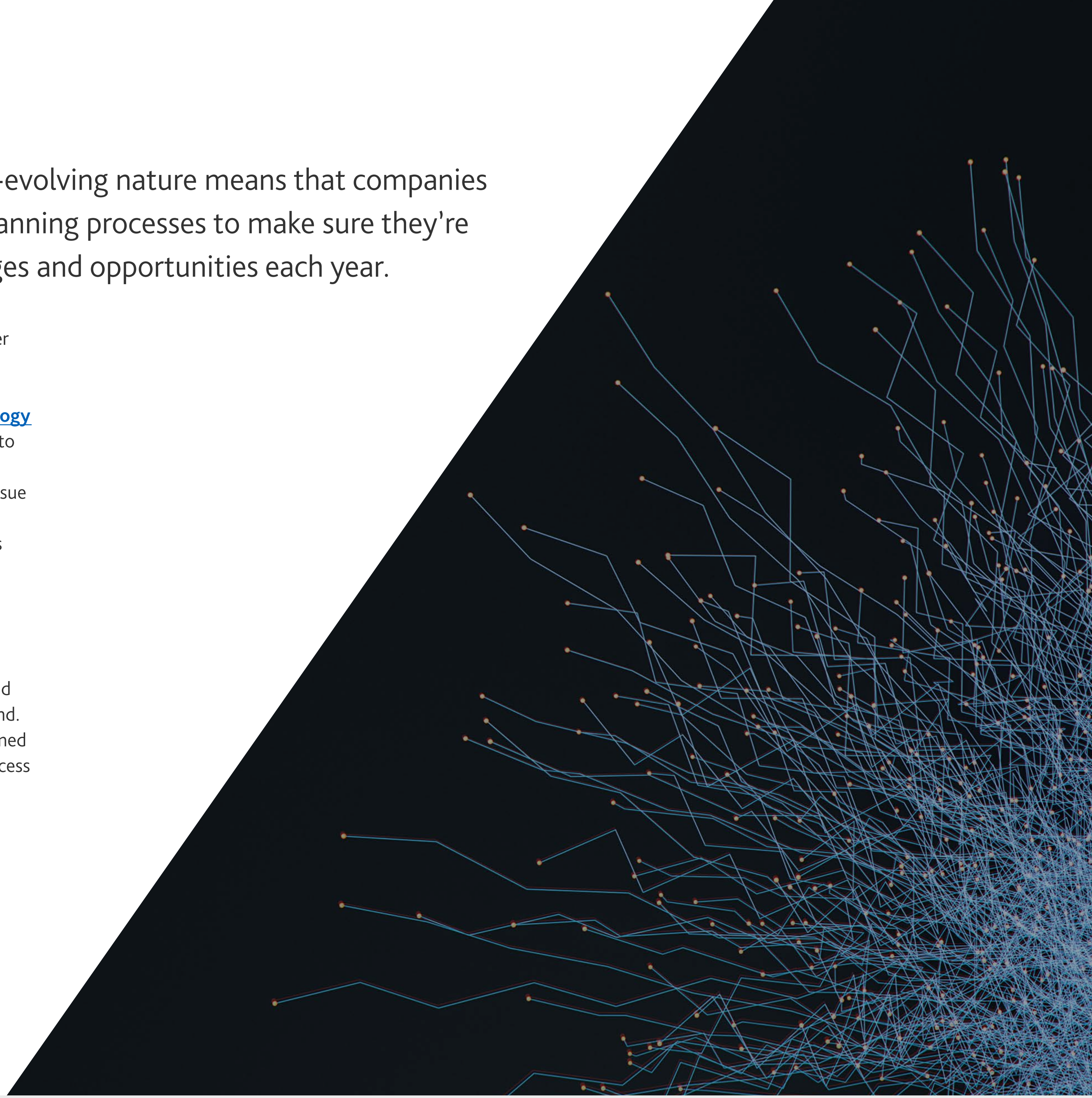
Tech's 2024 Guide to Tax Planning

Tax policy isn’t static — its ever-evolving nature means that companies should continually revisit their planning processes to make sure they’re prepared to address new challenges and opportunities each year.

Tech companies in particular face a significant number of possible tax law changes and challenges in 2024, opening the door for new opportunities and risks. At the same time, according to **BDO’s 2024 Technology CFO Outlook Survey**, just 29% of tech leaders plan to pursue R&D tax credits this year, 49% plan to pursue employment-related incentives, and 54% plan to pursue renewable energy credits. Although there could be a variety of reasons for those numbers, these responses tend to indicate missed tax savings opportunities throughout the industry.

To take advantage of all available opportunities and avoid making costly tax mistakes, tech leaders must understand how the tech tax landscape is evolving and what that means for their business in 2024 and beyond. Armed with this information, leaders can make informed tax planning decisions, leading to a smoother tax process throughout the year.



Tax Changes and Opportunities for Tech Companies

The tax opportunities available to tech companies, as well as their tax obligations, vary significantly depending on where the company is located, where their customers are located, what they sell, how they sell their products and services, and more.

However, there are some tax changes and opportunities that all tech companies should be aware of. We've outlined these items and their potential impact below.

Internal Revenue Code Section 174: Capitalization of Research & Experimental (R&E) Expenditures

Effective for tax years beginning after December 31, 2021, companies are required to amortize the cost of their R&E expenditures over five years (for U.S.-based R&E expenditures) or 15 years (for non-U.S.-based R&E expenditures). However, the U.S. House of Representatives on January 31, 2024, passed a bill — the Tax Relief for American Families and Workers Act of 2024 — that would allow companies to **expense U.S.-based R&E expenditures** in one year, but the bill has yet to pass in the Senate. Even if the Senate approves the bill, foreign expenses would still have to be capitalized and amortized over 15 years.

Bonus Depreciation

Under the Tax Cuts and Jobs Act of 2017, taxpayers were allowed to expense the full cost of qualified property immediately, rather than depreciating it over its useful life. This "bonus depreciation" was in place through 2022, but beginning in 2023, it was scheduled to be reduced by 20% each year and phased out completely in 2027. The bipartisan tax proposal would restore and extend 100% bonus depreciation for qualified property placed in service after December 21, 2022, and before January 1, 2026, and to January 1, 2027, for property that requires a longer production period, as well as certain aircraft. Tech companies should closely monitor this bill as it enters the Senate.

Bonus depreciation increases the benefits of cost segregation. To understand the advantages of performing a cost segregation study, use our **Cost Segregation Calculator**.

R&D Tax Credits to Offset Payroll Tax

Qualified startups and small businesses are eligible to use R&D tax credits to offset their payroll tax liability, rather than just their income tax liability. As of 2023, the **payroll tax offset** amount has been increased from $250,000 to $500,000, which can be instrumental in helping tech startups save cash.

Companies of all sizes — not just startups — can take advantage of R&D tax credits. However, most tech companies report that they're not planning to take advantage of R&D tax credits this year. These credits are relatively accessible for companies of all sizes and can offer companies the opportunity to reduce their total tax liability.

Pillar Two of the Organization for Economic Cooperation and Development's (OECD) Tax Reform Plan

A growing number of jurisdictions have enacted legislation to align with the OECD's Pillar Two rules, which are intended to address base erosion and profit shifting across tax jurisdictions by ensuring that large multinational enterprises pay a minimum tax on income generated in every jurisdiction in which they operate. The U.S. has not adopted the Pillar Two model rules, but that doesn't mean U.S. tech companies can ignore them.

Multinational tech companies with revenue over the EUR 750 million threshold with operations in countries that have adopted the Pillar Two model rules will need to comply with these new requirements. As additional jurisdictions adopt these rules, and potentially make them effective retroactively to January 1, 2024 (as the EU member states have done), more tech companies may need to adhere to the Pillar Two rules. They would need to meet increased reporting and disclosure requirements, potentially including disclosure of 2023 financial statements, and pay a top-up tax if a jurisdiction in which they operate has an effective tax rate below 15% based on the Global Anti-Base Erosion Rules (GloBE) calculation.

With Pillar Two leading to the introduction of new reporting and disclosure requirements in some jurisdictions, companies should reevaluate their tax technology to determine whether they can store and capture the right data to support reporting to comply with these new requirements.

SEC registrants should also evaluate whether Pillar Two presents a material uncertainty that could significantly impact the company's future operations and overall financial position. Public filers should consider adding Management Discussion & Analysis (MD&A) disclosures regarding the scope and nature of Pillar Two effects if they expect its impact to be material to the company's financial results in 2024 and beyond.

Renewable Energy Credits and Incentives under the Inflation Reduction Act (IRA)

The IRA introduced several renewable energy credits and incentives, including the qualifying advanced energy project credit under IRC Section 48C and the advanced manufacturing production credit under IRC Section 45X. Many tech companies may qualify for these credits, but just over half are planning to pursue this type of credit in 2024.

Companies cannot claim the 45X credit for products manufactured at a facility for which they claimed a 48C credit, but vertically integrated businesses could qualify for both. For example, if a company manufactures an individual component from equipment for which it claimed a 48C credit, then uses that component to produce 45X-eligible products with other equipment, the company may be able to claim both credits.

Companies with facilities eligible for both 48C and 45X credits, but that can only claim one, should consider which credit will generate the highest returns over its lifetime. The value of the 45X credit is generally higher over its lifetime than that of the 48C credit, which is limited to the initial award from the federal government. If a company is exploring a sale or raising capital and is trying to get the highest possible valuation for the company, then 45X may be a better choice for the business.

The 48C credit has $6 billion in funding left at this time. Companies interested in pursuing this credit should prepare for Round Two applications, which will open in spring 2024.

State and Local Incentives

A broad range of incentives are available to tech companies based on their location, many of which are designed to attract expansion projects from high-tech companies to bring high-wage jobs to a region. For example, Texas recently introduced the **Jobs, Energy, Technology and Innovation Incentive Program (JETI)** to help incentivize tech companies to bring large-scale capital investment projects to the state. JETI allows an organization to enter into an agreement for a 10-year school district maintenance and operations (M&A) tax appraised value limitation in accordance with statutorily mandated job creation and investment decisions.

New York state offers a refundable income tax credit under its **Qualified Emerging Technology Company Credit Program**. Qualified companies that create new jobs in New York can earn refundable income tax credits every year for a three-year period.

Many states also offer **rebates for withholding taxes**, but these incentives often require companies to locate a majority of their employees in the state. Tech companies need to consider the location of their workforce and what portion of that workforce works remotely when determining what state-level incentives to pursue.

Finally, 30 states have enacted incentives to encourage qualified film production. Many of these states, including Texas and Louisiana, have expanded these incentives to include software development related to media and/or gaming.

Beyond these specific incentives, there are numerous other state and local opportunities that tech companies can consider. Unfortunately, there's no central directory of these opportunities, and many available incentives are not included in the local tax code, making them difficult to find. Identifying all applicable local incentives requires in-depth research. Companies may consider looking for a third-party advisor to help them identify all applicable local incentives.

CHIPS and Science Act Funding

Applications for CHIPS Act funding are currently open, with announcements regarding future funding rounds expected to come later this year. Tech companies that manufacture or support the manufacturing of semiconductor chips should consider **submitting an application** if they haven't already done so. However, potential applicants should be aware that this funding opportunity is highly competitive. Applications must be as strong and comprehensive as possible to secure CHIPS Act funding.

The Power of Planning Ahead

Having taken the time to understand the tax changes and opportunities impacting the tech industry this year, tech leaders can now put that information to good use. A proactive approach to year-round tax planning, rather than waiting until year end to explore opportunities, can help avoid issues and unpleasant surprises during tax season, like large tax bills.

To begin the planning process, tech leaders should consider the following actions:

- **Start with what you already know.**
  Ask yourself what has changed for your company since last year. Helpful questions could include:
  - Have we expanded our operations into new locations?
  - Have we moved our headquarters?
  - Have we added employees in new locations?
  - Are we selling in any new regions?
  - Are we creating or selling any new products or services this year?

Also consider what tax challenges you faced last year, and whether you're likely to encounter similar issues this year. For example, have you traditionally been able to get your apportionment schedules completed? If you can identify potential problems early, you can find proactive solutions.

- **Get ahead of the clock.**
  Companies sometimes come under a time crunch during tax filing season, making the filing process difficult to manage. For a smoother tax filing process, companies need to start much earlier than they think is necessary. To begin, tech companies should determine which tasks can be completed earlier and which need to be completed closer to the tax filing date. Tech leaders should also proactively identify which tasks are the most time-consuming or pose the greatest challenge for their businesses each year, then dedicate resources to address these challenges as early as possible. By spending more time upfront prioritizing tasks and allocating resources, tech companies can reduce the potential errors that occur when teams are operating under a time crunch, while also increasing the chances of meeting all deadlines. As of 2024, over one-third of tech CFOs (36%) admit their tax function has trouble meeting compliance deadlines.

- **Spend more time on estimating your tax payments.**
  Companies that experience a smooth tax filing process spend more time upfront estimating their tax payments, the potential benefits available to them, and what their tax position will look like at the end of the year. These initial investments speed up the tax filing process throughout the year, while also helping anticipate roadblocks and surprises.

Ultimately, the earlier companies begin tax planning, the smoother the tax filing process may be. It's never too soon to start — but it can be too late.

Considering a move or expansion this year?
Read our insight to learn what questions you need to ask to inform the planning process.

READ THE INSIGHT

CONTACT US

HANK GALLIGAN
National Technology Practice Leader
hgalligan@bdo.com

MATTHEW DYMENT
National Technology Tax Leader
mdyment@bdo.com

Our purpose is helping people thrive, every day. Together, we are focused on delivering exceptional and sustainable outcomes and value for our people, our clients and our communities. BDO is proud to be an ESOP company, reflecting a culture that puts people first. BDO professionals provide assurance, tax and advisory services for a diverse range of clients across the U.S. and in over 160 countries through our global organization.