting considerations for the CAMT. We suggest replacing the term "expected" in this paragraph with "reasonably estimated" to align with accounting standards.

8) Paragraphs 21.a., 28, and 31 reference the allocation of the CAMT credit DTA (or valuation allowance of the CAMT credit DTA). Interested parties proposes specifically stating that the allocations in these instances are to be made consistent with the TSA. Although the reader should assume as such, this language is intended to provide certainty.

9) Paragraph 24 describes the admissibility of deferred tax assets for CAMT credits. The use of CAMT credits depends on the consolidated tax return group, prompting the exception to SSAP No 4. Interested parties agrees with the concept but proposes wording changes to focus on the CAMT credit DTA instead of the current liability.

10) Paragraph 28 references the SSAP No. 101, paragraph 11 realization tables, as well as the ExDTA ACL RBC percentages used in SSAP No. 101, paragraph 11. We suggest adding a footnote or other clarification for non-RBC reporting entities and replacing "RBC" with "ExDTA ACL RBC".

11) Paragraph 28 provides that CAMT credit DTAs not realizable within the timetables for admittance are required to be non-admitted; however, the CAMT credit DTA could be admitted under SSAP No. 101, paragraph 11.c. Although paragraph 34 specifically allows admittance under SSAP No. 101, paragraph 11.c. interested parties proposes clarifying language to paragraph 28.

12) Paragraph 31 states the reporting entity is not required to take CAMT into account in calculating the "with and without" liability. Interested parties is concerned that because the CAMT credit DTA is evaluated for admittance separate from regular reversing DTAs misinterpretation could arise. In other words, explicitly state CAMT is not taken into account in the "with and with-out" calculation and 11.b. admittance is not reduced by projected

CAMT of the consolidated group (if any) during the three-year reversal period. This additional language is intended to prevent any potential misreading.

13) Paragraph 34 allows the CAMT credit DTAs to be admitted against DTLs in accordance with SSAP No. 101, paragraph 11.c. The language specifies the CAMT credit DTA can only be admitted against "applicable DTLs". We suggest removing "applicable" to avoid misinterpretation that certain DTLs are not applicable. Paragraph 34 also implies that CAMT credit DTAs can be admitted under SSAP No. 101, paragraph 11.a. The CAMT credit cannot be carried back and therefore interested parties suggests removal of the paragraph 11.a. reference.

14) Paragraph 35 details the consideration of tax projections in the admittance of the CAMT credit DTA. Interested parties suggests additional clarifying language to certain phrases. When projecting the CAMT liability, "groupings" is referenced from SSAP No. 101; however, it is more appropriate to state "groupings of assets and liabilities". Also, when describing modifications to the estimates, interested parties suggests "modifications to the estimate process" to avoid misinterpretation that any modification requires disclosure.

15) Paragraph 37.b. provides that if a reporting entity has filed its TSA and the domiciliary regulatory has confirmed that they have no objections to using the new TSA amendment or new TSA, while under review then the reporting entity can account for the TSA as applicable for the 2023 reporting period. Requiring confirmation from regulators while the TSA is under review raises many concerns. First, interested parties does not believe regulators will provide positive confirmation while under review, especially in writing. Without written confirmation audit firms will likely object to a reporting entity following an unapproved TSA which will result in variances in practices depending on the audit firm. For example, the reporting entity could be forced to account for CAMT in its 11.b. with and without calculation or payments of CAMT between related parties could be recharacterized as contributions/dividends. Finally, to obtain confirmation from regulators while the TSA is under review, reporting entities could seek permitted practices. Although permitted practices would provide a sound solution for 2023, they undermine why INT 23-03 was necessary in the first place – to avoid reporting entities establishing individualized policies for accounting for the CAMT.

    Interested parties agrees that if a reporting entity has filed its TSA while under review the reporting entity should follow the TSA for 2023. We propose updated language allowing reporting entities to follow the TSA for 2023 so long as the domiciliary regulator has not provided formal rejection while during the review period. This approach ensures all reporting entities follow their submitted TSAs without petitioning for a permitted practice for one year.

16) Paragraph 40.b. requires disclosure of the Realization Threshold Limitations Tables; however, these tables are already disclosed under SSAP No. 101. Interested parties suggests removing this disclosure.

17) Paragraph 46 illustrates a situation where an applicable reporting entity meets or exceeds the top line of the relevant SSAP No. 101 Realization Threshold Limitation. Interested parties suggests expanded language to parity the other proposed lanugage in this letter. Specifically, we suggest including a year where the consolidated tax return group expects to pay the CAMT to illustrate 11.b. admittance is not impacted. We also suggest including a statement that if only a portion of the CAMT credit DTA is expected utilized then the reporting entity would only admit an allocation of the CAMT credit DTA, determined consistent with the TSA. These additions are intended to bridge our comments to the examples.

* * * *

Please feel free to contact either one of us with any questions you may have.

Sincerely,

D. Keith Bell   Rose Albrizio

cc: Interested parties
NAIC staff

Interpretation of the Statutory Accounting Principles (E) Working Group

INT 23-02T: Third Quarter 2023 Inflation Reduction Act – Corporate Alternative Minimum Tax

INT 23-02T Dates Discussed
August 13, 2023

INT 23-02T References

Current:
SSAP No. 9— Subsequent Events
SSAP No. 101—Income Taxes

INT 23-02T Issue

Key Provisions of the Inflation Reduction Act

1. The Inflation Reduction Act (Act) was enacted on August 16, 2022, and included a new corporate alternative minimum tax (CAMT). The ~~Act and the~~ CAMT is ~~go into~~ effective for tax years beginning after 2022. Reporting entities shall refer to the Act and the resulting regulations and other tax guidance to determine application, but a high-level summary of the CAMT is below.

Commented [A1]: There are many effective date provisions in the various laws enacted as part of the IRA.

a. The tentative CAMT is 15% of the corporation's "adjusted financial statement income" for the tax year, reduced by the corporate alternative minimum foreign tax credit.

b. The CAMT differs from the previous traditional alternative minimum tax (AMT) that applied under pre-2018 tax law in that it starts at a financial statement measure (book income) – not an Internal Revenue Code taxable income calculation. Adjusted financial statement income does not include other comprehensive income including unrealized gains and losses on available for sale securities. The determination of whether the CAMT applies is made on a tax-controlled group basis (scope determination), the tentative CAMT is based on the group's adjusted financial statement income (not adjusted regular taxable income), and any tax due (liability determination) is based on a comparison of consolidated tentative CAMT to consolidated regular tax.

c. The CAMT applies only to corporations (determined on a tax-controlled group basis as defined for federal income tax purposes, this could include standalone unaffiliated entities which meet the specified income thresholds) with average annual adjusted financial statement income in excess of $1 billion for three prior taxable years. The threshold is reduced to $100 million in the case of certain foreign-owned corporations. A corporation that meets the applicable threshold is an "applicable corporation." Applicable corporations generally remain applicable corporations for subsequent taxable years unless certain limited exceptions apply. Applicable corporation status means that CAMT must be tentatively determined and compared to regular tax liability.

d. A corporation's adjusted financial statement income is the amount of net income or loss the corporation reports on its applicable financial statement. The income is adjusted for various purposes including certain adjustments in the case of consolidated returns or for foreign income.

INT 23-02: Inflation Reduction Act – Third Quarter 2023 Corporate Alternative Minimum Tax

e. The Act includes references to the tax code~~s~~ which provides a hierarchy for determining the "applicable financial statement." At a high level, the first choice is U.S. generally accepted accounting principles (GAAP) financial statements; the second choice is international financial reporting standards (IFRS) financial statements. If GAAP and IFRS financial statements are not available, the financial statements filed by the taxpayer with any other regulatory or government body are acceptable. If the taxpayer is part of a tax-controlled group of corporations, the group's applicable financial statement is the applicable financial statement for each member of the group.

f. To determine its U.S. federal income tax liability, an applicable corporation will need to compute taxes under both systems—the regular tax system and the CAMT system. The CAMT is payable to the extent the tentative CAMT exceeds the sum of the regular corporate income tax plus base erosion and anti-abuse tax (BEAT) liability.

g. Any CAMT paid is available indefinitely as a credit carryover that we~~c~~ould reduce future regular tax in future years when the regular tax liability is in excess of CAMT tax liability. That is, the CAMT tax credit can be used to reduce the regular tax but not below CAMT liability.

h. A foreign tax credit (FTC) may~~will~~ reduce the tentative minimum CAMT. Note that unused FTCs may~~can~~ be carried forward for 5 years. General business credits can generally ~~be~~ offset up to 75% of the sum of regular and minimum tax.

Commented [A2]: Not all FTCs get a carryforward, so use of the word "may" is more appropriate here.

2. The Working Group previously issued *INT 22-02: Third Quarter 2022 through Second Quarter 2023 Reporting of the Inflation Reduction Act - Corporate Alternative Minimum Tax* which addressed third quarter 2022 through second quarter 2023. INT 22-02 noted that a reasonable estimate of the CAMT was not possible for those reporting periods and required disclosures.

3. This interpretation is focused on addressing accounting and reporting aspects of the CAMT for third quarter 2023 reporting (reporting period July 1 through September 30, 2023). ~~As most reporting entities will not be above the applicable corporation threshold and will not be subject to the CAMT calculation, this guidance has been developed as an interpretation.~~ While most insurers will not be applicable corporations, this interpretation provides temporary third quarter 2023 statutory accounting guidance for all reporting entities that are or expect to be applicable entities with respect to the CAMT. A separate interpretation is being developed for year-end 2023 and periods thereafter.

Commented [A3]: Seems to be an inadvertent duplication that is not needed given the next sentence.

4. Although it is likely that most insurers that are applicable corporations will be members of a tax-controlled group of corporations and included in a consolidated federal income tax return with other members of the group, this interpretation applies to all applicable reporting entities. For reporting entities subject to the CAMT, this includes an unaffiliated corporation[1] that files a separate tax return, a member of a tax-controlled group not included in the common parent company's consolidated tax return that files a separate company tax return or a separate consolidated tax return with other members of the group, or as a member of the common parent's consolidated return group.

Interpretation Issues

5. *SSAP No. 101—Income Taxes,* paragraph 7.e. requires the statutory valuation allowance adjustment as a direct reduction in the gross DTA if, based on the weight of available evidence, it is more likely than not that some or all of the gross DTAs will not be realized. Gross DTA less the statutory valuation allowance

[1] As used herein, an "unaffiliated" corporation is one that is not a member of a tax-controlled group.

INT 23-02: Inflation Reduction Act - Corporate Alternative Minimum Tax

results in adjusted gross DTAs. The statutory valuation allowance adjustment is not reported as a separate line in the statutory financial statements (it is an off-balance sheet item that reduces the gross DTAs). The statutory valuation allowance is disclosed.

6. The statutory accounting calculation for admissible DTAs is determined using adjusted gross DTAs (gross DTAs reduced by the valuation allowance). For statutory accounting, admittance of adjusted gross DTAs in SSAP No. 101 depends on a three-component calculation, for which the second step limits admittance of adjusted gross DTAs to those that are expected to be realized in a timeframe that does not exceed three years. The actual number of years permitted depends on specifics for each reporting entity (type and other information about the reporting entity), but the maximum timeframe is three years. The last step admits DTAs which can be offset by DTLs.

7. Guidance in *SSAP No. 9—Subsequent Events* requires consideration of Type I and Type II[2] subsequent events through the date of the statutory financial statements and the date of issuance of the audited financial statements, or the date in which audited financial statements are available to be issued. For subsequent events identified after the statutory financial statements reporting date (example September 30) but before the statements are filed (example, November 15), reporting entities are generally required by their domestic state to reflect estimates in ~~amend~~ their filed statutory financial statements. Under this guidance, as additional information is made available on the impact of the Act, or information becomes available to update estimates and assessments, under existing statutory accounting guidance in SSAP No. 9, reporting entities would need to identify updated estimates as a Type I subsequent event in the audited financial statements.

Commented [A4]: If a company has not yet filed their statement, how can they amend it? Edit has been made to reflect Type I subsequent event guidance. The last INT was speaking to changes that occur after the statement is filed but before audited statements are issued since it covered 2022 year end reporting.

Issue 1 – Consideration of the Act for Third Quarter 2023 Financial Statements

8. Under statutory accounting guidance, reporting entities filing statutory financial statements would have to consider the applicability of the CAMT and if applicable, attempt to determine the impact on the statutory valuation allowance as well as assess DTAs for admissibility (e.g., realization timeframe). These elements will be collectively referred to as "calculations impacted by the Act" or "calculations impacted by the CAMT." Exceptions to these calculations impacted by the CAMT have previously been provided under INT 22-02 through second quarter 2023.

9. This interpretation will address the issue for what reporting entities are required to report or disclose regarding the calculations impacted by the CAMT for third quarter 2023 (July 1 through September 30, 2023, financial statements.)

Issue 2 – Consideration of Subsequent Events for Third Quarter 2023 Financial Statements

10. SSAP No. 9 requires consideration of subsequent events through the date of the statutory financial statements and the date of issuance of the audited financial statements, or the date in which audited financial statements are available to be issued. An exception to this requirement has ~~also~~ previously been provided under INT 22-02 through second quarter 2023.

11. For reporting entities that materially revise or establish calculations impacted by the CAMT during the third quarter 2023 or immediately subsequent to the third quarter (including the statutory valuation allowance, the timing of determination of net admitted DTAs, and the determination of the applicability of

[2] A Type I subsequent event relates to an event or transaction that provides additional evidence with respect to conditions that existed at the date of the balance sheet, including the estimates inherent in the process of preparing financial statements. Under SSAP No. 9, entities shall recognize in the financial statements the effects of all material Type I subsequent events. A Type II subsequent event pertains to events or transactions that provide evidence to conditions that did not exist at the balance sheet date but arose after that date. Type II events are disclosed in the financial statements.

INT 23-02: Inflation Reduction Act – Third Quarter 2023 Corporate Alternative Minimum Tax

the CAMT and any related liabilities), this interpretation will address the extent a Type I or Type II subsequent event assessment is required for third quarter 2023 financial reporting.

INT 23-02T Discussion

12. The Statutory Accounting Principles (E) Working Group tentative consensuses to the noted issues are included below.

Response: Issue 1 – Consideration of the Act for Third Quarter 2023~~2~~ Financial Statements

13. Reporting entities that are aware they will be subject to the CAMT would normally have to reflect the effects of the Act on the calculations impacted by the CAMT if reasonably estimable for the third quarter 2023. The Act was adopted in August 2022; however, entities may continue to have a considerable number of unknown variables for September 30, 2023, reporting. As such, the Working Group has determined that a reasonable estimate might not be determinable for third quarter 2023 interim financial statements for the calculations impacted by the CAMT for some entities.

14. If a reporting entity is an applicable corporation and has determined a reasonable estimate, it shall be disclosed. If a reporting entity is an applicable corporation and cannot determine a reasonable estimate, the reporting entity shall disclose that they expect to be an applicable corporation but have not determined a reasonable estimate.

15. Because reasonable estimates of calculations impacted by the CAMT might not be determinable, reporting entities shall only disclose impacts related to CAMT for third quarter 2023 financial statements for which reasonable estimates are possible.~~,~~ If the reporting entity is an applicable corporation, they shall make the following disclosures regarding the CAMT and the Act:

a. A statement regarding whether the reporting entity (or the controlled group of corporations of which the reporting entity is a member) has determined if it expects to be liable for CAMT in 2023. For example:

  i. The reporting entity (or the controlled group of corporations of which the reporting entity is a member) has determined that it does not expect to be liable for CAMT in 2023.

  ii. The reporting entity (or the controlled group of corporations of which the reporting entity is a member) has not determined as of the reporting date if it will be liable for CAMT in 2023. The third quarter 2023 financial statements do not include an estimated impact of the CAMT because a reasonable estimate cannot be made.

  iii. The reporting entity (or the controlled group of corporations of which the reporting entity is a member) has determined that it expects to be liable for CAMT in 2023. The third quarter 2023 financial statements shall disclose the estimated impact of the CAMT.

Response: Issue 2 – Consideration of Subsequent Events for Third Quarter 2023~~2~~ Financial Statements

16. For third quarter 2023 reporting, CAMT updated estimates or other calculations affected by the Act determined subsequent to third quarter statutory financial statement or filing date shall not be recognized as Type I subsequent events. Meaning, ~~amended~~ third quarter financial statements are not required to reflect updated estimates subsequent to the third quarter ~~filing~~reporting date and prior to the filing of the third

quarter financial statements. With the disclosure required under Issue 1, additional subsequent event disclosure (such as what would be required for Type II event) is not required.

17. Reporting entities shall be working in good faith to complete the accounting for the changes adopted under the Act.

INT 23-02T Status

18. The tentative consensuses in this interpretation were adopted on tbd, to provide reporting guidance regarding the calculations impacted by the CAMT and provide limited-scope, limited-time exceptions to the valuation allowance and DTA calculations in response to legislation under SSAP No. 101 as well as Type I subsequent event requirements in SSAP No. 9 for September 30, 2023, statutory reporting. As detailed, the exceptions to SSAP No. 101 and SSAP No. 9 are effective for the third quarter 2023.

19. This interpretation will be automatically nullified on November 16, 2023 and as additional guidance for year end 2023 reporting is being separately developed.

20. Further discussion is planned.

https://naiconline.sharepoint.com/teams/frsstatutoryaccounting/national meetings/a. national meeting materials/2023/8-13-23 summer national meeting/exposures/int 23-02t 3q camt 8-15-23.docx

Interpretation of the
Statutory Accounting Principles (E) Working Group

INT 23-03T: Inflation Reduction Act - Corporate Alternative Minimum Tax

Note: Drafting notes will not be in the final document and are only included to facilitate exposure review.

INT 23-03T Dates Discussed
August 13, 2023

INT 23-03T References

Current:
SSAP No. 4—Assets and Nonadmitted Assets
SSAP No. 9— Subsequent Events
SSAP No. 101—Income Taxes

INT 23-03T Issue

Key Provisions of the Inflation Reduction Act

1. The Inflation Reduction Act (Act) was enacted on August 16, 2022, and included a new corporate alternative minimum tax (CAMT). The ~~Act and the~~ CAMT is ~~go into~~ effective for tax years beginning after 2022. Reporting entities shall refer to the Act and the resulting regulations and other tax guidance to determine application, but a high-level summary of the CAMT is below.

    a. The tentative CAMT is 15% of the corporation's "adjusted financial statement income" for the tax year, reduced by corporate alternative minimum foreign tax credit.

    b. The CAMT differs from the previous traditional alternative minimum tax ~~(AMT)~~ that applied under pre-2018 tax law in that it starts at a financial statement measure (book income) – not an Internal Revenue Code taxable income calculation. Adjusted financial statement income does not include other comprehensive income including unrealized gains and losses on available for sale securities. The determination of whether the CAMT applies is made on a tax-controlled group basis (scope determination), the tentative CAMT is based on the group's adjusted financial statement income (not adjusted regular taxable income), and any tax due (liability determination) is based on a comparison of consolidated tentative CAMT to consolidated regular tax.

    c. The CAMT applies only to corporations (determined on a tax-controlled group basis as defined for federal income tax purposes, this could include standalone unaffiliated entities which meet the specified income thresholds – ~~–~~see paragraph 3) with average annual adjusted financial statement income in excess of $1 billion for three prior taxable years. The threshold is reduced to $100 million in the case of certain foreign-owned corporations. A corporation that meets the applicable threshold is an "applicable corporation." Applicable corporations generally remain applicable corporations for subsequent taxable years unless certain limited exceptions apply. Applicable corporation status means that CAMT must be tentatively determined and compared to regular tax liability.

Commented [A1]: There are many effective date provisions in the various laws enacted as part of the IRA.

Commented [A2]: Suggest removing AMT as it is not used again in the document

Commented [A3]: Updating dash style for consistency

INT 23-03T: Inflation Reduction Act - Corporate Alternative Minimum Tax

d. A corporation's adjusted financial statement income is the amount of net income or loss the corporation reports on its applicable financial statement. The income is adjusted for various purposes including certain adjustments in the case of consolidated returns or for foreign income.

e. The Act includes references to the tax code~~s~~ which provides a hierarchy for determining the ~~“~~applicable financial statement.~~”~~ At a high level, the first choice is U.S. generally accepted accounting principles (GAAP) financial statements; the second choice is international financial reporting standards (IFRS) financial statements. If GAAP and IFRS financial statements are not available, the financial statements filed by the taxpayer with any other regulatory or government body are acceptable. If the taxpayer is part of a tax-controlled group of corporations, the group’s applicable financial statement is the applicable financial statement for each member of the group.

Commented [A4]: Suggesting removal of the quotes as the phrase applicable financial statement is used in d. above without quotes

f. To determine its U.S. federal income tax liability, an applicable corporation will need to compute taxes under both systems – ~~—~~the regular tax system and the CAMT system. The CAMT is payable to the extent the tentative CAMT exceeds the sum of the regular corporate income tax plus base erosion and anti-abuse tax (BEAT) liability.

g. Any CAMT paid is available indefinitely as a credit carryover that w~~e~~ould reduce future regular tax in future years when the regular tax liability is in excess of ~~CAMT tax~~ the tentative CAMT liability. That is, the ~~CAMT tax~~CAMT credit can be used to reduce the regular tax but not below tentative CAMT liability.

Commented [A5]: Replacing CAMT tax with CAMT to avoid redundancy

h. A foreign tax credit (FTC) ~~will~~ may reduce the tentative minimum CAMT. Note that unused FTCs may~~can~~ be carried forward for 5 years. General business credits can generally ~~be~~ offset up to 75% of the sum of regular and minimum tax.

Commented [A6]: Foreign tax credits have specific carryforward rules depending on type. Potential to remove the paragraph.

2. This interpretation is focused on addressing accounting and reporting aspects of the CAMT. As most reporting entities will not be above the applicable corporation threshold and will not be subject to the CAMT calculation, this guidance has been developed as an interpretation. While most insurers will not be applicable corporations, this interpretation provides comprehensive statutory accounting guidance for all reporting entities with respect to the CAMT. This interpretation incorporates a principles-based approach for purposes of statutory accounting for the CAMT.

3. Although it is likely that most insurers that are applicable corporations will be members of a tax-controlled group of corporations and included in a consolidated federal income tax return with other members of the group, this interpretation applies to all reporting entities subject to the CAMT, whether an unaffiliated corporation[1] that files a separate tax return, a member of a tax-controlled group not included in the common parent company’s consolidated tax return that files a separate company tax return or a separate consolidated tax return with other members of the group, or as a member of the common parent’s consolidated return group.

4. For reporting entities that are included in a consolidated tax return, the fundamental statutory tax accounting issue for the CAMT is how to reflect in the reporting entity’s separate company financial statements a portion of what is essentially an add-on tax for a consolidated tax return group that is based on the group’s financial statement income and group tax rate. Even if a member of a tax-controlled group of corporations files its own separate federal income tax return, the tax law does not provide for a separate company scope determination, but rather looks to the tax-controlled group for applicable corporation status and determination of the applicable financial statement.

[1] As used herein, an “unaffiliated” corporation is one that is not a member of a tax-controlled group.

INT 23-03T: Inflation Reduction Act - Corporate Alternative Minimum Tax

INT 23-03T Discussion

5. The discussion along with the Statutory Accounting Principles (E) Working Group tentative consensuses are included below.

Categories of Reporting Entities

6. In an annual determination of applicable corporation status, all reporting entities are separated into one of the following categories:

a. Nonapplicable reporting entities

b. Applicable reporting entities

c. Applicable reporting entities with tax sharing agreement (TSA) exclusions

Nonapplicable Reporting Entities

7. Nonapplicable reporting entities are reporting entities that do not reasonably expect to be an applicable corporation either as a member of a tax-controlled group of corporations[2] or individually as an unaffiliated corporation, for the taxable year that includes the current reporting period. Nonapplicable reporting entities are not required to calculate or recognize a payable for CAMT. If a reporting entity is not subject to pay CAMT, then they will have no CAMT credit DTA~~carryforward~~. For nonapplicable reporting entities, further assessment of the CAMT is not required for current or deferred tax computations, and the remaining accounting components of the interpretation do not apply. Applicable disclosures are required.

Commented [A7]: Suggested wording change for consistency across the INT

8. A reporting entity that was an applicable corporation for the preceding taxable year shall reasonably expect to be an applicable corporation for the current taxable year, unless one of the tax law exceptions to continued applicable corporation status applies.

Applicable Reporting Entities

9. Applicable reporting entities are reporting entities that reasonably expect to be applicable corporations for the taxable year that includes the current reporting period, either individually as an unaffiliated corporation or as a member of a tax-controlled group of corporations[3]. Applicable reporting entities are required to consider CAMT in current and deferred tax computations in the manner set forth in this interpretation.

10. Because CAMT is not payable by an applicable corporation unless it is in excess of regular tax liability, the CAMT calculations for applicable reporting entities within this interpretation may or may not result in different current and deferred income taxes than if the CAMT was not taken into account. (Applicable reporting entities with TSA exclusions that meet the requirements of paragraph 11 of this interpretation shall follow the guidance in paragraph 12 of this interpretation.)

[2] A reporting entity that is a member of a tax-controlled group that does not reasonably expect to be applicable corporation on a group basis is not required to make a separate company determination as the CAMT is determined on a group basis.

[3] Determination of applicable reporting entity within a tax-controlled group is subject to the tax law. A reporting entity within a tax-controlled group is captured with the group's applicable corporation status regardless of if they were excluded from the consolidated tax return and filed their own separate return. For example, if the reporting entity is a life insurance company and i) the group has not made a "life-nonlife" consolidated return election, or ii) the reporting entity has been recently acquired and is excluded from the life-nonlife consolidated return for a period of 5 years.

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Applicable Reporting Entities with TSA Exclusions

11. Applicable reporting entities with TSA exclusions are reporting entities that qualify as an applicable corporation as a member of a tax-controlled group of corporations pursuant to paragraphs 9 and 10 of this interpretation, and is a party to a TSA that is in effect for the reporting period that has all of the following terms:

a. The reporting entity is excluded from charges for any portion of the group's CAMT, and

b. The reporting entity is not allocated any portion of the group's CAMT credit carryover.

c. The reporting entity reasonably expects or has knowledge that the parties liable for the CAMT payables under the TSA are meeting their obligations.

Commented [A8]: Interested parties does not believe the requirement provided in 11c would exist in a legal document and would therefore preclude all companies from the TSA exclusion. The intent of 11.c is already covered in paragraph 12 – we suggest deleting.

12. Reporting entities with TSA ~~CAMT~~ exclusions which qualify under paragraph 11 of this interpretation, are not required to calculate, or recognize CAMT in their current or deferred tax computations. Even with the TSA exclusions, the general current tax liability guidance ~~for joint and several liabilities~~ pursuant to SSAP No. 101, paragraph 3 ~~SSAP No. 5, paragraph 5~~ continues to apply. This guidance requires the reporting entity to recognize the amount the reporting entity has paid or is payable, which includes ~~agreed to pay with the agreements of their co-obligors and~~ any additional amount the reporting entity expects to pay on behalf of its co-obligors.

Commented [A9]: We have received comments & concerns from the firms in regards to the SSAP 5 reference given that SSAP 5 includes a specific exclusion for taxes in footnote 2. The language is also being interpreted to imply additional liquidity/going concern documentation. If we understand the intent of paragraph 12, correctly (to address concern that the TSA exclusion could be widely interpreted so that reporting entities do not recognize taxes due of co-obligors unable to meet their tax obligation), we propose referencing SSAP No. 101, paragraph 3.

NAIC Staff Note: NAIC staff do not believe it is possible for an insurer to completely remove themselves from the joint and several tax liability under the tax law. There is guidance in SSAP No. 5, paragraph 5, that addresses joint and several liabilities. Under that guidance, reporting entities are required to measure and report the liability as the sum of 1) the amount the reporting entity agrees to pay on the basis of agreements among co-obligors and 2) any additional amount the reporting entity expects to pay on behalf of its co-obligors.

Accounting for Applicable Reporting Entities

Impact of Tax Allocation Agreements

13. This interpretation is based on the principle that the statutory accounting for the CAMT for reporting entities included in a consolidated tax return should be matched to the CAMT charges ~~expected~~ reasonably estimated to be paid by the reporting entity and the corresponding CAMT credits ~~expected~~ reasonably estimated to be received by the reporting entity. For such reporting entities, this interpretation applies the provisions of the intercompany tax allocation agreement[4] (also referred to as a tax sharing agreement or TSA) that governs allocation of consolidated taxes to individual members of the group.

Commented [A10]: We suggests wording change to "reasonable estimated" to align with accounting standards.

14. SSAP No. 101, paragraph 16 provides that in the case of a reporting entity that files a consolidated income tax return with one or more affiliates, income tax transactions between the affiliated parties shall be recognized if such transactions are economic transactions as defined in SSAP No. 25; are pursuant to a

[4] SSAP No. 101, paragraphs 16 and 17 provide requirements for tax allocation agreement recognition. Tax allocation agreements are also subject to internal revenue service requirements and are subject to domiciliary regulator review under the Insurance Holding Company System Regulatory Act (Model #440), which also requires that the terms of intercompany agreements be fair and reasonable. In assessing fair and reasonable, state insurance regulators are encouraged to assess the terms of the TSA for allocations to the insurance reporting entity for both CAMT payables and CAMT credit ~~carryforwards~~DTAs.

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written TSA; and income taxes incurred are accounted for in a manner consistent with the principles of FAS 109 ~~(~~the predecessor of what is now ASC 740), as modified by SSAP No. 101.

15. For a reporting entity that is included in a consolidated tax return and is subject to a qualifying TSA which is consistent with paragraphs 16 and 17 of SSAP No. 101, the amount of CAMT payable (expense) or ~~CAMT tax~~CAMT credit ~~carryforward~~ DTA is recognized in accordance with the TSA.

> **NAIC Staff Note:** NAIC staff is aware that reporting entities plan to enter into updated TSA agreements based on the results of the guidance from this INT.

Recognition of CAMT Payable

16. Reporting entities that are applicable corporations, excluding those ~~captured as~~ having qualifying TSA exclusions per paragraph 11 of this interpretation, are required to take CAMT payable into account in the calculation of current income tax expense pursuant to SSAP No. 101. Reporting entities shall accrue the CAMT owed, reflecting the amount owed as a separate return filer or in accordance with the amount allocated through the ~~tax-controlled~~ consolidated tax return group's tax sharing agreement pursuant to paragraph 15 of this INT.

Commented [A11]: Additional replacements of "tax-controlled" with "consolidated tax return" to standardize language.

17. Consistent with SSAP No. 101, paragraph 8, changes in DTAs and DTLs, including changes attributable to changes in tax rates and changes in tax status, if any, shall be recognized as a separate component of gains and losses in unassigned funds (surplus) as "change in net deferred income tax," excluding any change reflected in unrealized capital gains.

18. Paragraph 8.3 of SSAP No. 101 Exhibit A – Implementation Questions and Answers (Q&A) is not applicable to reporting entities subject to CAMT through a tax-controlled group structure. This exclusion is provided due to the consolidated nature of the CAMT calculation. Any theoretical separate entity calculation of the CAMT liability may be unrelated to the actual consolidated tax return computations and to the TSA allocation of liability.

Recognition of CAMT Credit ~~Carryforward~~ ~~Deferred Tax Asset (Future Tax Credit)~~DTAs

Commented [A12]: Replacing Deferred Tax Assets with DTAs

19. Reporting entities shall ~~initially~~ recognize a corresponding DTA which represents the non-expiring ~~indefinite~~ tax credit carryover equal and offsetting to the current CAMT accrued. The ~~CAMT tax~~CAMT credit can be used to reduce regular tax in future years when the regular tax liability is in excess of the ~~CAMT tax~~tentative CAMT liability as permitted under the tax law.

Commented [A13]: We suggest removing "initially" to avoid emphasize.

Commented [A14]: We suggest the term non-expiring to avoid confusion with DTAs that do not reverse.

Impact of CAMT to the Statutory Valuation Allowance

20. *SSAP No. 101—Income Taxes*, paragraph 7.e. requires the statutory valuation allowance adjustment as a direct reduction in the gross DTA if, based on the weight of available evidence, it is more likely than not that some or all of the gross DTAs will not be realized. Gross DTA less the statutory valuation allowance results in adjusted gross DTAs. The statutory valuation allowance adjustment is not reported as a separate line in the statutory financial statements (it is an off-balance sheet item that reduces the gross DTAs). The statutory valuation allowance is disclosed.

21. The determination of a statutory valuation allowance[5] for CAMT credit ~~carryforwards~~ DTAs depends on whether the reporting entity is part of a consolidated tax return group or a separate tax return filer:

[5] Although reporting entities may conclude that the non-expiring ~~indefinite~~ CAMT DTA more likely than not will ultimately be realized, reporting entities will not be able to utilize the tax credit until the reporting entity if a separate tax return filer, or the tax

a. Consolidated Tax Return Group: A reporting entity that is an applicable entity and a member of a consolidated tax return group shall utilize the statutory valuation assessment for the CAMT credit DTA~~carryforward~~ completed at the consolidated tax return group level. A reporting entity is not required to adjust the group statutory valuation allowance for CAMT credit DTA~~carryforward~~s. Rather, the group determined statutory valuation allowance and the resulting credit ~~carryforward~~ DTA deemed to be more likely than not to be realized, is permitted to be allocated (consistent with TSA) to the reporting entity and reflected as an "CAMT credit adjusted gross DTA." The reporting entity shall continue to have a separate statutory valuation allowance calculation for non-CAMT DTAs as required under SSAP No. 101. The combination of the CAMT credit adjusted gross DTA (as received from the group) and the adjusted gross DTAs from non-CAMT DTAs shall equal the total adjusted gross DTAs reviewed for admittance within the scope of this interpretation.

Commented [A15]: Language intended to reinforce that the allocation should be consistent with the TSA

Commented [A16]: Is the intention that this specific phrase is supposed to be used in the footnotes in the blanks? If not, we suggest quotes should be removed.

b. Separate Tax Return Filer: A reporting entity that is an applicable entity and files a separate tax return, is required to complete a statutory valuation allowance for all ~~deferred tax assets~~DTAs, including CAMT credit ~~carryforwards~~DTAs, in determining their total adjusted gross DTAs. (The CAMT credit DTA can be assessed separately from non-CAMT DTAs in determining whether the DTA is more likely than not to be realized.) The total adjusted gross DTAs are then reviewed for admittance within the scope of this interpretation.

22. 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~~ non-~~tax~~CAMT DTAs.[6] The accounting policy election applies for valuation allowance purposes only – that is, in the determination of adjusted gross DTAs other than the CAMT credit~~-related~~ DTAs. This accounting policy election cannot be used to avoid a valuation allowance analysis for CAMT credit ~~carryforward~~ DTAs. The accounting policy election must be disclosed in the notes to the financial statements and applied consistently in subsequent reporting periods.

Admissibility

Admittance - Implications of Group Tax Assessment (Related Parties)

23. For reporting entities that are applicable corporations as they are a member of a tax-controlled group of corporations, the reporting entity may be subject to the CAMT, or be hindered from utilizing the ~~CAMT tax~~CAMT credit, through the actions of their consolidated tax return ~~tax-controlled~~ group related parties. (As noted in footnote 5, although a reporting entity may have earned ~~an indefinite~~a non-expiring tax credit through payment of CAMT, the reporting entity is not eligible to utilize that tax credit until the consolidated tax return ~~tax-controlled~~ group has sufficient tax liability that allows the members of the group to utilize their tax credit. This means that on a group basis they are no longer CAMT payors.) SSAP No. 4 requires assets that are restricted by the action of a related party to be nonadmitted assets.

consolidated group of corporations if the reporting entity is a member of such group , are no longer CAMT payors and have sufficient tax liability that permits the group the ability to use the ~~CAMT tax~~CAMT credits.

[6] Neither SSAP 101, FAS 109 or ASC 740 does not specifically address whether future years' CAMT should be anticipated in a valuation allowance assessment for ~~regular tax~~non-CAMT DTAs. Accordingly, an accounting policy election is allowed for GAAP purposes as to whether to consider or disregard CAMT when evaluating the need for a valuation allowance for non-CAMT~~regular~~ tax DTAs.

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> SSAP No. 4, Footnote 2: If assets of an insurance entity are pledged **or otherwise restricted by the action of a related party, the assets are not under the exclusive control of the insurance entity and are not available to satisfy policyholder obligations due to these encumbrances or other third-party interests. Thus, pursuant to paragraph 2, such assets shall not be recognized as an admitted asset on the balance sheet.** Additional guidance for assets pledged as collateral is included in INT 01-31.

24. A key focus of this interpretation is the admittance of the ~~deferred tax assets~~DTAs for CAMT ~~(future tax~~ credits~~)~~ ~~earned from the payment of the CAMT~~. However, it is recognized that under the existing statutory accounting guidance in SSAP No. 4 a reporting entity recognizing ~~CAMT tax~~CAMT credit DTAs would not be permitted to admit those DTAs~~assets~~ if as part of a consolidated tax return ~~tax-controlled~~ group ~~as~~ the ability to receive those CAMT credits is explicitly linked to the actions of other entities within the group. If the group on a collective basis does not incur enough tax to allow utilization of the tax credits, then the reporting entity cannot use the tax credits ~~as a reduction of tax liability~~, regardless of the income or tax paid by the reporting entity. This aspect is not impacted by the tax sharing agreement. Although the tax sharing agreement may specify how the ~~CAMT tax~~CAMT credits will be allocated among the group, such tax credits allocated to the reporting entity can only be realized when the group qualifies for the credit.

Commented [A17]: We suggest changing the term "earn" to align with previous changes.

Commented [A18]: The use of CAMT credits depends on consolidated tax return group, prompting the exception to SSAP No 4. Interested parties agrees with the concept but proposes the following wording changes to focus on the CAMT credit.

25. For the CAMT credit ~~deferred tax assets~~ adjusted gross DTAs allocated to the reporting entity to be eligible to be admitted~~permitted as admitted assets~~, this interpretation provides an exception to the guidance in SSAP No. 4, footnote 2, recognizing that the impact to ultimately utilize the allocated tax credits is dependent on the actions of the other parties within the group.

Commented [A19]: Suggested language clarification.

Admittance – Adjusted Gross DTAs

26. The guidance in SSAP No. 101 allows admittance of adjusted gross DTAs (gross DTAs reduced by the statutory valuation allowance) pursuant to a three-component calculation, for which the second step limits admittance of adjusted gross DTAs to those that are expected to be realized in a timeframe that does not exceed three years. The actual number of years to realization permitted depends on specifics for each reporting entity (type and other information about the reporting entity), but the maximum timeframe is three years. The last step (SSAP No. 101, paragraph 11.c.) admits DTAs which can be offset by DTLs.

27. Due to the following aspects regarding the ~~CAMT tax~~CAMT credits, specific admittance guidance for the ~~CAMT tax~~CAMT credit DTAs has been established:

a. The ~~CAMT tax~~CAMT credit is ~~an indefinite~~a tax credit ~~carryforward~~DTA that does not expire. As long as the reporting entity is a CAMT payor or is part of a tax-consolidated group that is a CAMT payor, the reporting entity cannot utilize the tax credit.

b. The ability to utilize the ~~CAMT tax~~CAMT credit is contingent on the actions and tax paying behaviors of the consolidated tax return ~~tax-controlled~~ group. Although the reporting entity may be paying sufficient tax above the CAMT threshold, if other parties within the group do not act in a similar manner, putting the group below the CAMT threshold, then the ~~CAMT tax~~CAMT credit cannot be utilized by the reporting entity.

28. With these noted limitations in utilization of the earned tax credits, reporting entities are only permitted to admit ~~CAMT tax~~CAMT credits if the reporting entity tax projections (if a separate tax return filer) or projections of the tax-consolidated group (if a member of such group) indicate that the ~~CAMT tax~~CAMT credit will be realizable within the stated timeframes using the applicable ~~-~~SSAP No. 101, paragraph 11 realization table thresholds. This means that the tax projections, will have sufficient tax liability that permits utilization of the ~~CAMT tax~~CAMT credits. For example, a reporting entity with greater than 300% ExDTA ACL RBC can only admit ~~CAMT tax~~CAMT credits that are expected to be realized

Commented [A20]: Interested parties suggests addressing the tables for Non-RBC reporting entities. Potentially a footnote stating that for Non-RBC reporting entities the references to the same lines in those respective tables.

Commented [A21]: We suggest to include ExDTA ACL for consistency with SSAP 101.

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(consistent with the TSA) in three years. Reporting entities that have ExDTA ACL RBC between 200-300% can only admit ~~CAMT tax~~CAMT credits that are expected to be realized in one year. If a reporting entity cannot project (either on its own if a separate return filer or at the group if a consolidated tax return group member) sufficient tax liability that allows them to utilize the ~~CAMT tax~~CAMT credit within the realizable timeframes for admittance, then the portion of ~~CAMT tax~~CAMT credits that cannot be utilized are ~~required to be~~ nonadmitted under SSAP 101 11.b.

29. ~~CAMT tax~~CAMT credits included in the SSAP No. 101, paragraphs 11 and 11.b. calculation as they are expected to be realized within the applicable 1 or 3 year permitted timeframes shall then be combined with non-CAMT adjusted gross ~~deferred tax assets~~DTAs and admitted to the extent that the total DTAs admitted under paragraph 11.b. do not exceed the capital and surplus percentage limit for the company type. All references to SSAP No. 101, paragraph 11b include the modifications in this Interpretation.

30. Reporting entities shall use the Realization Threshold Limitations Tables in SSAP No. 101, paragraph 11.b. as applicable to the entity for determination of the admissibility of the CAMT credits. The percentage limitations of capital and surplus of and the projected realization periods continue to apply to admitted adjusted gross DTAs, including the adjusted gross DTA for any CAMT credit ~~carryforward~~DTA.

31. A reporting entity which meets or exceeds the top line of the applicable ~~of the~~ Realization Threshold Limitation Table (Ex. 3 years and 15%) is **not required** to take the CAMT into account in calculating the "with and without[7]" tax liability for purposes of determining the amount expected to be realized under SSAP No. 101, paragraph 11. b.~~i~~, for non-CAMT DTAs. Specifically, the reporting entity's "with and without" regular tax liability is not reduced by CAMT, if any, reasonably expected to be incurred during the paragraph 11.b. applicable period. In the case of a reporting entity included in a consolidated federal income tax return, the amount expected to be incurred refers to the portion of the consolidated CAMT, if any, reasonably expected to be allocable to the reporting entity pursuant to the group's TSA. However, any admitted ~~CAMT tax~~CAMT credits in this step must be realizable within the applica~~blent~~ble time period specified in the applicable Realization Threshold Limitation Table (Ex, top line - 3 years), determined consistent with the TSA. The post-valuation allowance adjusted gross DTA for any CAMT credit ~~carryforward~~ DTA is admitted following the guidance in SSAP No. 101, paragraph 11.b.i. as modified by this Interpretation. The 15% limitation of capital and surplus which is provided in SSAP No. 101, paragraph 11. b. ii. continues to apply to admitted adjusted gross DTAs, including the adjusted gross DTA for any CAMT credit ~~carryforward~~DTA.

32. A reporting entity which meets the second line of the applicable Realization Threshold Limitation Table (Ex. 1 year and 10%), the amount expected to be realized under SSAP No. 101, paragraph 11.b.i. within the applicable period determined under paragraph 11.b. **is based** on the reporting entity's "with and without" regular tax liability reduced by CAMT, if any, reasonably expected to be incurred during the paragraph 11.b. applicable period. In the case of a reporting entity included in a consolidated federal income tax return, the amount expected to be realized is reduced by the portion of the consolidated CAMT, if any, reasonably expected to be allocable to the reporting entity pursuant to the group's TSA. CAMT credit utilization during the applicable period is recognized based on the same principles, – that is, as an admitted DTA. The purpose of these computations is to account for CAMT in deferred taxes in the same manner as CAMT would be reflected in current taxes.

NAIC Staff Note: The use of the realization threshold limitation tables is consistent with the treatment of other DTAs in SSAP No. 101, paragraph 11b (most entities will use 3 years 15%). NAIC staff suggest this is simpler than trying to create new financial thresholds and realization periods. Overall, the SSAP No.

[7] "With and without" is further described in SSAP No. 101.

Commented [A22]: Language intended to reinforce that CAMT credits are "realizable" consistent with the TSA

Commented [A23]: We suggest additional language to avoid interpretation that admittance under 11.c. is not allowed.

Commented [A24]: Although the previous sentence states the reporting entity is not required to take CAMT into account in calculating the "with and without" liability, interested parties is concerned that because the CAMT DTA is evaluated for admittance separate from regular reversing DTAs misinterpretation could arise. In other words, CAMT is not taken into account in the "with and with-out" calculation but is 11.b. admittance still reduced by projected CAMT of the consolidated group (if any) during the three-year reversal period? This addition is intended to clarify any potential misreading.

Commented [A25]: Language intended to reinforce that CAMT credits are "realizable" consistent with the TSA. In situations where not all of the CAMT credit is realized within 3 years the reporting entities will need to determine how to allocate the "realized" CAMT credit among co-obligors. This additional language is intended to reinforce the allocation should be done in accordance with the TSA.

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101 11b admissibility treatment proposed in this INT is the same as existing guidance. This INT allows an exception allowing entities over 300% ex DTA RBC (3 year 15%) to avoid doing "with and without" calculations which determine the impact of CAMT for use of "normal" DTA. This was requested by industry for the higher threshold entities.

33. A reporting entity which meets or is below the third line of the applicable Realization Threshold Limitation Table (Ex. 0 years and 0%), is not permitted to admit either CAMT credit ~~carryforwards~~ DTAs or non-CAMT DTAs under SSAP No. 101, paragraph 11.b.

34. The adjusted gross DTA for any ~~CAMT tax~~CAMT credit carryforward which does not qualify for admission under SSAP No. 101, paragraph ~~11. a. or~~ 11. b. is permitted to be recognized as an offset against ~~applicable~~ deferred tax liabilities (DTLs) in accordance with SSAP No. 101, paragraph 11.c. The reporting entity shall admit the remaining amount of adjusted gross DTAs, after application of paragraphs 11.a. and 11.b. that can be offset against existing gross DTLs. The reporting entity shall consider the character (i.e., ordinary versus capital) of the DTAs and DTLs such that offsetting would be permitted in the tax return under existing enacted federal income tax laws and regulations.

Commented [A26]: We suggest removing "applicable" as it could apply some DTLs are not "applicable".

Commented [A27]: Interested parties suggests removing 11.a. The CAMT Credit cannot be carried back and therefore cannot be admitted under 11a.

Admittance - Projections

35. Projections of CAMT liability, if any, (and CAMT credit utilization) during the applicable period involve forward-looking data, groupings of assets and liabilities, estimates and other adjustments for both the reporting entity and the group of which it is a member. The manner in which this is done shall be conducted in a reasonable and consistent manner. A reporting entity shall retain internal documentation to support these computations and the methodologies so employed. Modifications to the estimation methodology are permitted should events or circumstances change from a previous period – such as a change in materiality or administrative costs associated with the computations, or system changes that affect the level of detail available. Entities that make such modifications should be prepared to rationalize the changes. Disclosure of material modifications, and the general reason for such, should be made in the notes to the financial statements.[8]

Commented [A28]: To avoid a broad interpretation of "groups", Interested parties suggests adding language to better align with SSAP 101 terminology.

Commented [A29]: Interested parties suggests this additional language to avoid a broad interpretation of what "modifications" could encompass.

Admittance - Tax Planning Strategies

36. SSAP No. 101 provides that **tax-planning strategies** are required to be considered in the valuation allowance analysis and may be considered in determining the admission of DTAs under SSAP No. 101, paragraph 11. For reporting entities that are part of a consolidated tax return group, tax planning strategies impacting the CAMT are determined at a group level, as long as the tax planning strategies at the group level do not conflict with tax planning strategies at the reporting level and vice versa. For reporting entities that are separate tax return filers, a reporting entity must consider tax-planning strategies in making the valuation allowance analysis required under this interpretation.

Transition Guidance

37. Even though the CAMT was enacted in 2022 and generally became effective January 1, 2023, the requirements for statutory tax accounting for the CAMT have effectively been deferred by INT 22-02. This paragraph provides the applicable transition rules for year-end 2023 statutory accounting for requests for a timely-filed TSA amendment or a new TSA for the 2023 taxable year.

[8] See paragraph 2.9 of the *SSAP No. 101 Q&A* for similar requirements in the context of grouping of assets and liabilities for measurement.

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a. Because the CAMT was newly enacted effective for 2023, TSAs in effect for periods prior to the 2023 taxable year include no explicit provisions relating to the CAMT. Thus, applicable reporting entities (with and without TSA exclusions) may need to amend TSAs to deal with the CAMT effective for the entire 2023 taxable year. A reporting entity would file a request for amendment to a TSA or a new TSA on Form D – Prior Notice of a Transaction as required under the *Insurance Holding Company System Regulatory Act* (Model #440) and the related regulation, (Model #450) with its applicable domiciliary regulator(s) and commercial domiciliary regulator(s).

b. Time is of the essence in both requesting and approving TSA amendments or a new TSA relating to the CAMT for the 2023 taxable year to be applicable to the 2023 reporting period. Accordingly, if, a reporting entity files the applicable Form D request(s) for TSA amendment or a new TSA prior to the end of 2023 to address the CAMT for 2023 and subsequent taxable years, and the domiciliary regulator~~y~~ has ~~confirmed that they have no~~not provided written objections to using the new TSA amendment or new TSA, while under review. The reporting entity shall be allowed to account for the TSA as applicable for the entire 2023 reporting period.

Commented [A30]: Interested parties agrees that if a reporting entity has filed its TSA while under review the reporting entity should follow the TSA for 2023; however, we propose updated language allowing reporting entities to follow the TSA for 2023 so long as the domiciliary regulator has not provided formal rejection while during the review period. This approach ensures all reporting entities follow their submitted TSAs while eliminating disparity in interpretation by audit firms (i.e. some auditors could require formal documentation from regulators while the TSA is under review and if that documentation cannot be obtained there is uncertainty if the TSA can be followed for 2023).

NAIC staff note: Application of an unsigned agreement prior finalization and approval is inconsistent with statutory accounting contract boundary principles. In addition, we have concerns with providing any guidance which might be perceived as a limitation of the state authority. We have proposed language in paragraph 37b which explicitly defers to the will of the domiciliary state and also requires filing by year end. While NAIC Staff understands the industry's desire for certainty, we don't think it can be provided for an unapproved contract and would alternatively be supportive of deleting this section.

c. If the final approved TSA differs in its treatment of the CAMT allocation from the TSA originally requested on the Form D, the difference shall be recorded as follows:

i. If Form D approval occurs subsequent to the balance sheet date, but before the issuance of the statutory financial statements and before the date the audited financial statements are issued, or available to be issued, such approval shall be considered a Type I subsequent event within the meaning of SSAP No. 9 – Subsequent Events.

ii. If the Form D approval occurs after the period which defines a subsequent event in SSAP No. 9, the difference created by such approval shall be recognized and disclosed in the period in which the approval is given.

d. The transition guidance in paragraph 37. does not apply to a reporting entity that does not file a Form D request for a CAMT-related TSA amendment or a new TSA ~~within~~ prior to the end of 2023.

Commented [A31]: Removing duplicative word

38. Consistent with *SSAP No. 3—Accounting Changes and Corrections of Errors,* paragraph 4, initial application of this interpretation shall not be considered a change in accounting principle, but instead application of a new principle for the first time.

Disclosures

39. The reporting entity shall disclose whether it is a non-applicable reporting entity; an applicable reporting entity with TSA exceptions or an applicable reporting entity.

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40. Additionally, the following disclosures shall be made in the notes to the financial statements of applicable reporting entities (which do not have TSA exclusions in accordance with paragraph 11 of this interpretation):

a. If the reporting entity has made an accounting policy election to either consider or disregard CAMT when evaluating the need for a valuation allowance for its ~~regular~~ non-CAMT tax DTAs described in paragraph 22 of this interpretation.

~~b. Application of the Realization Threshold Limitations Tables for the CAMT described in paragraphs 31-33 of this interpretation.~~

~~c.~~b. Any disclosure of material modifications to methodology used to project CAMT ~~ions~~ as is required by paragraph 35 of this interpretation.

Commented [A32]: Interested parties suggests removing 40b disclosure requirement as Realization Threshold Tables are already disclosed under SSAP 101.

Commented [A33]: Suggested wording changes to conform with proposed changes to paragraph 35

41. Relevant disclosures required by SSAP No. 101 also apply including but not limited to, the following:

a. The disclosure of the statutory valuation allowance as required by SSAP No. 101, paragraph 21.

b. The disclosure of tax planning strategies is required by SSAP No. 101. In the disclosure required by SSAP No. 101, paragraph 28.b., 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).

c. Inclusion of CAMT credit ~~carryforwards~~DTAs, if any, in the disclosure required by SSAP No. 101, paragraph 26.a. regarding the origination dates and expiration of tax credit carry forwards.

d. The impact of ~~CAMT tax~~CAMT-planning strategies, if any, in the disclosure required by SSAP No. 101, paragraph 22. f.

INT 23-03T Status

42. The consensuses in this interpretation are effective beginning with year-end 2023 financial statements and periods thereafter.

43. Further discussion is planned.

NAIC Staff Note: Comments requested regarding whether to add references in SSAP No. 101 scope and / or disclosures section to this INT.

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Examples

Basic Facts Used in All Examples

44. The reporting entity is a member of a tax-affiliated group of corporations that files consolidated federal income tax returns which reasonably expects to be an applicable corporation for 20X3.

a. Reporting entity also has $200x of ~~regular tax~~non-CAMT adjusted gross DTAs (i.e., has already reduced by any required valuation allowance of $40x). Of this $200x of which $150x reverses over the 3-year applicable period 20X4-20X6 and is expected to be realized.

b. At the end of 20X3, reporting entity has a $50x CAMT credit ~~carryover~~ DTA (pursuant to the consolidated group's TSA, reporting entity was allocated a portion of the group's expected 20X3 current CAMT expense, which reporting entity included in its 20X3 current tax expense).

c. The consolidated group of which the reporting entity is a member establishes a $20x valuation allowance against its $50x CAMT credit ~~carryforward~~ DTA, resulting in a CAMT~~n~~ adjusted gross DTA of $30x that is more likely than not to be realized.

d. The reporting entity makes an accounting policy election to disregard CAMT when evaluating the need for a valuation allowance for its ~~regular tax~~non-CAMT DTAs.

e. Reporting entity's capital and surplus for purposes of calculating the limitation under SSAP No. 101, paragraph 11.b. ii. is $2,000. Therefore, the 15% of surplus limitation is $300 (based on the top line of the applicable SSAP No. 101 paragraph 11.b. realization threshold limitation table), the 10% limitation is $200 (based on the second line of the applicable SSAP No. 101 paragraph 11.b. realization threshold limitation table).

f. For the purposes of these examples any DTA admittance under SSAP No. 101, paragraphs 11.a. and 11.c. is ignored.

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Example 1 – Applicable reporting entity meets or exceeds the top line of the relevant SSAP No. 101, paragraph 11.b. Realization Threshold Limitation table (Ex. 3 years, 15%).

45. The basic facts above apply with the following additional information:

a. For 20x3, the reporting entity exceeds the first line of the applicable realization threshold limitation in SSAP No. 101, paragraph 11.b. for use of a 3-year applicable period and the limitation of capital and surplus is 15%. Pursuant to paragraph 31 of this interpretation, the reporting entity would not have to take the CAMT into account in calculating the "with and without" tax liability for purposes of determining the amount expected to be realized under SSAP No. 101, paragraph 11.b.i~~-~~.

b. The ~~reporting entity~~consolidated tax return group has assessed and determined that the ~~CAMT tax~~CAMT credit ~~carry forward~~DTA amounts after the valuation allowance of $30x is expected to be utilized in 20x4 and ~~,~~ 20x5 but ~~and~~ $15x of CAMT would be incurred in 20x6. ~~Thereby meeting redeemable within 3 years criteria in SSAP No. 101, paragraph 11b for entities which meet or exceed the top line of the applicable realization threshold limitation.~~

46. The reporting entity admits the $30x adjusted gross DTA for its portion of the allocated CAMT credit ~~carryover~~ DTA expected to be utilized within three years and admits the $150x ~~regular tax~~non-CAMT adjusted gross DTA after valuation allowance than can be utilized within three years~~ of~~. Therefore, the admitted non-CAMT DTA and admitted ~~CAMT tax~~CAMT credit DTA would total~~be~~ $180x ($150 +$30 =$180). Although the consolidated group is expecting to incur CAMT during the 3-year period, ~~but~~ the reporting entity does not reduce its ~~adjusted~~non-CAMT ~~gross~~ admitted DTAs by the $15x~~,~~ the CAMT expected to be allocated under the TSA to the reporting entity during the three years (pursuant to paragraph 31 of this Interpretation). Note that if the consolidated tax return group had assessed and determined that only a portion of the CAMT credit DTA after the valuation allowance was expected to be utilized in 20x4 20x5 and 20x6 then the reporting would only admit its allocation (per its TSA) of the amount of CAMT credit DTA that will be utilized by the consolidated group during the 3 years.

47. The $180 is less than the $300 15% of surplus limitation in paragraph 11bii., so it is not a limiting factor. (However, if reporting entity's 15% of surplus limitation under paragraph 11.b. ii. was $175x, the reporting entity's admitted adjusted gross DTA would be further reduced to $175).

	DTA	Valuation Allowance	Not Recoverable Within 3 Years	~~Regular~~ DTA Admitted Standalone	Impact of Consol. DTA ~~and VA~~	Admitted DTA under 11bi	15% surplus limitation under 11bii	Non-admitted DTAs
DTAs	240	-40	-50	150		150		50
CAMT credit DTA ~~(excluded)~~	50	-20	0		30	30	-	-
totals	**290**	**-60**	**-50**	**150**	**30**	**180**	**300**	**50**

Example 2. Applicable entity, that meets level 2 on the relevant SSAP No. 101, paragraph 11.b. Realization Threshold Limitation table (Ex.-1 year 10%).

48. The basic facts above apply with the following additional information:

Commented [A34]: Interested parties suggested word change to avoid misinterpretation.

Commented [A35]: Updated Example 3 to correlate to language interested parties suggested for paragraph 31.

Commented [A36]: Interested parties suggests additional language to illustrate a situation when not all the CAMT DTA is utilized in the 3 years.

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a. For 20x3, the reporting entity meets the second line of the applicable realization threshold limitation in SSAP No. 101, paragraph 11.b. for use of a 1-year applicable period and the limitation of capital and surplus is 10%. Pursuant to paragraph 32 of this interpretation, the reporting entity would have to also apply the with and without calculation of the determination of the impact of the CAMT on the realization of DTAs.

b. The consolidated group of which the reporting entity is a member expects to incur CAMT in 20x4, of which $10 is expected to be allocated under the TSA to reporting entity. The reporting entity reduces its $150x of ~~regular tax~~non-CAMT admitted adjusted gross DTAs by its $10x share of the consolidated CAMT expected to be incurred in 20x4.

49. The reporting entities admitted DTA would be $140x. The result is an adjusted gross ~~regular~~ non-CAMT DTA of $150x, minus the $10 impact of the consolidated CAMT ~~DTA~~ (with and without) equals 140 admitted~~regular~~ DTA.

50. The resulting $140x of DTA admitted under paragraph 11.b.i., which is less than the $200x paragraph is less than the $200 10% of surplus limitation in paragraph 11bii., so it is not a limiting factor.

	DTA	Valuation Allowance	Not Recoverable Within 1 Year	~~Regular~~ DTA Admitted Standalone	Impact of Consol. DTA and VA	Admitted DTA under 11bi	10% surplus limitation under 11bii	Non-admitted DTAs
DTAs	240	-40	-50	150	-10	140		60
CAMT credit DTA ~~(excluded)~~	50	-20	-30				-	30
totals	**290**	**-60**	**-80**	**150**	**-10**	**140**	**200**	**90**

Example 3 Applicable entity with qualifying TSA exclusions

51. The basic facts situation applies.

a. Similar to Example 1, the reporting entity meets the exceeds the first line of the applicable realization threshold limitation in SSAP No. 101, paragraph 11.b. for use of a 3-year applicable period and the limitation of capital and surplus is 15%.

b. The reporting entity is excluded pursuant to the TSA from any allocation of CAMT or CAMT credit utilization in a qualifying TSA as described in paragraph 11 of this interpretation.

52. Accordingly, the reporting entity for 20x3, would be excluded from the CAMT calculations, and the reporting entity's admitted adjusted gross DTA would be $150x. which is the amount after the valuation allowance of $40 and the $50 reduction for the amount not recoverable within 3 years.

53. The $150 is less than the $300 15% of surplus limitation in paragraph 11bii., so it is not a limiting factor.

	DTA	Valuation Allowance	Not Recoverable Within 3 Years	~~Regular~~ DTA Admitted Standalone	Impact of Consol. DTA and VA	Admitted DTA under 11bi	15% surplus limitation under 11bii	Non-admitted DTAs
DTAs	240		-50	150		150		50

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		-40						
CAMT credit DTA (excluded)	0						-	-
totals	**240**	**-40**	**-50**	**150**		**150**	**300**	**50**

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