Statutory Accounting Principles (E) Working Group

**Maintenance Agenda Submission Form**

**Form A**

## **Issue:** SSAP No. 101 – DTL Offset

**Check (applicable entity):**

P/C Life Health

Modification of existing SSAP

New Issue or SSAP

Interpretation

Description of Issue: This agenda item has been drafted to consider interested parties’ proposed revisions provided in a December 2018 comment letter related to the application of paragraph 11.c. of *SSAP No. 101—Income Taxes*. Paragraph 11.c is the third component of the deferred tax asset (DTA) admittance calculation. Under this paragraph, admittance is permitted for adjusted gross DTAs (after application of paragraphs 11.a and 11.b) that can be offset against existing gross deferred tax liabilities (DTLs). The guidance in this paragraph requires consideration of tax character, such that offsetting would be permitted in the tax return under existing enacted federal tax laws. Additionally, the guidance indicates that the reporting entity shall consider the reversal patterns of temporary differences; however, this consideration does not require scheduling beyond that required in paragraph 7.e in determining the statutory valuation allowance for gross DTAs. The interested parties’ proposal is to revise the guidance in the SSAP No. 101, Exhibit A Implementation (SSAP No. 101 Q&A) to incorporate their interpretation of the accounting guidance (no revisions are proposed to the SSAP No. 101 statement body). The primary issue in the interested parties’ recommendations relate to the application of wording that stems from paragraph 4.13 in the SSAP No. 101 QA and related paragraph 11.c.

The interested parties’ have indicated that their proposed revisions are to consolidate the guidance on what information needs to be considered for the third step of the admissibility calculation (paragraph 11.c.) which looks at offsetting of DTAs and DTLs. The proposed revisions would be more explicit that consideration of reversal patterns in paragraph 11.c. is not required unless the reversal of temporary differences was considered in assessing for a statutory valuation allowance.

Changes from the Tax Cuts and Jobs Act eliminated the use of ordinary net operating loss tax carrybacks for life entities and also imposed a transitional reserve adjustment which created DTLs that most life companies will be paying over 8 years. Therefore, the issue of known patterns of expected reversal is receiving more scrutiny. The December 2018 interested parties’ comment letter identified that varying interpretations by external audit firms and reporting entities, have resulted in inconsistent treatment. Interested parties note that they are recommending the revisions to promote consistent application.

Excerpts from the interested parties’ December 2018 comment letter are provided below (numbering added for discussion). Interested parties’ proposed revisions are reflected in Appendix A of this agenda item.

In our April 23 letter, we noted that some companies had reported that their external auditors were citing a combination of TCJA’s repeal of the life insurance company ordinary loss carryback with the “known” DTL reversal from the 8-year reserve transition relief as requiring scheduling (i.e., matching of DTA and DTL reversals) in the subsequent 3 years for purposes of the SSAP No. 101 paragraph 11.c. DTA admission test. This could potentially and unnecessarily accelerate recognition of the negative surplus impact of the 8-year transition payment. This was the case even if the company was not required to schedule deferred tax reversals in order to support not establishing a valuation allowance adjustment against ordinary gross DTAs under paragraph 7.e. of SSAP No. 101, and even if the company did not rely on reversal of existing DTLs as a source of income in supporting not establishing a valuation allowance. We noted that the support for this position, while not clearly articulated, appeared to have been based in part on the notion that the same DTAs considered in the paragraph 11.a. and 11.b. admission tests cannot be used in the paragraph 11.c. admission test, a position that in our view is clearly contradicted by paragraph 4.2 of the SSAP No. 101 Q&A. We further noted that this position effectively required a company to redo its valuation allowance analysis considering only one source of taxable income - i.e., DTLs - a source which may not have had to be considered at all in concluding that a valuation allowance was not required in the first place.

In our view, this position highlights the need for certain clarifications in the Q&A which we have set forth in the attachment to this letter and the rationale for which is explained below. We believe that the inconsistent interpretation of the existing Q&A derives primarily from the following two items:

1. What constitutes “scheduling,” “detailed scheduling,” or “additional detailed scheduling.”
2. How “historical and/or currently available information” should be considered in the context of the DTA admission test under paragraph 11.c.

We have proposed language to address these issues. We also have proposed language to further clarify the existing rule that consideration of temporary differences in the calculation of DTAs admitted under paragraphs 11.a. and 11.b.i. does not prevent reconsideration of the same temporary differences in the paragraph 11.c. calculation, subject of course to the subtraction requirement described in paragraph 4.2 of the Q&A to avoid duplication of the amount of DTAs.

*It is important to note that these proposed clarifications to the Q&A should be viewed in the context of* *a reporting entity that has adequate amounts of future taxable income exclusive of future reversals of existing taxable temporary differences to support not establishing a statutory valuation allowance adjustment against ordinary gross DTAs.* As noted in paragraph 2.5 of the Q&A, a reporting entity is not required to consider all four sources of taxable income set forth in paragraph 13 of SSAP No. 101 in determining the need for a statutory valuation allowance adjustment if one or more sources are alone sufficient to support the conclusion that the entity will realize the tax benefits of its gross DTAs (i.e., a conclusion that no statutory valuation allowance is necessary). As noted above, the position advanced by certain audit firms effectively requires such a company to redo its valuation allowance analysis considering only one source of taxable income - its reversing DTLs - when that source of income was superfluous to the determination that gross DTAs will be fully realizable.

The following elements are provided by NAIC staff to assist with discussion:

1. Realizability - Assessing the realizability of tax benefits is required to determine if a statutory valuation allowance shall reduce gross deferred tax assets. As noted in paragraph 7.e of SSAP No. 101, realizability of a tax benefit in determining the valuation allowance to arrive at adjusted gross DTAs is a separate step conducted prior to the determining the amount of the AGDTAs should be treated as admitted assets in paragraph 11. Pursuant to paragraph 13 of SSAP No. 101, the following four possible sources of taxable income may be available to realize a tax benefit:

* Future reversals of taxable temporary differences.
* Future taxable income exclusive of reversing temporary differences and carryforwards.
* Taxable income in prior carryback year(s) if carryback is permitted under the tax law.
* Tax-planning strategies that would, if necessary, be implemented.

Pursuant to the interested parties’ proposed revisions, if a reporting entity does not need to consider the future reversals of taxable temporary differences in determining whether it is more likely than not that all of the gross DTAs will be realized, then reversals will not need to be considered in determining admittance under paragraph 11.c. (As such, it is possible to have enough future income from the other sources without considering reversals.) If reversals are considered in determining whether a SVA is needed (whether or not a SVA is required), then consideration of reversals will need to be considered in determining admittance under paragraph 11.c.

1. SSAP No. 10 - NAIC staff notes that step 3 of the admissibility test in *SSAP No. 10—Income Taxes,* the predecessor to SSAP No. 10R and SSAP No. 101, allowed for offsetting of DTAs and DTLs without regard to reversal patterns. NAIC staff notes that the total of DTAs that most reporting entities currently admit at least matches the total of the DTLs. The historical guidance (superseded) from SSAP No. 10, paragraph 10.c. is excerpted below:

10.c The amount of gross DTAs, after application of paragraphs 10.a. and 10.b. that can be offset against existing gross DTLs.

4.7 Under paragraph 10.c. a reporting entity can admit gross DTAs in an amount equal to the lesser of: (1) its gross DTAs, after subtracting the amount of admitted gross DTAs under paragraphs 10.a. and 10 b., or (2) its gross DTLs, regardless of the expected time of reversal. In determining the amount of gross DTAs that can be offset against existing gross DTLs in the paragraph 10.c. calculation, the character (i.e., ordinary versus capital) of the DTAs and DTLs must be taken into consideration such that offsetting would be permitted in the tax return under existing enacted federal income tax laws and regulations. For example, a gross DTA related to unrealized capital losses could not be offset against an ordinary income DTL. This analysis becomes more critical in situations where a reporting entity does not have sufficient ordinary deduction DTAs to offset existing DTLs.

1. SSAP No. 101 guidance in Paragraphs 7.e and 4.13 - SSAP No. 101 explicitly detailed the concept of the statutory valuation allowance discussed in paragraph 7.e. This revision led to the development of additional guidance in paragraph 4.13 of the SSAP No. 101 QA. Shortly before the revisions were finalized in May 2012 (agenda item 2011-42), the Working Group discussed and rejected interested parties’ proposed revisions to SSAP No. 101 QA, paragraph 4.13, on the topic of scheduling.

Existing Authoritative Literature:

***SSAP No. 101—Income Taxes***

1. A reporting entity’s balance sheet shall include deferred income tax assets (DTAs) and liabilities (DTLs) related to the estimated future tax consequences of temporary differences and carryforwards, generated by statutory accounting, as defined in paragraph 11 of FAS 109.
2. A reporting entity’s deferred tax assets and liabilities are computed as follows:
3. Temporary differences are identified and measured using a “balance sheet” approach whereby statutory and tax basis balance sheets are compared;
4. Temporary differences include unrealized gains and losses and nonadmitted assets but do not include asset valuation reserve (AVR), interest maintenance reserve (IMR), Schedule F penalties and, in the case of a mortgage guaranty insurer, amounts attributable to its statutory contingency reserve to the extent that “tax and loss” bonds have been purchased;
5. Total DTAs and DTLs are computed using enacted tax rates;
6. A DTL is not recognized for amounts described in paragraph 31 of FAS 109; and
7. **Gross DTAs are reduced by a statutory valuation allowance adjustment if, based on the weight of available evidence, it is more likely than not (a likelihood of more than 50 percent) that some portion or all of the gross DTAs will not be realized.** The statutory valuation allowance adjustment[[1]](#footnote-1), determined in a manner consistent with paragraphs 20‑25 of FAS 109[[2]](#footnote-2), shall reduce the gross DTAs to the amount that is more likely than not to be realized (the adjusted gross deferred tax assets).
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)[[3]](#footnote-3). Admitted adjusted gross DTAs and DTLs shall be offset and presented as a single amount on the statement of financial position.

*Note: paragraphs 9-10 are omitted*.

11. The net admitted DTA shall not exceed the excess of the adjusted gross DTA, as determined under paragraph 7.e., over gross DTL. **Adjusted gross DTAs shall be admitted based upon the three-component admission calculation at an amount equal to the sum of paragraphs 11.a., 11.b., and 11.c.:**

1. Federal income taxes paid in prior years that can be recovered through loss carrybacks for existing temporary differences that reverse during a timeframe corresponding with IRS tax loss carryback provisions[[4]](#footnote-4), not to exceed three years, including any amounts established in accordance with the provision of SSAP No. 5R as described in paragraph 3.a. of this statement related to those periods.
2. If the reporting entity is subject to risk-based capital requirements or is required to file a Risk-Based Capital Report with the domiciliary state, the reporting entity shall use the *Realization Threshold Limitation Table – RBC Reporting Entities* (RBC Reporting Entity Table) in this component of the admission calculation. The RBC Reporting Entity Table’s threshold limitations are contingent upon the ExDTA ACL RBC Ratio[[5]](#footnote-5).

If the reporting entity is either a mortgage guaranty insurer or financial guaranty insurer that is not subject to risk-based capital requirements and is not required to file a Risk-Based Capital Report with the domiciliary state and the reporting entity meets the minimum capital and reserve requirements for the state of domicile, then the reporting entity shall use the *Realization Threshold Limitation Table – Financial Guaranty or Mortgage Guaranty Non-RBC Reporting Entities* (Financial Guaranty or Mortgage Guaranty Non-RBC Reporting Entity Table) in this component of the admission calculation. The Financial Guaranty or Mortgage Guaranty Non-RBC Reporting Entity Table’s threshold limitations are contingent upon the following ratio: the numerator is equal to the sum of 1) surplus to policyholders, 2) less the amount of the admitted DTA in paragraph 11.a. (ExDTA Surplus) plus, 3) contingency reserves. The denominator is equal to the required amount of minimum aggregate capital required to be maintained under the applicable NAIC model law or state variation thereof based on the risk characteristics and the amount of insurance in force (Required Aggregate Risk Capital)[[6]](#footnote-6).

If the reporting entity (1) is not subject to risk-based capital requirements, (2) is not required to file a Risk-Based Capital Report with the domiciliary state, (3) is not a mortgage guaranty or financial guaranty insurer, and (4) meets the minimum capital and reserve requirements, then the reporting entity shall use the *Realization Threshold Limitation Table – Other Non-RBC Reporting Entities* (Other Non-RBC Reporting Entity Table). The Other Non-RBC Reporting Entity Table’s threshold limitations are contingent upon the ratio of adjusted gross DTA (Adjusted gross DTA less the amount of DTA admitted in paragraph 11.a.) to adjusted capital and surplus[[7]](#footnote-7).

### Realization Threshold Limitation Table – RBC Reporting Entities

|  |  |  |
| --- | --- | --- |
| ExDTA ACL RBC (%) | 11.b.i. | 11.b.ii. |
| Greater than 300% | 3 years | 15% |
| 200 – 300% | 1 year | 10% |
| Less than 200% | 0 years | 0% |

### Realization Threshold Limitation Table – Financial Guaranty or Mortgage Guaranty Non-RBC Reporting Entities

|  |  |  |
| --- | --- | --- |
| (See paragraph 11.b.)  Ex DTA Surplus plus Contingency Reserves/Required Aggregate Risk Capital (%) | 11.b.i. | 11.b.ii. |
| Greater than 115% | 3 years | 15% |
| 100% to 115% | 1 year | 10% |
| Less than 100% | 0 years | 0% |

### Realization Threshold Limitation Table – Other Non-RBC Reporting Entities

|  |  |  |
| --- | --- | --- |
| Adjusted Gross DTA / Adjusted Capital & Surplus (%) | 11.b.i. | 11.b.ii. |
| Less than 50% | 3 years | 15% |
| 50% to 75% | 1 year | 10% |
| Greater than 75% | 0 years | 0% |

The reporting entity shall admit:

1. The amount of adjusted gross DTAs, after the application of paragraph 11.a.[[8]](#footnote-8), expected to be realized within the applicable period (refer to the 11.b.i. column of the applicable Realization Threshold Limitation Table above; the RBC Reporting Entity Table, the Financial Guaranty or Mortgage Guaranty Non-RBC Reporting Entity Table, or the Other Non-RBC Reporting Entity Table) following the balance sheet date limited to the amount determined in paragraph 11.b.ii.
2. An amount that is no greater than the applicable percentage (refer to the 11.b.ii. column of the applicable Realization Threshold Limitation Table above: the RBC Reporting Entity Table, the Financial Guaranty or Mortgage Guaranty Non-RBC Reporting Entity Table, or the Other Non-RBC Reporting Entity Table) of statutory capital and surplus as required to be shown on the statutory balance sheet of the reporting entity for the current reporting period’s statement filed with the domiciliary state commissioner adjusted to exclude any net DTAs, EDP equipment and operating system software and any net positive goodwill.(INT 01-18) For financial guaranty or mortgage guaranty non-RBC reporting entities, the amount of statutory capital and surplus utilized for this part of the calculation does not include contingency reserves.
3. **The 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. Additionally, for purposes of this component, the reporting entity shall consider the reversal patterns of temporary differences; however, this consideration does not require scheduling beyond that required in paragraph 7.e**.

12. In computing a reporting entity’s admitted adjusted gross DTA pursuant to paragraph 11;

1. For purposes of paragraph 11.a., existing temporary differences that reverse during a timeframe corresponding with IRS tax loss carryback provisions, not to exceed three years, shall be determined in accordance with paragraphs 228 and 229 of FAS 109;
2. In determining the amount of federal income taxes that can be recovered through loss carrybacks, the amount and character (i.e., ordinary versus capital) of the loss carrybacks and the impact, if any, of the Alternative Minimum Tax shall be determined in accordance with the provisions of the Internal Revenue Code, and regulations thereunder;
3. The amount of carryback potential that may be considered in calculating the admitted adjusted gross DTAs of a reporting entity in paragraph 11.a. that files a consolidated income tax return with one or more affiliates, may not exceed the amount that the reporting entity could reasonably expect to have refunded by its parent; and
4. The phrases “reverse during a timeframe corresponding with IRS tax loss carryback provisions, not to exceed three years,” “realized within one year of the balance sheet date” and “realized within three years of the balance sheet date” are intended to accommodate interim reporting dates and reporting entities that file on an other than calendar year basis for federal income tax purposes.

### Realization of Tax Benefits and Tax Planning Strategies

13. Future realization of the tax benefit of an existing deductible temporary difference or carryforward ultimately depends on the existence of sufficient taxable income of the appropriate character (for example, ordinary income or capital gain) within the carryback, carryforward period available under the tax law. **The following four possible sources of taxable income may be available under the tax law to realize a tax benefit for deductible temporary differences and carryforwards**:

1. Future reversals of existing taxable temporary differences
2. Future taxable income exclusive of reversing temporary differences and carryforwards
3. Taxable income in prior carryback year(s) if carryback is permitted under the tax law
4. Tax-planning strategies in paragraph 14 that would, if necessary, be implemented to, for example:
5. Accelerate taxable amounts to utilize expiring carryforwards
6. Change the character of taxable or deductible amounts from ordinary income or loss to capital gain or loss
7. Switch from tax-exempt to taxable investments.

Evidence available about each of those possible sources of taxable income will vary for different tax jurisdictions and, and possibly, from year to year. **To the extent evidence about one or more sources of taxable income is sufficient to support a conclusion that the reporting entity will realize the full or a partial amount of its adjusted gross deferred tax assets, other sources need not be considered. Consideration of each source is required, however, to determine the amount of the statutory valuation allowance adjustment that is recognized for gross deferred tax assets under paragraph 7.e.**

Excerpts from Exhibit A – Implementation Questions and Answers:

Statutory Valuation Allowance Adjustment

2.5 SSAP No. 101 paragraph 7.e. provides that gross DTAs are reduced by a statutory valuation allowance *adjustment* if, based on the weight of available evidence, it is more likely than not that some portion or all of the gross DTAs will not be realized. The statutory valuation allowance adjustment is determined on a separate company, reporting entity basis. The determination of whether gross DTAs will be realized is based on the existence of sufficient taxable income of the appropriate character (ordinary income or capital gain) within the carryback, carryover period available under the tax law. Paragraph 13.a. through 13.d. of SSAP No. 101 identifies four sources of taxable income to be considered in evaluating the existence of sufficient taxable income. These sources are identical to those to be considered under FAS 109 paragraph 21. FAS 109 paragraph 20 provides that “all available evidence, both positive and negative, should be considered to determine whether, based on the weight of that evidence, a valuation allowance is needed. Information about an enterprise’s current financial position and its results of operations for the current and preceding years ordinarily is readily available. That historical information is supplemented by all currently available information about future years. Sometimes, however, historical information may not be available (for example, start-up operations) or it may not be as relevant (for example, if there has been a significant, recent change in circumstances) and special attention is required.” A reporting entity is not required to consider all four sources of taxable income in determining the need for a statutory valuation allowance adjustment if one or more sources are alone sufficient to support the conclusion that the entity will realize the tax benefits of its gross deferred tax assets (i.e., a conclusion that no valuation allowance is necessary). However, the reporting entity is required to consider all of the potential sources of taxable income to determine the amount of the adjustment if a conclusion is reached that a statutory valuation allowance adjustment is necessary. Historical and/or currently available information may exist that is also significant and relevant in determining the amount of the DTAs admitted under paragraph 11 of SSAP No. 101. This historical and/or currently available information must also be considered when determining the amount of DTAs admitted under paragraph 11 of SSAP No. 101, irrespective of the conclusion reached in establishing or not establishing a statutory valuation allowance adjustment. See Question 4.13 for specific guidance on the admissibility of DTAs under paragraph 11.c. of SSAP No. 101.

2.6 Footnote 1 to paragraph 7.e. of SSAP No. 101 indicates that a reporting entity shall consider reversal patterns of temporary differences, and might be required to schedule such differences:

…to the extent necessary to support establishing or not establishing a valuation allowance adjustment, determined in accordance with paragraphs 228 and 229 of FAS 109. For purposes of this accounting statement, consideration of reversal patterns does not require scheduling beyond that necessary to support establishing or not establishing a valuation allowance adjustment.

Paragraph 228 of FAS 109 generally holds that a company may need to schedule its temporary differences to determine the particular years in which the reversal of temporary differences is expected to occur. As discussed in Question 5b, paragraph 229 of FAS 109 indicates that future originating temporary differences and their subsequent reversal should be considered in determining the existence of future taxable income.

2.7 Although a reporting entity may need to consider the reversal pattern of temporary differences in evaluating the need for a statutory valuation allowance adjustment, scheduling the reversal pattern of such differences is not required in every instance. Under SSAP No. 101 and consistent with FAS 109, a general understanding of reversal patterns is, in many cases, relevant in assessing the need for a valuation allowance. Judgment is crucial in making this assessment. The amount of scheduling, if any, that will be required will depend on the facts and circumstances of each situation. For example, a reporting entity which relies upon future taxable income exclusive of reversing temporary differences and carryforwards[[9]](#footnote-9) for realization of DTAs is not required to schedule the reversal pattern of its existing temporary differences. This is consistent with guidance provided by the Financial Accounting Standards Board (FASB) in its answer to question 2 of *A Guide to Implementation of Statement 109 on Accounting for Income Taxes: Question and Answers* (Special Report on Statement 109) which states that scheduling of existing temporary differences is unnecessary for purposes of determining the need for a valuation allowance “where it can be easily demonstrated that future taxable income will more likely than not be adequate to realize future tax benefits of existing deferred tax assets.” In contrast, a reporting entity which relies upon the future reversal of existing taxable temporary differences to realize the tax benefits of its deductible temporary differences and carryforwards may be required to consider the reversal patterns of its taxable temporary differences.[[10]](#footnote-10) The degree of scheduling required, however, depends on the facts and circumstances of each situation and the relative magnitude of the taxable and deductible temporary differences. In certain situations, the ability to reasonably conclude that reversing taxable temporary differences will more likely than not create sufficient taxable income to realize reversing deductible temporary differences can be done without detailed scheduling.[[11]](#footnote-11)

2.8 If scheduling is considered necessary, the amount of scheduling required will depend on the particular facts and circumstances and be subject to judgment. There may be more than one acceptable approach. The FASB’s answer to question 1 of the Special Report on Statement 109 indicates that the following concepts underlie the determination of reversal patterns under Statement 109:

a. The particular years in which temporary differences result in taxable or deductible amounts generally are determined by the timing of the recovery of the related asset or settlement of the related liability’ (paragraph 228).

b. The tax law determines whether future reversals of temporary differences will result in taxable and deductible amounts that offset each other in future years’ (paragraph 227).

In addition, the FASB noted that “minimizing complexity is an appropriate consideration in selecting a method for determining reversal patterns”[[12]](#footnote-12), but that the methods used must be systematic and logical and should be consistently applied for all similarly categorized temporary differences and from year to year. Furthermore, the same method should be utilized in determining the reversal patterns in every taxing jurisdiction for which the temporary difference exists.

4a. Q – How should a reporting entity calculate the amount of its admitted adjusted gross DTAs? [Paragraph 11]

4.1 A – After a reporting entity has calculated the amount of its adjusted gross DTAs and gross DTLs pursuant to paragraph 7, it must determine the amount of its adjusted gross DTAs that can be admitted under paragraph 11. The amount of adjusted gross DTAs is not recalculated under paragraph 11; rather, some or all of the adjusted gross DTA may not be currently admitted.

4.2 Paragraphs 11.a., 11.b. and 11.c. require three interdependent calculations or components that when added together equals the amount of the reporting entity’s admitted adjusted gross DTAs. Each of the calculations starts with the total of the reporting entity’s adjusted gross DTAs and determines the amount of such adjusted gross DTAs that can be admitted under that part. For example, the consideration of existing temporary differences in the calculation of admitted adjusted gross DTAs under paragraph 11.a., does not prevent the reconsideration of the same temporary differences in the paragraph 11.b.i. calculation. However, to avoid duplication of admitted adjusted gross DTAs when adding the three parts together, the amount of admitted adjusted gross DTAs under paragraph 11.a. must be subtracted from the amount of adjusted gross DTAs in the paragraph 11.b.i. calculation. Similarly, the amount of admitted adjusted gross DTAs under paragraphs 11.a. and 11.b. must be subtracted from the total adjusted gross DTAs in the paragraph 11.c. calculation.

First Component – Admission Based on Previously Paid Taxes [Paragraph 11.a.]

4.3 Under paragraphs 11.a. and 12.b., a reporting entity can admit adjusted gross DTAs to the extent that it would be able to recover federal income taxes paid in the carryback period, by treating existing temporary differences that reverse during a timeframe corresponding with Internal Revenue Code tax loss carryback provisions[[13]](#footnote-13), not to exceed three years as ordinary or capital losses that originated in each such subsequent year. The reversing temporary differences are specific to each year in which they reverse, and in turn, to the specific year(s) to which they can be carried back corresponding with tax loss carryback provisions. Reversing temporary differences for unrealized losses and nonadmitted assets are treated as capital or ordinary losses depending on their character for tax purposes. The entity is not required to project an actual net operating loss in future periods. This first component of admission is available to all entities, regardless of whether they meet any of the threshold limitations in paragraph 11.b. for reversals expected to be realized against future taxable income.

4.4 Paragraph 12.b. limits the amount of federal income taxes recoverable under paragraph 11.a. to the amount that would be refunded to the reporting entity if a carryback claim was filed with the Internal Revenue Service (IRS). If some amount of taxes paid in the carryback period is not recovered because of limitations imposed by the Alternative Minimum Tax system, the resulting AMT credit is not treated as a newly created DTA. Paragraph 12.c. further limits the amount of federal income taxes recoverable under paragraph 11.a. for a reporting entity that files a consolidated income tax return with one or more affiliates, to the amount that the reporting entity could reasonably expect to have refunded by its parent. See Question 8 for a further discussion of the impact of filing a consolidated federal income tax return.

Second Component – Admission Based on Projected Future Tax Savings [Paragraph 11.b.]

4.5 The amount of a reporting entity’s adjusted gross DTAs that can be admitted pursuant to paragraph 11.b. is in part, dependent on the amount of the reporting entity’s adjusted capital and surplus. Accordingly, a reporting entity must determine which Realization Threshold Limitation Table set forth in paragraph 11.b. is applicable to the reporting entity and then, based on its respective facts, determine what applicable period to apply under paragraph 11.b.i. and applicable percentage to use under paragraph 11.b.ii.

4.6 If the reporting entity is subject to risk-based capital requirements or is required to file a Risk-Based Capital Report with the domiciliary state, it should use the RBC Reporting Entity Table set forth in paragraph 11.b. Threshold limitations for this table are contingent upon the ExDTA ACL RBC ratio. See Question 4b for a discussion on the ExDTA ACL RBC ratio.

4.7 If the reporting entity is (1) either a mortgage guaranty insurer or financial guaranty insurer that is not subject to risk-based capital requirements, (2) is not required to file a Risk-Based Capital Report with the domiciliary state, and (3) the reporting entity meets the minimum capital and reserve requirements[[14]](#footnote-14) for the state of domicile, then it should use the Financial Guaranty or Mortgage Guaranty Non-RBC Reporting Entity Table set forth in paragraph 11.b. Threshold limitations for this table are contingent upon the ratio of ExDTA Surplus plus contingency reserves divided by the minimum aggregate capital required (see further detail in paragraph 11.b.).

4.8 If the reporting entity (1) is not subject to risk-based capital requirements, (2) is not required to file a Risk-Based Capital Report with the domiciliary state, (3) is not a mortgage guaranty or financial guaranty insurer, and (4) meets the minimum capital and reserve requirements[[15]](#footnote-15), it should use the Other Non-RBC Reporting Entity Table set forth in paragraph 11.b. Threshold limitations for this table are contingent upon the ratio of adjusted gross DTA less the amount of adjusted gross DTA admitted in paragraph 11.a. to adjusted capital and surplus.

4.9 The amount of admitted adjusted gross DTAs under paragraph 11.b.i., is limited to the amount that the reporting entity expects to realize within the applicable period as determined using the applicable Realization Threshold Limitation Tablefollowing the balance sheet date. See Question 6 for a further discussion of the meaning of “expected to be realized.” The amount of admitted adjusted gross DTAs under the paragraph 11.a. calculation is subtracted from the amount of adjusted gross DTAs under paragraph 11.b.i., to prevent the counting of the same admitted adjusted gross DTAs more than once. If the reporting entity expects to realize an amount of adjusted gross DTAs under paragraph 11.b.i. that is equal to or less than the admitted adjusted gross DTAs calculated under paragraph 11.a., then the resulting admitted adjusted gross DTAs under paragraph 11.b.i. will be zero.

4.10 The reference to applicable period following the balance sheet date in 4.9 refers to the paragraph 11.b.i. column of the applicable Realization Threshold Limitation Table, the RBC Reporting Entity Table, the Financial Guaranty or Mortgage Guaranty Non-RBC Reporting Entity Table or the Other Non-RBC Reporting Entity Table.

4.11 The amount of admitted adjusted gross DTAs under paragraph 11.b.i. is also limited to an amount that is no greater than the applicable percentage of adjusted statutory capital and surplus specified in paragraph 11.b.ii. See Question 4c for a discussion of the meaning of “an amount that is no greater than”.

4.12 The reference to an amount no greater than the applicable percentage of statutory capital and surplus in 4.11 refers to the 11.b.ii. column of the applicable Realization Threshold Limitation Table; the RBC Reporting Entity Table, the Financial Guaranty or Mortgage Guaranty Non-RBC Reporting Entity Table or the Other Non-RBC Reporting Entity Table.

Third Component – Admission Based on Offset Against DTL [Paragraph 11.c.]

4.13 Under paragraph 11.c., a reporting entity can admit adjusted gross DTAs as an offset against gross DTLs in an amount equal to the lesser of: (1) its adjusted gross DTAs, after subtracting the amount of admitted adjusted gross DTAs under paragraphs 11.a. and 11.b., or (2) its gross DTLs. In determining the amount of adjusted gross DTAs that can be offset against existing gross DTLs in the paragraph 11.c. calculation, the character (i.e., ordinary versus capital) of the DTAs and DTLs must be taken into consideration such that offsetting would be permitted in the tax return under existing enacted federal income tax laws and regulations. For example, an adjusted gross DTA related to unrealized capital losses could not be offset against an ordinary income DTL. Ordinary DTAs can be admitted by offset with ordinary DTLs and/or capital DTLs. However, capital DTAs can only be admitted by offset with capital DTLs. In addition to consideration of the character of the DTAs and DTLs, significant and relevant historical and/or currently available information may exist specific to the remaining adjusted gross DTAs and gross DTLs. This information must also be taken into consideration when determining admission by offset with gross DTLs. As stated in paragraph 11.c., “for purposes of this component, the reporting entity shall consider the reversal patterns of temporary differences; however, this consideration does not require scheduling beyond that required in paragraph 7.e.” This consideration requires a scheduling exercise if scheduling is needed for determination of the statutory valuation allowance adjustment and, as a result, should be consistent with the determination of any statutory valuation allowance adjustment, which occurs prior to performing the admissibility calculations.[[16]](#footnote-16) As noted in Question 2.7, scheduling reversal patterns of temporary differences in evaluating the need for a statutory valuation allowance adjustment where a reporting entity relies on sources of future taxable income, exclusive of reversals of temporary differences, is not required. In such case, that reporting entity is not required to schedule reversal patterns of temporary differences for purposes of paragraph 11.c. of SSAP No. 101. However, the significant and relevant historical and/or currently available information noted above must be considered and be consistent with the conclusion to admit or nonadmit adjusted gross DTAs under paragraph 11.c. without additional detailed scheduling. See Question 2.5 through 2.8 for further discussion of scheduling for purposes of determining the reporting entity’s statutory valuation allowance adjustment.

Other Considerations

4.14 In certain situations, a reporting entity’s expected federal income tax rate on its reversing temporary differences will be less than the enacted tax rate used in the determination of its gross DTAs and DTLs. Examples of such entities include: property/casualty insurance companies with large municipal bond portfolios that are AMT taxpayers, Blue Cross-Blue Shield Organizations with section 833(b) deductions, small life insurance companies, reporting entities projecting a tax loss, and entities that file in a consolidated federal income tax return that cannot realize the full amount of their adjusted gross DTAs under the existing intercompany tax sharing or tax allocation agreement. Pursuant to paragraphs 231, 232 and 238 of FAS 109, such entities are required to report their gross DTLs at the enacted tax rate, and cannot take into consideration the impact of the AMT, section 833(b) deduction, or the small life insurance company deduction to reduce their gross DTLs.

4.15 For those entities, the amount of admitted adjusted gross DTAs calculated under paragraphs 11.a. and 11.b. will reflect the actual tax rate in the carryback period under paragraph 11.a. and the expected tax rate in the applicable period as discussed in 4.10 above under paragraph 11.b., which takes into consideration the impact of the AMT, special deductions, and the provisions of the intercompany tax sharing or allocation agreement. See Question 6 for further discussion of this issue. As such, the entity’s admitted adjusted gross DTAs under paragraphs 11.a. and 11.b. may be less than its adjusted gross DTAs on temporary differences at the enacted rate. Any unused amount of DTAs resulting from a rate differential under paragraphs 11.a. and 11.b. can be used under paragraph 11.c. to offset existing DTLs.

4.16 The above principles can be illustrated by the following examples:

4.17 Facts:

RBC Reporting Entity Example

1. Life Insurance Company ABC19 has $12,500,000 of deductible temporary differences at 12-31-20X2 that generate $4,375,000 of gross DTAs ($2,100,000 Ordinary, $2,275,000 Capital), at the enacted federal income tax rate of 35%. Management has concluded that ABC will more likely than not realize gross DTAs of $4,100,000 ($2,100,000 Ordinary, $2,000,000 Capital) related to its $12.5 million of deductible temporary differences. Based on management’s conclusion, a statutory valuation allowance adjustment was recognized for $275,000 reducing capital DTAs from $2,275,000 to $2,000,000. ABC also has $4,000,000 of taxable temporary differences resulting in $1,400,000 ($1,000,000 Ordinary, $400,000 Capital) of gross DTLs.

2. ABC has determined that $2,000,000 of its $6,000,000 existing deductible ordinary temporary differences will reverse in 12-31-20X3, another $1,500,000 will reverse in 12-31-20X4, and another $2,000,000 will reverse in 12-31-20X5. The remaining $500,000 of ABC’s existing deductible ordinary temporary differences will reverse in years 20X6 or later. None of ABC’s deductible capital temporary differences are expected to reverse within the applicable period.

3. ABC reported $400,000 and $600,000 of taxable income in 20X0 and 20X1, respectively. ABC reported $140,000 and $210,000 of tax expense on its 20X0 and 20X1 federal income tax returns, respectively. It has also projected taxable income of $1,200,000 and $420,000 of federal income taxes for 20X2 that have been reflected in its current statutory income tax provision calculation. There are no differences between its regular and alternative minimum taxable income during 20X0 through 20X2.

4. ABC is projecting an income tax rate of 35% in 20X3, as well as in years 20X4 and 20X5 based on its estimated taxable income and federal income tax liability. ABC expects to realize20 a federal income tax benefit of 35% from 20X3 through 20X5 related to reversing ordinary temporary differences. ABC does not anticipate any capital gain income in 20X3 through 20X5.

5. ABC has an ExDTA ACL RBC Ratio at 12-31-20X2 of 600%. Adjusted statutory capital and surplus under paragraph 11.b.ii. is $7,000,000 at 12-31-20X2, and was computed by subtracting the admitted balances of net DTA’s, goodwill and EDP from the current period statutory surplus. Statutory surplus is defined in paragraph 2 of SSAP No. 72.

4.18 Calculation of ABC’s Admitted Adjusted Gross DTAs:

1. ABC can admit $726,000 ($132,000 + $198,000 + $396,000) of adjusted gross DTAs under paragraph 11.a., all of which are ordinary in tax character.

a. ABC first carries $400,000 of the hypothetical net operating loss21 of $2,000,000 from 20X3 back to 20X0 recovering $132,000 in taxes paid. The difference between the total 20X0 taxes paid at 35% ($140,000) and the amount recoverable ($132,000) through carryback of the $400,000 represents an $8,000 AMT credit generated as a result of the 90% AMT net operating loss22 limitation. This AMT credit is not treated as a new DTA as of 12-31-20X2. The remaining $1,600,000 of the hypothetical net operating loss ($2,000,000 – $400,000) is available for utilization in years 20X1 and 20X2.

b. ABC would carry an additional $600,000 of the remaining hypothetical net operating loss of $1,600,000 from 20X3 back to 20X1 recovering $198,000 in taxes paid.23 The difference between the total taxes paid at 35% ($210,000) and the amount recoverable ($198,000) through carryback of the $600,000 represents a $12,000 AMT credit generated as a result of the 90% AMT NOL limitation. Again, this AMT credit is not treated as a new DTA as of 12-31-20X2. The remaining $1,000,000 of hypothetical net operating loss ($1,600,000 – $600,000) is available for utilization in 20X2.

c. ABC would carry the remaining $1,000,000 of the hypothetical net operating loss from 20X3 plus an additional $200,000 of the hypothetical net operating loss from 20X4 back to 20X2, recovering $396,000 in taxes projected to be paid.24 The difference between the total taxes projected to be paid at 35% ($420,000) and the amount recoverable ($396,000) through carryback of the $1,200,000 represents a $24,000 AMT credit generated as a result of the 90% AMT NOL limitation. As noted previously, this AMT credit is not treated as a new DTA as of 12-31-20X2.

The fact that the full $5,500,000 of reversing deductible ordinary temporary differences available for carryback were not used in the paragraph 11.a. calculation does not prevent their inclusion in the paragraph 11.b. and 11.c. calculations.

*Note: 4.18 subparagraphs 1 and 2 are omitted.*

5a. Q – How is the timing of reversals of temporary differences and carryforwards determined for SSAP No. 101 purposes? [Paragraphs 7, 11.a., 11.b.i. and 12.a.]

5.1 A – The timing of temporary difference reversals is critical in determining the amount of admitted adjusted gross DTAs. Determining the reversal of temporary differences impacts the adjusted gross DTA admitted pursuant to paragraphs 11.a., 11.b.i. and potentially 11.c. of SSAP No. 101.

5.2 Paragraph 12.a. of SSAP No. 101 states that “For purposes of paragraph 11.a., existing temporary differences that reverse during a timeframe corresponding with IRS tax loss carryback provisions, not to exceed three years, shall be determined in accordance with paragraphs 228 and 229 of FAS 109.” The timing of reversals of temporary differences and carryforwards for purposes of paragraph 11.b. of SSAP No. 101 shall be determined under similar principles.

5.3 Paragraph 228 of FAS 109 states, in pertinent part, that “[t]he particular years in which temporary differences result in taxable or deductible amounts generally are determined by the timing of the recovery of the related asset or settlement of the related liability.” Question 1 of the FASB’s Special Report on Statement 109 provides additional guidance on scheduling. It defines “scheduling” as the analysis performed to determine the pattern and timing of the reversal of temporary differences. It also provides certain guidelines to be followed, including the need for the method employed to be systematic and logical, that a consistent method be used for each category of temporary differences, and that a change in the method used be considered a change in accounting principle.

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):

* SSAP No. 101 was substantively revised in August 2011.
* The SSAP No. 101 QA and implementation guide, was adopted in May 2012 in agenda item 2011-42.

Prior to the establishment of SSAP No. 101:

* SSAP No. 10 was revised in 2009 with the explicit focus to increase the admittance of DTAs. (This was addressed in agenda item 2009-06: Consider Increase of Admitted DTAs.) The result of this agenda item was predominantly to allow up to 3 years or 15% of capital and surplus for paragraph 11b of the DTA calculation if certain criteria were met. (Prior to this guidance, only 1 year / 10% of capital and surplus was permitted for this component. There was no change for the offsetting of DTAs to DTLs with this guidance.)

The Working Group recently adopted revisions in response to the TCJA as follows:

* Agenda Item 2018-01: Federal Income Tax Reform – Adopted revisions to SSAP No. 101 in direct response to the TCJA. Pursuant to this adoption, it was identified that additional revisions would be subsequently considered to the Implementation Questions and Answers guide.
* Agenda Item 2018-02: Tax Act Estimates – Adopted INT *18-01: Updated Tax Estimates under the Tax Cuts and Jobs Act* to provide immediate application guidance in response to the TCJA.
* Agenda Item 2018-15: Additional Elements under the Federal Tax Cuts and Jobs Act – Adopted [*INT 18-03: Additional Elements Under the Tax Cuts and Jobs Act*](https://www.naic.org/documents/cmte_e_app_sapwg_related_int1803.pdf)to provide guidance on additional elements (RTT, AMT Credit and GILTI) under the TCJA.
* Agenda Item 2019-09: SSAP No. 101 Q&A Update – This agenda item is considering revisions to the SSAP No. 101 Q&A in response to the TCJA.

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

**Convergence with International Financial Reporting Standards (IFRS):** Not applicable.

Interested Party Recommendation:

Interested Parties proposed revisions are shown in Appendix A.

The following are excerpts from Interested Parties’ December 2018 comments:

1. **Scheduling**

Paragraph 5.3 of the SSAP No. 101 Q&A already sets forth a definition of scheduling - i.e., the analysis performed to determine the pattern and timing of the reversal of temporary differences. As noted in our April 23 letter, some audit firms are maintaining that taking “known” reversals into account is not scheduling, when in fact determining the amount and timing of the reversal of temporary differences is the very definition of scheduling. Many temporary differences besides the TCJA reserve transition liability have, and always have had, reversal patterns that could be easily calculated. It is unreasonable to maintain that there is a category of “known” temporary difference for which the amount and timing of reversal can be determined that somehow falls short of scheduling. To clarify this point, we recommend including in paragraph 5.3 a sentence stating that scheduling includes any determination of the amount of a temporary difference that reverses in a future period, even if the reversal pattern is readily determinable, such as straight-line amortization of a fixed amount.

In conformity with this change, we further recommend that a sentence be added at the end of paragraph 2.6 and in paragraph 2.7 of the Q&A to cross-reference the definition of scheduling in paragraph 5.3. We further recommend some wording changes in the last sentences of paragraph 2.7 to make it absolutely clear that this discussion of scheduling does not apply to a reporting entity mentioned earlier in paragraph 2.7 that is not required to schedule the reversal pattern of its existing temporary differences.

**Consideration of Historical and/or Currently Available Information in DTA Admission Tests**

Both paragraphs 2.5 and 4.13 of the Q&A refer to consideration of “historical and/or currently available information” in determining admitted DTAs. In the GAAP context, this language is used in describing the evidential information that is to be considered to determine whether a valuation allowance for DTAs is needed,[[17]](#footnote-17) and the first part of paragraph 2.5 provides similarly for purposes of the statutory valuation allowance adjustment. However, paragraph 2.5 of the Q&A also provides that “historical and/or currently available information may exist that is also relevant to” the guidance on admission of DTAs, and that it must be considered when determining the amount of admitted DTAs irrespective of the conclusion reached in establishing or not establishing a valuation allowance. Further, paragraph 4.13 of the Q&A provides in two different places that such information “specific to the remaining adjusted gross DTAs and DTLs must also be taken into consideration when determining admission by offset with gross DTLs” and “must be considered and be consistent with the conclusion to admit or nonadmit adjusted gross DTAs under paragraph 11.c. without additional detailed scheduling.”

Instead of leading to clarity, having four sentences with somewhat different wording in three separate places in two different paragraphs of the Q&A leads to a lack of clarity that in turn has led to inconsistent application of the guidance. Further, because historical and/or currently available information has already been considered in determining that adjusted gross DTAs are more likely than not to be realized (i.e., considered in the determination of the valuation allowance), it is unclear just how such information is of further relevance to the paragraph 11.c. admission guidance that is the subject of paragraph 4.13 of the Q&A. This lack of clarity is compounded by use of inflexible phrases such as “must be considered” and “irrespective of.” This is especially problematic for companies that have relied on sources of future income other than the reversal of existing temporary differences in determining the need (or not) for a valuation allowance. Specifically, the language of paragraphs 2.5 and 4.13 has been cited as requiring the scheduling of reversals of deferred tax items for the paragraph 11.c. admission test, even in cases where scheduling has not been required for purposes of determining that no valuation allowance against ordinary DTAs was necessary. As previously noted, this interpretation effectively forces a company in that position to redo its valuation allowance analysis by looking at only one source of income (reversal of existing taxable temporary differences) that was not even necessary to consider in determining that no valuation allowance was necessary - in our view a clearly inappropriate result. For these reasons, we recommend consolidating and clarifying language.

First, paragraph 2.5 otherwise deals with the determination of adjusted gross DTAs. However, the last two sentences of paragraph 2.5 are directed toward a separate topic - admission of adjusted gross DTAs. Accordingly, we recommend that the discussion of historical and/or currently available information in the context of DTA admission be consolidated in paragraph 4.13, and that paragraph 2.5 simply make reference to paragraph 4.13. Second, the sentence near the end of paragraph 4.13 beginning “However…” appears to directly contradict the preceding sentence, at least for reporting entities to which that previous sentence applies. For this reason, and for purposes of consolidating the discussion in paragraph 4.13, we recommend that portions of the “However…” sentence be included in the sentence earlier in paragraph 4.13 that also makes reference to historical and/or currently available information, and that the “However…” sentence itself be deleted. Finally, we recommend that such earlier sentence in paragraph 4.13 be expanded to clarify that it applies to reporting entities other than those that rely on sources of taxable income exclusive of reversals of temporary differences in evaluating the need for a valuation allowance, and to state that it does not require scheduling (as defined in paragraph 5.3) in the 11.c. admission test beyond that required in determining the need for a valuation allowance.[[18]](#footnote-18)

Lastly, we recommend including a sentence in paragraph 5.1 of the Q&A making it clear that scheduling for purposes of paragraph 11.c. is not necessary beyond the extent required by paragraph 4.13 as modified by our above recommendations.

In making these recommendations, we have duly considered that:

* In arriving at adjusted gross DTAs, historical and/or currently available information still must be taken into account in the determination of the statutory valuation allowance adjustment in accordance with the guidance in paragraph 2.5 of the Q&A
* Adjusted gross DTAs after reduction by any statutory valuation allowance adjustment have already been deemed more likely than not to be realized and should not effectively be required to pass that hurdle again with more restricted sources of future taxable income
* Paragraph 6.1 of the Q&A explicitly states that the amount of adjusted gross DTAs and gross DTLs is not recalculated under paragraph 11; rather, the purpose of paragraph 11 is to determine the amount of adjusted gross DTAs that can be admitted
* Admissibility of adjusted gross DTAs is already subject to significant guardrails, including:
  + The Realization Threshold Limitation Tables set forth in paragraph 11.b. of SSAP No. 101 which restrict DTA reversals to 3 years or less and which impose a cap on DTAs admitted under paragraph 11.b. of 15% or less of surplus
  + The requirement in paragraph 11.c. that DTAs that are capital in character are permitted to offset only DTLs that are capital in character
  + Reporting entities that are required to schedule temporary differences in determining the valuation allowance will have to do the same in the paragraph 11.c. admission test.

1. **Consideration of Temporary Differences in the Paragraph 11 DTA Admission Tests**

As noted above, some external audit firms have maintained that the same DTAs considered in the paragraph 11.a. and 11.b. admission tests cannot be used in the paragraph 11.c. admission test. In our view, this position is clearly insupportable under paragraph 4.2 of the Q&A, which states that each of the calculations under paragraphs 11.a., 11.b. and 11.c. starts with the total of the reporting entity’s adjusted gross DTAs, and then provides a subtraction mechanism to prevent duplication before determining the amount of adjusted gross DTAs that can be admitted under that part. Paragraph 4.2 of the Q&A also states, as an example, that the consideration of existing temporary differences in the calculation of admitted DTAs under paragraph 11.a. does not prevent the reconsideration of the same temporary differences in the paragraph 11.b.i. calculation. It has been noted, however, that a similar example is not expressly provided for paragraph 11.c. Although the sentence about starting each calculation with total adjusted DTAs seems perfectly clear, and although the 11.a./11.b.i. example is just an example, we nevertheless recommend that a sentence be added to paragraph 4.2 to state that likewise, the consideration of temporary differences under either 11.a. or 11.b.i. does not prevent reconsideration of the same temporary differences in the 11.c. calculation. We also recommend that a cross reference be added at the end of paragraph 4.2 to the examples in paragraphs 4.16-4.25 that illustrate the paragraph 11 DTA admission calculations. Further, we recommend that both paragraph 4.9 and 4.13 of the Q&A include a cross-reference back to paragraph 4.2. Lastly, we recommend deletion of the word “remaining” in what would be the seventh sentence of our recommended revision to paragraph 4.13 (beginning “In addition to consideration of…), as that word can be viewed as conflicting with the requirement in paragraph 4.2 that each of the paragraph 11 calculations starts with total adjusted DTAs.

**Staff Recommendation:**

NAIC staff recommends that the Working Group move this item to the nonsubstantive active listing and expose proposed revisions to SSAP No. 101 with the NAIC staff and/or interested parties’ technical representatives’ modifications detailed in Appendix A and summarized below. (Working Group members are requested to provide direction if this should be considered a substantive issue.)

The NAIC staff worked with Interested Parties technical representatives incorporating the majority of the interested parties’ proposed revisions with minor modifications. The proposed revisions include the primary recommendation made by interested parties, which was to clarify that consideration of reversals is not required in paragraph 11.c. if reversals were not considered in determining the need for a statutory valuation allowance under paragraph 7.e. (see paragraph 4.13). Interested parties noted that these revisions were needed to promote consistent treatment among reporting entities.

Below is an overview of the interested parties proposed revisions (illustrated in Appendix A) and NAIC staff proposed modifications, which were discussed with industry technical representatives. Interested parties’ technical representatives were actively engaged in subsequent staff reviews to ensure internal consistency in the implementation guide.

Summary of Interested Parties recommendations for SSAP No. 101 QA with proposed staff modifications to the interested parties proposed language.

* 1. Paragraph 2.5 - Admissibility is separate from realizability – Interested parties’ proposed revisions inadvertently eliminated guidance which emphasizes determining realization is separate from determining admission. In addition, the proposed revisions recommend a cross reference to paragraph 4.13 for paragraph 11.c. admission.
* **NAIC Staff Modifications which were discussed with interested parties’ technical representatives- paragraph 2.5:**
  + Modify interested parties proposed revisions to maintain the concept that determining realization is separate from admission.
  1. Paragraph 2.6 - Interested parties proposed cross-reference to paragraph 5.3 on scheduling.
* **NAIC Staff Modifications - paragraph 2.6 –** reject the proposed cross-reference to paragraph 5.3 because the revisions to expand the definition of scheduling are not recommended. **(Therefore, no revisions to paragraph 2.6 are exposed.)**
  1. Paragraph 2.7 - When scheduling of temporary differences is unnecessary – Interested parties’ proposed revisions regarding an entity for which scheduling is unnecessary, and the definition of scheduling in paragraph 5.3.
* **NAIC Staff Modifications -** **paragraph 2.7:**
  + Reject the proposed cross refence to paragraph 5.3 and the proposed revisions regarding when scheduling is unnecessary as unnecessary, as the calculation of the statutory valuation allowance is clearly stated. (Therefore, no revisions to paragraph 2.7 are exposed.)
  1. Paragraph 4.1 - Although the Interested Parties comment letter did not recommend changes to paragraph 4.1, after discussion, NAIC staff and Interested Parties technical representatives recommend revisions to add paragraph 11 language noting admitted adjusted gross DTAs cannot be greater than the total adjusted gross DTAs and a paragraph 11 excerpt regarding the net DTA/ DTL the annual statement presentation.
  2. Paragraph 4.2 – Interested Parties proposed language regarding paragraph 11c, and a cross-reference to illustrations of DTA admittance in paragraphs 4.16-4.25.
* **NAIC Staff Modification - paragraph** - **4.2** is not to expose the proposed interested parties’ language regarding paragraph 11.c. because the subtraction mechanism is already clearly stated.
  1. Paragraph 4.9 - Interested Parties proposed a cross reference to paragraph 4.2.
  2. Paragraph 4.13 - Consideration of known patterns of reversal for paragraph 11.c. – Interested parties’ proposed revisions specify that the consideration of reversals in paragraph 11.c. only applies to reporting entities that consider the reversals of temporary differences in determining the need for a statutory valuation allowance. This revision is proposed for exposure. The other revisions below are more for consistency and readability.
* **NAIC staff and IP representative modifications for exposure has the following updates.**
  + Changes “rely on” to “consider” to be more consistent with paragraph 7, and use “must also” instead of “should’ which implies optionality.
  + Inserts “amount of total” before adjusted gross DTAs.
  + Shortens previously proposed wording and separates it into two sentences for readability.
  + Industry technical representative proposed additional language at the end of the paragraph 4.13 regarding scheduling in the context of 11.c. as an alternative to their previously proposed language for paragraph 5.3/ 4.2.
  1. Paragraph 4.18, 4.21 and 4.24 - These paragraphs have other changes in the related agenda item on updating the SSAP No. 101 QA for the changes in the tax rate etc., this agenda item only reflects changes relevant to the discussion of paragraph 11.c. The changes made to these paragraphs, which illustrate calculation of different scenarios for the admissibility test are the same or similar in multiple paragraphs and are described as a group below.
* **4.18-1, 4.21-1 and 4.24-1 - all hanging paragraph -** NAIC staff and IP representatives’ modifications for exposure recommends deleting these hanging paragraphs because the updated tax numbers in the example can lead to a different conclusion than the previous guidance and the guidance is not necessary.
* **4.18, 4.21, 4.24 - all paragraph 3 - NAIC staff and IP representatives’ modifications highlighted for exposure:** 
  + Change “rely on” to “consider” to be consistent with other wording (4.18.3 only).
  + Add the word “total” and delete IP proposed sentence on use of “same” benefit.
  + Change “this component” to “paragraph 11”.
  + Change “of the same tax benefit” to “of admitted adjusted gross DTAs.”
  1. Paragraph 5.1 - Restriction of use scheduling - Interested parties proposed revisions add a new sentence that details that the determination of reversal differences (scheduling) for purposes of paragraph 11.c. is necessary only to the extent required by question 4.13.
* **NAIC Staff Modifications - paragraph 5.1:**
  + Expose the interested parties’ revisions with the modification to add a more specific reference to paragraph 7.e requirements as discussed in question 4.13.
  + Delete the cross reference to paragraph 5.3
  1. Paragraph 5.3 - Broaden the Definition of Scheduling - Interested parties proposed revisions recommended a sentence stating that scheduling includes any determination of the amount of temporary differences that reverses in a future period, even if the reversal pattern is readily determinable. The scope of question five in the SSAP No. 101 QA is broader than just paragraph 11.c. as it also addresses paragraphs 11.a., 11.b. and 12. a.
* **5.3 - NAIC Staff and IP representatives recommend modifications:** 
  + Because some knowledge of reversal patterns is needed for paragraphs 11.a. and 11.b. and the scope of paragraph 5.3 is not restricted to 11.c. the modification deletes the proposed new sentence, “Thus, scheduling includes any determination of the amount of a temporary difference that reverses in a future period, even if the reversal pattern is readily determinable, such as straight-line amortization of a fixed amount.”
  + Additional language was proposed in paragraph 4.13 to address the original intent of the IP proposed paragraph 5.3 change**.**

Staff Review Completed by:

Julie Gann, NAIC Staff – January 2019

Robin Marcotte, NAIC Staff – January 2019

Status:

On April 6, 2019, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as nonsubstantive, and exposed NAIC staff and/or interested parties’ technical representatives’ modifications to the interested parties’ original recommended revisions to the *SSAP No. 101—Income Taxes* Implementation Questions and Answers. The exposed NAIC staff modifications are summarized in the table below. The exposed paragraphs are identified in Appendix A and if there is a NAIC staff and / or interested parties technical representatives’ modification, the modified paragraph is the exposed item.

**NAIC staff notes on the exposure:**

The NAIC staff worked with Interested Parties’ technical representatives to incorporate the majority of the interested parties’ proposed revisions with minor modifications. These revisions were focused on consolidating paragraph 11.c guidance and on being clearer that entities which did not have to look at patterns of reversal of temporary differences in determining the valuation allowance did not have to do additional work in paragraph 11c regarding the reversals of temporary differences. In some cases, identified in the chart below, NAIC staff and industry technical representatives proposed new language as alternatives to address NAIC staff concerns about internal consistency. This language is being exposed and may still be subject to additional comments as it was only reviewed by a small industry group.

Industry representatives have indicated that they may submit additional comments, perhaps including a simple illustration, regarding paragraph 4.13 during the comment period.

NAIC Staff anticipates additional Working Group discussion on the application of paragraph 11c regarding reporting entities that **are required** to consider the reversals of temporary differences in determining the need for a statutory valuation allowance.

Note that some of the revisions to paragraphs 4.18, 4.21,4.24 will also be affected by agenda item 2019-09. The final revisions related to the offsetting issues will be based on the revisions in this agenda item and not agenda item 2019-09.

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| --- | --- | --- |
|  | **Interested parties proposed revisions:** | **Exposed modification based on NAIC staff or NAIC staff with IP technical representatives** |
| 2.5 | Inadvertently proposed to eliminate guidance that realization is separate from admission. Proposed a cross reference to para.4.13. | Exposed revisions maintain the concept that determining realization is separate from admission. Insert cross reference to para. 4.13. |
| 2.6 | Proposed a cross-reference to para. 5.3 on scheduling. | Exposed revisions do not include  the proposed cross-reference to para.5.3 as expanding the definition of scheduling is not recommended. (**No new revisions are exposed**.) |
| 2.7 | Proposed revisions regarding an entity for which scheduling is unnecessary, and the definition of scheduling in paragraph 5.3. | Exposed revisions do not include the proposed cross refence to para. 5.3 and the proposed revisions regarding when scheduling is unnecessary. (**No new revisions are exposed**.) |
| 4.1 | None originally proposed. | Exposed revisions to add paragraph 11 language noting admitted adjusted gross DTAs cannot be greater than the total adjusted gross DTAs and an excerpt regarding the net DTA/ DTL reporting. |
| 4.2 | Proposed language regarding paragraph 11c, and a cross-reference to illustrations of DTA admittance in paragraphs 4.16-4.25. | 1) Did not expose the proposed interested parties’ language regarding paragraph 11.c. as it did not add to the clarity of the guidance and in light of additions to the guidance in paragraph 4.1.  2) Exposed the cross-reference to illustrations of DTA admittance in paragraphs 4.16-4.25. |
| 4.9 | Proposed cross-reference to paragraph 4.2. | Exposed cross reference as proposed by IPs. |
| 4.13 | Proposed revisions specify that the consideration of reversals in paragraph 11.c. only applies to reporting entities that consider the reversals of temporary differences in determining the need for a statutory valuation allowance. | Exposure maintains key IP points, with minor edits:  1) Changes “rely on” to “consider”  2) Change “should’ to “must also.”  3) Inserts “amount of total”  4) Rewords for readability.  5) Industry technical rep. proposed new wording at the end regarding scheduling in the context of 11.c. as a replacement for prior proposed para. 5.3/ 4.2. |
| 4.18, 4.21,  4.24  hanging wording | Proposal updated the tax numbers, in some cases, the updates resulted in different relationship of remaining available DTAs. (That is, all available DTAs were admitted). | Exposed modifications delete these “hanging paragraphs” because the guidance is not necessary. |
| 4.18 - 3 | Proposal updated the tax numbers and language. | Exposure changed “rely on” to “consider” to be consistent with other wording |
| 4.18 - 3  4.21 - 3  4.24 - 3 | Proposal updated the tax numbers and language. | Exposure added the word “total” and deleted the IP proposed sentence on “same” benefit. Changed “this component” to “paragraph 11.” Changed “of the same tax benefit” to “of admitted adjusted gross DTAs.” |
| 5.1 | Proposed revisions added a new sentence that the determination of reversal differences (scheduling) for purposes of paragraph 11.c. is necessary only to the extent required by question 4.13 |       Exposed modification to add a more specific reference to paragraph 7.e as discussed in question 4.13.        Deleted the cross reference to para.5.3 |
| 5.3 | Proposed revisions recommended a sentence stating that scheduling includes any determination of the amount of temporary differences that reverses in a future period, even if the reversal pattern is readily determinable. | Exposure deleted the IP proposed new sentence. Because some knowledge of reversal patterns is needed for paragraphs 11.a. and 11.b. and the scope of paragraph 5.3 is not restricted to 11.c.  As noted above, similar language to proposed revision deleted here included in paragraph 4.13. |

**Appendix A**

*Note that footnote numbering will be conformed to SSAP No. 101 on adoption. This appendix details the revisions from what was proposed by Interested parties, if NAIC staff or NAIC with Interested parties’ technical representatives proposed a modification that is what was exposed. Exposure paragraphs are noted***.**

* **2.5 Interested Party Proposed Edits**

**2. Q – How should an entity measure its adjusted gross deferred tax assets and its gross deferred tax liabilities? [Paragraph 7]**

2.5 SSAP No. 101 paragraph 7.e. provides that gross DTAs are reduced by a statutory valuation allowance adjustment if, based on the weight of available evidence, it is more likely than not that some portion or all of the gross DTAs will not be realized. The statutory valuation allowance adjustment is determined on a separate company, reporting entity basis. The determination of whether gross DTAs will be realized is based on the existence of sufficient taxable income of the appropriate character (ordinary income or capital gain) within the carryback, carryover period available under the tax law. Paragraph 13.a. through d. of SSAP No. 101 identifies four sources of taxable income to be considered in evaluating the existence of sufficient taxable income. These sources are identical to those to be considered under FAS 109 paragraph 21. FAS 109 paragraph 20 provides that “all available evidence, both positive and negative, should be considered to determine whether, based on the weight of that evidence, a valuation allowance is needed. Information about an enterprise’s current financial position and its results of operations for the current and preceding years ordinarily is readily available. That historical information is supplemented by all currently available information about future years. Sometimes, however, historical information may not be available (for example, start-up operations) or it may not be as relevant (for example, if there has been a significant, recent change in circumstances) and special attention is required.” A reporting entity is not required to consider all four sources of taxable income in determining the need for a statutory valuation allowance adjustment if one or more sources are alone sufficient to support the conclusion that the entity will realize the tax benefits of its gross deferred tax assets (i.e., a conclusion that no valuation allowance is necessary). However, the reporting entity is required to consider all of the potential sources of taxable income to determine the amount of the adjustment if a conclusion is reached that a statutory valuation allowance adjustment is necessary. See Question 4.13 for discussion regarding consideration of this historical and/or currently available information in determining the amount of DTAs admitted under paragraph 11.c. of SSAP No. 101.

* **2.5 – Exposed - NAIC staff modification which were discussed with interested parties’ technical representatives to maintain concept that admission is separate from realization:**

Clean - 2.5 SSAP No. 101 paragraph 7.e. provides that gross DTAs are reduced by a statutory valuation allowance adjustment if, based on the weight of available evidence, it is more likely than not that some portion or all of the gross DTAs will not be realized. The statutory valuation allowance adjustment is determined on a separate company, reporting entity basis. The determination of whether gross DTAs will be realized is based on the existence of sufficient taxable income of the appropriate character (ordinary income or capital gain) within the carryback, carryover period available under the tax law. Paragraph 13.a. through d. of SSAP No. 101 identifies four sources of taxable income to be considered in evaluating the existence of sufficient taxable income. These sources are identical to those to be considered under FAS 109 paragraph 21. FAS 109 paragraph 20 provides that “all available evidence, both positive and negative, should be considered to determine whether, based on the weight of that evidence, a valuation allowance is needed. Information about an enterprise’s current financial position and its results of operations for the current and preceding years ordinarily is readily available. That historical information is supplemented by all currently available information about future years. Sometimes, however, historical information may not be available (for example, start-up operations) or it may not be as relevant (for example, if there has been a significant, recent change in circumstances) and special attention is required.” A reporting entity is not required to consider all four sources of taxable income in determining the need for a statutory valuation allowance adjustment if one or more sources are alone sufficient to support the conclusion that the entity will realize the tax benefits of its gross deferred tax assets (i.e., a conclusion that no valuation allowance is necessary). However, the reporting entity is required to consider all of the potential sources of taxable income to determine the amount of the adjustment if a conclusion is reached that a statutory valuation allowance adjustment is necessary. SSAP No. 101 modifies FAS 109 related to admission of DTAs. Admission of DTAs is calculated irrespective of the conclusion reached in establishing or not establishing a statutory valuation allowance adjustment. See Question 4.13 for discussion regarding consideration of reversal patterns specific to paragraph 11.c. of the admissibility test.

* **2.6 - Exposed - NAIC Staff modifications to reject IP proposed cross reference because the changes to paragraph 5.3 to expand the definition of scheduling are not recommended. (Therefore, no new revisions to paragraph 2.6 are exposed.)**

2.6 Footnote 1 to paragraph 7.e. of SSAP No. 101 indicates that a reporting entity shall consider reversal patterns of temporary differences, and might be required to schedule such differences:

…to the extent necessary to support establishing or not establishing a valuation allowance adjustment, determined in accordance with paragraphs 228 and 229 of FAS 109. For purposes of this accounting statement, consideration of reversal patterns does not require scheduling beyond that necessary to support establishing or not establishing a valuation allowance adjustment.

Paragraph 228 of FAS 109 generally holds that a company may need to schedule its temporary differences to determine the particular years in which the reversal of temporary differences is expected to occur. As discussed in Question 5b, paragraph 229 of FAS 109 indicates that future originating temporary differences and their subsequent reversal should be considered in determining the existence of future taxable income.

* **2.7 - IP comment letter recommendation:**

2.7 Although a reporting entity may need to consider the reversal pattern of temporary differences in evaluating the need for a statutory valuation allowance adjustment, scheduling the reversal pattern of such differences is not required in every instance. Under SSAP No. 101 and consistent with FAS 109, a general understanding of reversal patterns is, in many cases, relevant in assessing the need for a valuation allowance. Judgment is crucial in making this assessment. The amount of scheduling, if any, that will be required will depend on the facts and circumstances of each situation. (See Question 5.3 for a definition of scheduling.) For example, a reporting entity which relies upon future taxable income exclusive of reversing temporary differences and carryforwards[[19]](#footnote-19) for realization of DTAs is not required to schedule the reversal pattern of its existing temporary differences. This is consistent with guidance provided by the Financial Accounting Standards Board (FASB) in its answer to question 2 of A Guide to Implementation of Statement 109 on Accounting for Income Taxes: Question and Answers (Special Report on Statement 109) which states that scheduling of existing temporary differences is unnecessary for purposes of determining the need for a valuation allowance “where it can be easily demonstrated that future taxable income will more likely than not be adequate to realize future tax benefits of existing deferred tax assets.” In contrast, a reporting entity which relies upon the future reversal of existing taxable temporary differences to realize the tax benefits of its deductible temporary differences and carryforwards may be required to consider the reversal patterns of its taxable temporary differences.[[20]](#footnote-20) The degree of scheduling required, however, depends on the facts and circumstances of each situation and the relative magnitude of the taxable and deductible temporary differences. In certain situations, involving reporting entities for which scheduling of temporary differences has not already been determined to be unnecessary, the ability to reasonably conclude that reversing taxable temporary differences will more likely than not create sufficient taxable income to realize reversing deductible temporary differences can be done without detailed scheduling.[[21]](#footnote-21)

* **2.7 – Exposed - NAIC staff modification to interested parties’ revisions to reject the revisions as unnecessary**, as the calculation of the statutory valuation allowance is clearly stated. (Therefore, no new changes to paragraph 2.7 are exposed)

2.7 Although a reporting entity may need to consider the reversal pattern of temporary differences in evaluating the need for a statutory valuation allowance adjustment, scheduling the reversal pattern of such differences is not required in every instance. Under SSAP No. 101 and consistent with FAS 109, a general understanding of reversal patterns is, in many cases, relevant in assessing the need for a valuation allowance. Judgment is crucial in making this assessment. The amount of scheduling, if any, that will be required will depend on the facts and circumstances of each situation. For example, a reporting entity which relies upon future taxable income exclusive of reversing temporary differences and carryforwards[[22]](#footnote-22) for realization of DTAs is not required to schedule the reversal pattern of its existing temporary differences. This is consistent with guidance provided by the Financial Accounting Standards Board (FASB) in its answer to question 2 of A Guide to Implementation of Statement 109 on Accounting for Income Taxes: Question and Answers (Special Report on Statement 109) which states that scheduling of existing temporary differences is unnecessary for purposes of determining the need for a valuation allowance “where it can be easily demonstrated that future taxable income will more likely than not be adequate to realize future tax benefits of existing deferred tax assets.” In contrast, a reporting entity which relies upon the future reversal of existing taxable temporary differences to realize the tax benefits of its deductible temporary differences and carryforwards may be required to consider the reversal patterns of its taxable temporary differences.[[23]](#footnote-23) The degree of scheduling required, however, depends on the facts and circumstances of each situation and the relative magnitude of the taxable and deductible temporary differences. In certain situations, the ability to reasonably conclude that reversing taxable temporary differences will more likely than not create sufficient taxable income to realize reversing deductible temporary differences can be done without detailed scheduling.[[24]](#footnote-24)

* **4.1 - Exposed - The Interested Parties comment letter did not recommend changes to paragraph 4.1. However, after discussion, NAIC staff and IP representatives recommend revisions. to add paragraph 11 language noting admitted adjusted gross DTAs cannot be greater than the total adjusted gross DTAs and a paragraph 11 excerpt regarding the net DTA/ DTL the annual statement presentation.**

**4a. Q – How should a reporting entity calculate the amount of its admitted adjusted gross DTAs? [Paragraph 11]**

4.1 A – After a reporting entity has calculated the amount of its adjusted gross DTAs and gross DTLs pursuant to paragraph 7, it must determine the amount of its adjusted gross DTAs that can be admitted under paragraph 11, not to exceed the amount of total adjusted gross DTAs. The amount of adjusted gross DTAs is not recalculated under paragraph 11; rather, some or all of the adjusted gross DTA may not be currently admitted. As noted in paragraph 11, the net admitted DTA shall not exceed the excess of the adjusted gross DTAs over gross DTLs.

* **4.2 - IP comment letter recommendation:**

4.2 Paragraphs 11.a., 11.b. and 11.c. require three interdependent calculations or components that when added together equals the amount of the reporting entity’s admitted adjusted gross DTAs. Each of the calculations starts with the total of the reporting entity’s adjusted gross DTAs and determines the amount of such adjusted gross DTAs that can be admitted under that part. For example, the consideration of existing temporary differences in the calculation of admitted adjusted gross DTAs under paragraph 11.a., does not prevent the reconsideration of the same temporary differences in the paragraph 11.b.i. calculation. Likewise, the consideration of existing temporary differences in the calculation of admitted adjusted gross DTAs under either paragraph 11.a. or 11.b.i. does not prevent the reconsideration of the same temporary differences in the paragraph 11.c. calculation. However, to avoid duplication of admitted adjusted gross DTAs when adding the three parts together, the amount of admitted adjusted gross DTAs under paragraph 11.a. must be subtracted from the amount of adjusted gross DTAs in the paragraph 11.b.i. calculation. Similarly, the amount of admitted adjusted gross DTAs under paragraphs 11.a. and 11.b. must be subtracted from the total adjusted gross DTAs in the paragraph 11.c. calculation.

For illustrations of the paragraph 11 DTA admission calculations see Questions 4.16-4.25.

* **4.2 -** **Exposed -** NAIC staff recommended modification to the interested parties’ language is not to expose the proposed interested parties’ language regarding paragraph 11.c because the subtraction mechanism is already clearly stated. The cross reference is exposed.

4.2 Paragraphs 11.a., 11.b. and 11.c. require three interdependent calculations or components that when added together equals the amount of the reporting entity’s admitted adjusted gross DTAs. Each of the calculations starts with the total of the reporting entity’s adjusted gross DTAs, and determines the amount of such adjusted gross DTAs that can be admitted under that part. For example, the consideration of existing temporary differences in the calculation of admitted adjusted gross DTAs under paragraph 11.a., does not prevent the reconsideration of the same temporary differences in the paragraph 11.b.i. calculation. However, to avoid duplication of admitted adjusted gross DTAs when adding the three parts together, the amount of admitted adjusted gross DTAs under paragraph 11.a. must be subtracted from the amount of adjusted gross DTAs in the paragraph 11.b.i. calculation. Similarly, the amount of admitted adjusted gross DTAs under paragraphs 11.a. and 11.b. must be subtracted from the total adjusted gross DTAs in the paragraph 11.c. calculation.

For illustrations of the paragraph 11 DTA admission calculations see Questions 4.16-4.25.

* **4.9 – Exposed - IP comment letter recommendation:**

4.9 The amount of admitted adjusted gross DTAs under paragraph 11.b.i., is limited to the amount that the reporting entity expects to realize within the applicable period as determined using the applicable Realization Threshold Limitation Table following the balance sheet date. See Question 6 for a further discussion of the meaning of “expected to be realized.” See Question 4.2 regarding the amount of adjusted gross DTAs considered in the paragraph 11.b.i. calculation. The amount of admitted adjusted gross DTAs under the paragraph 11.a. calculation is subtracted from the amount of adjusted gross DTAs under paragraph 11.b.i., to prevent the counting of the same admitted adjusted gross DTAs more than once. If the reporting entity expects to realize an amount of adjusted gross DTAs under paragraph 11.b.i. that is equal to or less than the admitted adjusted gross DTAs calculated under paragraph 11.a., then the resulting admitted adjusted gross DTAs under paragraph 11.b.i. will be zero.

* **Paragraph 4.13 - IP comment letter recommendation**

4.13 Under paragraph 11.c., a reporting entity can admit adjusted gross DTAs as an offset against gross DTLs in an amount equal to the lesser of: (1) its adjusted gross DTAs, after subtracting the amount of admitted adjusted gross DTAs under paragraphs 11.a. and 11.b., or (2) its gross DTLs. See Question 4.2 regarding the amount of adjusted gross DTAs considered in the paragraph 11.c. calculation. In determining the amount of adjusted gross DTAs that can be offset against existing gross DTLs in the paragraph 11.c. calculation, the character (i.e., ordinary versus capital) of the DTAs and DTLs must be taken into consideration such that offsetting would be permitted in the tax return under existing enacted federal income tax laws and regulations. For example, an adjusted gross DTA related to unrealized capital losses could not be offset against an ordinary income DTL. Ordinary DTAs can be admitted by offset with ordinary DTLs and/or capital DTLs. However, capital DTAs can only be admitted by offset with capital DTLs. In addition to consideration of the character of the DTAs and DTLs, for reporting entities other than those that rely on sources of taxable income exclusive of reversals of temporary differences in evaluating the need for a statutory valuation allowance adjustment, significant and relevant historical and/or currently available information specific to the adjusted gross DTAs and gross DTLs should be considered in the determination of the admission of adjusted gross DTAs under paragraph 11.c., but without requiring scheduling (as defined in Question 5.3) beyond that required in determining the need for a statutory valuation allowance adjustment. As stated in paragraph 11.c., “for purposes of this component, the reporting entity shall consider the reversal patterns of temporary differences; however, this consideration does not require scheduling beyond that required in paragraph 7.e.” (See Question 2.5 through 2.8 for further discussion of scheduling for purposes of determining the reporting entity’s statutory valuation allowance adjustment.) This consideration requires a scheduling exercise if scheduling is needed for determination of the statutory valuation allowance adjustment and, as a result, should be consistent with the determination of any statutory valuation allowance adjustment, which occurs prior to performing the admissibility calculations[[25]](#footnote-25).However, as noted in Question 2.7, scheduling reversal patterns of temporary differences in evaluating the need for a statutory valuation allowance adjustment where a reporting entity relies on sources of future taxable income, exclusive of reversals of temporary differences, is not required. In such case, that reporting entity is not required to schedule reversal patterns of temporary differences for purposes of paragraph 11.c. of SSAP No. 101.

* **4.13 - Exposed - NAIC staff and IP representative modifications has the following exposed updates:**
* **Changes “rely on” to “consider” to be more consistent with paragraph 7, and use “must also” instead of “should’ which implies optionality.**
* **Inserts “amount of total” before adjusted gross DTAs.**
* **Shortens previously proposed wording and separates it into two sentences for readability.**
* **Industry technical representative proposed additional language at the end of paragraph 4.13 regarding scheduling in the context of 11.c. as an alternative to their previously proposed language for paragraphs 5.3/ 4.2.** 
  + - 4.13 Under paragraph 11.c., a reporting entity can admit adjusted gross DTAs as an offset against gross DTLs in an amount equal to the lesser of: (1) its adjusted gross DTAs, after subtracting the amount of admitted adjusted gross DTAs under paragraphs 11.a. and 11.b., or (2) its gross DTLs. See Question 4.2 regarding the amount of adjusted gross DTAs considered in the paragraph 11.c. calculation. In determining the amount of adjusted gross DTAs that can be offset against existing gross DTLs in the paragraph 11.c. calculation, the character (i.e., ordinary versus capital) of the DTAs and DTLs must be taken into consideration such that offsetting would be permitted in the tax return under existing enacted federal income tax laws and regulations. For example, an adjusted gross DTA related to unrealized capital losses could not be offset against an ordinary income DTL. Ordinary DTAs can be admitted by offset with ordinary DTLs and/or capital DTLs. However, capital DTAs can only be admitted by offset with capital DTLs. In addition, for reporting entities that consider reversal of existing temporary differences in determining the need for a statutory valuation allowance adjustment, significant and relevant historical and/or currently available information specific to the remaining amount of total adjusted gross DTAs and gross DTLs must also be taken into consideration in the determination of the admission of adjusted gross DTAs under paragraph 11.c. However, for those reporting entities, no scheduling is required beyond that necessary in determining the need for a statutory valuation allowance adjustment. As stated in paragraph 11.c., “for purposes of this component, the reporting entity shall consider the reversal patterns of temporary differences; however, this consideration does not require scheduling beyond that required in paragraph 7.e.” (See Question 2.5 through 2.8 for further discussion of scheduling for purposes of determining the reporting entity’s statutory valuation allowance adjustment.) This consideration requires a scheduling exercise if scheduling is needed for determination of the statutory valuation allowance adjustment and, as a result, should be consistent with the determination of any statutory valuation allowance adjustment, which occurs prior to performing the admissibility calculations[[26]](#footnote-26).13 However, as noted in Question 2.7, scheduling reversal patterns of temporary differences in evaluating the need for a statutory valuation allowance adjustment where a reporting entity relies on sources of future taxable income, exclusive of reversals of temporary differences, is not required. In such case, that reporting entity is not required to schedule reversal patterns of temporary differences for purposes of paragraph 11.c. of SSAP No. 101. This is the case even if the reversal pattern of the temporary difference is readily determinable, such as straight-line amortization of a fixed amount. It also is the case if, for example, the reporting entity in determining its statutory valuation allowance adjustment has considered as a source of future income reversal of existing temporary differences that are capital in character, but not those that are ordinary in character. In such case, the reporting entity is not required to schedule reversal patterns of ordinary temporary differences for purposes of paragraph 11.c.

4.16 The above principles can be illustrated by the following examples:

4.17 Facts:

*(Drafting note: This paragraph has several revisions in agenda item 2019-09. Only the information related to reversal patterns is relevant to this agenda item)*

RBC Reporting Entity Example

1. Life Insurance Company ABC[[27]](#footnote-27)has $9,500,000 of deductible temporary differences ($6,000,000 ordinary and $3,500,000 capital) at 12-31-20X2 that generate $1,995,000 of gross DTAs ($1,260,000 ordinary, $735,000 capital), at the enacted federal income tax rate of 21%%. ABC has sufficient evidence of projected future taxable income exclusive of reversing temporary differences and carryforwards to support a conclusion that it will realize the full amount of its ordinary gross DTAs, and it was unnecessary in reaching that conclusion (i.e., that no valuation allowance adjustment need be established for ordinary DTAs) to consider reversal patterns of temporary differences. However, management has concluded, after considering all four sources of taxable income described in paragraph 13 of SSAP No. 101, that a statutory valuation allowance adjustment should be recognized for $168,000 of capital DTAs, reducing capital DTAs from $735,000 to $567,000. Thus, in total, management has concluded that ABC will more likely than not realize gross DTAs of $1,827,000 ($1,260,000 ordinary, $567,000 capital) related to its $9,500,000 of deductible temporary differences. ABC also has $4,000,000 of taxable temporary differences ($2,800,000 ordinary and $1,200,000 capital) resulting in $840,000 ($588,000 ordinary, $252,000 capital) of gross DTLs.

4.18 Calculation of ABC’s Admitted Adjusted Gross DTAs:

*(Drafting note: This paragraph has several revisions in agenda item 2019-09. Only the excerpts related to reversal patterns is included, with the relevant edits shown as tracked.)*

1. Paragraph 11.a. calculation. ABC cannot admit any ordinary adjusted gross DTAs under paragraph 11.a., because entities taxed as life insurance companies are not permitted to carry back ordinary tax losses under existing Federal income tax law. However, ABC can admit capital adjusted gross DTAs of $126,000 under paragraph 11.a. because all capital losses are permitted a 3-year carryback under existing Federal income tax law and ABC paid taxes on capital gains in each year 20X0-20X2.

a. ABC first carries $100,000 of the hypothetical capital loss[[28]](#footnote-28) of $200,000 from 20X3 back to 20X0 recovering $21,000 in taxes paid. The remaining $100,000 of the 20X3 hypothetical capital loss ($200,000 – $100,000) is available for utilization in years 20X1 and 20X2.

b. ABC would carry the remaining $100,000 of the hypothetical capital loss from 20X3 back to 20X1 recovering $21,000 in taxes paid. In addition, ABC would carry back $100,000 of hypothetical capital loss from 20X4 to 20X1 to recover another $21,000 of taxes paid.[[29]](#footnote-29) The remaining $200,000 of the 20X4 hypothetical capital loss ($300,000 - $100,000) is available for utilization in year 20X2.

c. ABC would carry the remaining $200,000 of the hypothetical capital loss from 20X4 plus an additional $100,000 of the hypothetical capital loss from 20X5 back to 20X2, recovering $63,000 in taxes projected to be paid.

* **4.18-1. - Hanging paragraph - IP comment letter recommendation:**

The fact that the $600,000 of reversing deductible capital temporary differences available for carryback were used in the paragraph 11.a. calculation does not prevent their inclusion in the paragraph 11.b. and 11.c. calculations, subject to reduction to prevent double counting (see Question 4.2).

* **4.18-1. - Hanging paragraph – Exposed - NAIC staff and IP representatives’ modifications for exposure recommends deleting this paragraph because the updated tax numbers in the example can lead to a different conclusion than the previous guidance and the guidance is not necessary.**
* **4.18-2. - IP comment letter recommendation:**

2. Paragraph 11.b. calculation. ABC can admit $1,050,000 of adjusted gross DTAs under paragraph 11.b. Since ABC has an ExDTA ACL RBC ratio of 600%, the Realization Threshold Limitation Table provides that the company can use the thresholds of 3 years for projected realization and 15% of adjusted capital and surplus. The company expects to realize a federal income tax benefit of $1,155,000 ($5,500,000 X 21%) in 20X3 through 20X5 related to its reversing ordinary deductible temporary differences and $126,000 ($600,000 X 21%) in 20X3 through 20X5 related to its reversing capital deductible temporary differences (through carryback to 20X0-20X2).[[30]](#footnote-30) The $1,281,000 amount ($1,155,000 + $126,000) must be reduced by the $126,000 of admitted adjusted gross DTAs under paragraph 11.a. to prevent double counting of the same income tax benefit. As a result, ABC has projected adjusted gross DTAs available for admission under this component of $1,155,000 ($1,281,000 – $126,000), all of which are ordinary in tax character. However, 15% of adjusted capital and surplus is a limiting factor in this example. As such, even though ABC has sufficient sources of future taxable income exclusive of reversing taxable temporary differences to realize a federal income tax benefit of $1,155,000 in 20X3 through 20X5 related to its reversing ordinary deductible temporary differences, admission of those temporary differences is limited to $1,050,000 ($7,000,000 X 15%).

* **4.18 paragraph 3. - Exposed - NAIC staff and IP representatives’ modifications highlighted:**
* **Change “rely on” to “consider” to be consistent with other wording.**
* **Add the word “total” and delete IP proposed parenthetical on use of “same” benefit.**
* **Change “this component” to “paragraph 11”.**
* **Change “of the same tax benefit” to “of admitted adjusted gross DTAs.”**

3. Paragraph 11.c. calculation. ABC can admit $462,000 ($210,000 ordinary, $252,000 capital) of adjusted gross DTAs under paragraph 11.c. ABC has $1,827,000 of total adjusted gross DTAs available for admission under paragraph 11. These DTAs are made up of $1,260,000 ordinary DTAs and $567,000 of capital DTAs. To prevent double counting of admitted adjusted gross DTAs, the $1,260,000 of ordinary DTAs must be reduced by the $1,050,000 admitted under paragraph 11.b., leaving $210,000 for admission under paragraph 11.c. Likewise, the $567,000 of capital DTAs must be reduced by the $126,000 admitted under paragraph 11.a., leaving $441,000 for admission under paragraph 11.c. There are $588,000 of ordinary DTLs available to offset against the $210,000 of ordinary DTAs. There are $252,000 of capital DTLs available to offset against the $441,000 capital DTAs. However, the tax character of the DTAs and DTLs becomes a limiting factor for this component. While ordinary DTAs can be offset against both ordinary and capital DTLs, the reverse is not allowed in the tax return (see Question 4.13). Because ABC did not consider reversal of existing temporary differences in determining that no valuation allowance was necessary for gross ordinary DTAs, it need not consider reversal patterns of temporary differences for admission of ordinary DTAs in its paragraph 11.c. calculation. On the other hand, because ABC was required to consider all four sources of taxable income specified in paragraph 13 of SSAP No. 101(including future reversals of existing taxable capital temporary differences) in establishing a valuation allowance for gross capital DTAs, it is required to consider reversal patterns of temporary differences for admission of capital DTAs in its paragraph 11.c. calculation, but this consideration does not require scheduling beyond that required by paragraph 7.e. of SSAP No. 101 (again see Question 4.13), In this situation, after the required consideration, ABC can admit $210,000 and $252,000 of its ordinary and capital DTAs, respectively.

*(Drafting note: This paragraph has several revisions in agenda item 2019-09. Only the excerpts related to reversal patterns is included, with the relevant edits shown as tracked.)*

* **4.21-1. – Exposed - Hanging paragraph - NAIC staff and IP representatives’ modifications for exposure recommends deleting this paragraph because the updated tax numbers in the example can lead to a different conclusion than the previous guidance and the guidance is not necessary.**

4.21 Calculation of DEF’s Admitted Adjusted Gross DTAs:

1. Paragraph 11.a. calculation. DEF can admit $525,000 ($210,000 + $315,000) of adjusted gross DTAs under paragraph 11.a, all of which are ordinary in tax character.

* 1. As an entity taxed as a nonlife insurance company, DEF, unlike ABC, is permitted to carry back ordinary tax losses. DEF first carries $1,000,000 of the hypothetical net operating loss[[31]](#footnote-31)20 of $2,000,000 from 20X3 back to 20X1 recovering $210,000 in taxes paid. The remaining $1,000,000 of the hypothetical net operating loss ($2,000,000 – $1,000,000) is available for utilization in 20X2.
  2. DEF would carry the remaining $1,000,000 of the hypothetical net operating loss from 20X3 plus an additional $500,000 of the hypothetical net operating loss from 20X4 back to 20X2 recovering $315,000 in taxes projected to be paid.[[32]](#footnote-32)

2. Paragraph 11.b. calculation. DEF cannot admit any additional adjusted gross DTAs under paragraph 11.b. Since DEF has an ExDTA Surplus/Policyholders and Contingency Reserves ratio of 105%, the Realization Threshold Limitation Table provides that the company can use the thresholds of 1 year for projected realization and 10% of adjusted capital and surplus. The company expects to realize a federal income tax benefit of $420,000 ($2,000,000 X 21%) in 20X3 related to its reversing deductible temporary differences. The $420,000 amount must be reduced by the $525,000 of admitted adjusted gross DTAs under paragraph 11.a. to prevent double counting of the same income tax benefit. DEF admitted $105,000 ($525,000 - $420,000) more adjusted gross DTAs based on carryback of hypothetical net operating losses under paragraph 11.a. than is projected to be realized within the 1- year applicable threshold limitation. As a result, there is $0 of expected additional reversing deductible differences available for admission under paragraph 11.b.

* **4.21 - paragraph 3 - Exposed - Revised with NAIC staff and IP representatives’ input:**
* **Add the word “total” and delete IP proposed parenthetical on use of “same” benefit.**
* **Change “this component” to “paragraph 11”.**
* **Change “of the same tax benefit” to “of admitted adjusted gross DTAs.”**

3. Paragraph 11.c. calculation. DEF can admit $840,000 ($588,000 ordinary, $252,000 capital) of adjusted gross DTAs under paragraph 11.c. DEF has $1,617,000 total of adjusted gross DTAs available for admission under paragraph 11. These DTAs are made up of $1,260,000 ordinary DTAs and $357,000 of capital DTAs. To prevent double counting of admitted adjusted gross DTAs, the $1,260,000 of ordinary adjusted gross DTAs must be reduced by the $525,000 admitted under paragraph 11.a., leaving $735,000 for admission under paragraph 11.c. There are $588,000 of ordinary DTLs to offset against the $735,000 of ordinary DTAs. There are $252,000 of capital DTLs to offset against the $357,000 capital DTAs. However, the tax character of the DTAs and DTLs must be considered as a potential limiting factor for this component because, while ordinary DTAs can be offset against both ordinary and capital DTLs, the reverse is not allowed in the tax return (see Question 4.13). In this situation, DEF can admit $588,000 and $252,000 of its ordinary and capital DTAs, respectively.[[33]](#footnote-33) If DEF’s adjusted gross DTAs, after reduction for the amount of adjusted gross DTAs admitted under paragraphs 11.a. and 11.b., were less than $840,000 in this example, DEF would be limited to the balance of its adjusted gross DTAs in the paragraph 11.c. calculation, subject to the rules of offset under existing enacted federal income tax laws and regulations.

*(Drafting note: This paragraph has several revisions in agenda item 2019-09. Only the excerpts related to reversal patterns is included, with the relevant edits shown as tracked.)*

* **4.24-1. - Exposed - Hanging paragraph - Revised with NAIC staff and IP representatives’ input for exposure recommends deleting this hanging paragraph because the updated tax numbers in the example can lead to a different conclusion than the previous guidance and the guidance is not necessary.**

4.24 Calculation of GHI’s Admitted Adjusted Gross DTAs:

1. Paragraph 11.a. calculation. GHI can admit $525,000 ($210,000 + $315,000) of adjusted gross DTAs under paragraph 11.a, all of which are ordinary in tax character.

a. As an entity taxed as a nonlife insurance company, GHI, unlike ABC, is permitted to carry back ordinary tax losses. GHI first carries $1,000,000 of the hypothetical net operating loss**[[34]](#footnote-34)** of $2,000,000 from 20X3 back to 20X1 recovering $210,000 in taxes paid. The remaining $1,000,000 of the hypothetical net operating loss ($2,000,000 – $1,000,000) is available for utilization in 20X2.

b. GHI would carry the remaining $1,000,000 of the hypothetical net operating loss from 20X3 plus an additional $500,000 of the hypothetical net operating loss from 20X4 back to 20X2 recovering $315,000 in taxes projected to be paid**[[35]](#footnote-35)**

2. Paragraph 11.b. calculation. GHI can admit $630,000 of adjusted gross DTAs under paragraph 11.b. Since GHI has an Adjusted Gross DTA to Adjusted Capital and Surplus ratio of 15.6% ($1,092,000/$7,000,000), the Realization Threshold Limitation Table provides that the company can use the thresholds of 3 years for projected realization and 15% of adjusted capital and surplus. The company expects to realize a federal income tax benefit of $1,155,000 ($5,500,000 X 21%) in 20X3 through 20X5 related to its reversing deductible temporary differences. The $1,155,000 amount must be reduced by the $525,000 of admitted adjusted gross DTAs under paragraph 11.a. to prevent double counting of the same income tax benefit. As a result, GHI has projected adjusted gross DTAs available for admission under this component of $630,000 ($1,155,000 – $525,000), all of which is ordinary in tax character. 15% of adjusted capital and surplus ($7,000,000 X 15% = $1,050,000) is not a limiting factor in this example. As such, admission of reversing deductible temporary differences that are projected to be realized during 20X3 through 20X5 is $630,000.

* **4.24 - paragraph 3 - Exposed - Revised with NAIC staff and IP representatives’ input:**
* **Add the word “total” and delete IP proposed parenthetical on use of “same” benefit.**
* **Change “this component” to “paragraph 11”.**

**Change “of the same tax benefit” to “of admitted adjusted gross DTAs.”**

3. Paragraph 11.c. calculation. GHI can admit $357,000 ($105,000 ordinary, $252,000 capital) of adjusted gross DTAs under paragraph 11.c. GHI has $1,617,000 of total adjusted gross DTAs available for admission under paragraph 11. These DTAs are made up of $1,260,000 ordinary DTAs and $357,000 of capital DTAs. To prevent double counting of admitted adjusted gross DTAs , the $1,260,000 of ordinary adjusted gross DTAs must be reduced by the $525,000 admitted under paragraph 11.a. and the $630,00 admitted under paragraph 11.b., leaving $105,000 for admission under paragraph 11.c. There is $588,000 of ordinary DTLs available to offset against the $105,000 of ordinary DTAs. There is $252,000 of capital DTLs to offset against the $357,000 capital DTAs. Accordingly, the tax character of the DTAs and DTLs becomes a limiting factor for this component. While ordinary DTAs can be offset against both ordinary and capital DTLs, the reverse is not allowed in the tax return (see Question 4.13). In this situation, GHI can admit $105,000 and $252,000 of its ordinary and capital DTAs, respectively**[[36]](#footnote-36)**.

**5a. Q – How is the timing of reversals of temporary differences and carryforwards determined for SSAP No. 101 purposes? [Paragraphs 7, 11.a., 11.b.i. and 12.a.]**

* **5.1 - IP comment letter recommendation:**

5.1 A – The timing of temporary difference reversals is critical in determining the amount of admitted adjusted gross DTAs. Determining the reversal of temporary differences impacts the adjusted gross DTA admitted pursuant to paragraphs 11.a., 11.b.i. and potentially 11.c. of SSAP No. 101. For purposes of paragraph 11.c., determining the reversal of temporary differences (that is, scheduling, as defined in Question 5.3 below) is necessary only to the extent required by Question 4.13.

* **5.1 - Exposed - NAIC staff recommends exposing the interested parties’ proposed revisions with the modification of adding a more specific reference to the paragraph 7.e requirements as discussed in question 4.13. In addition, the IP proposed reference to paragraph 5.3 is proposed by NAIC staff to be deleted.**

5.1 A – The timing of temporary difference reversals is critical in determining the amount of admitted adjusted gross DTAs. Determining the reversal of temporary differences impacts the adjusted gross DTA admitted pursuant to paragraphs 11.a., 11.b.i. and potentially 11.c. of SSAP No. 101. For purposes of paragraph 11.c., determining the reversal of temporary differences is necessary only to the extent required by paragraph 7.e. as discussed in Question 4.13.

* **5.3 - IP comment letter recommendation:**

5.3 Paragraph 228 of FAS 109 states, in pertinent part, that “[t]he particular years in which temporary differences result in taxable or deductible amounts generally are determined by the timing of the recovery of the related asset or settlement of the related liability.” Question 1 of the FASB’s Special Report on Statement 109 provides additional guidance on scheduling. It defines “scheduling” as the analysis performed to determine the pattern and timing of the reversal of temporary differences. Thus, scheduling includes any determination of the amount of a temporary difference that reverses in a future period, even if the reversal pattern is readily determinable, such as straight-line amortization of a fixed amount. The FASB’s Special Report also provides certain scheduling guidelines to be followed, including the need for the method employed to be systematic and logical, that a consistent method be used for each category of temporary differences, and that a change in the method used be considered a change in accounting principle.

* **5.3 - Exposed - NAIC staff and IP representatives’ modifications to delete the proposed new sentence, “Thus, scheduling ...” Note that some knowledge of reversal patterns is needed for paragraph 11.a. and 11.b. and the scope of paragraph 5.3 is not restricted to 11.c. The exposed language would read as follows:**

5.3 Paragraph 228 of FAS 109 states, in pertinent part, that “[t]he particular years in which temporary differences result in taxable or deductible amounts generally are determined by the timing of the recovery of the related asset or settlement of the related liability.” Question 1 of the FASB’s Special Report on Statement 109 provides additional guidance on scheduling. It defines “scheduling” as the analysis performed to determine the pattern and timing of the reversal of temporary differences. The FASB’s Special Report also provides certain scheduling guidelines to be followed, including the need for the method employed to be systematic and logical, that a consistent method be used for each category of temporary differences, and that a change in the method used be considered a change in accounting principle.

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1. **The statutory valuation allowance adjustment is utilized strictly to calculate the “adjusted gross DTA.”** **(Admittance criteria in paragraph 11 are applied to the “adjusted gross DTA”.)** In determining the amount of adjusted gross DTA, the reporting entity shall consider reversal patterns of temporary differences to the extent necessary to support establishing or not establishing a valuation allowance adjustment, determined in accordance with paragraphs 228 and 229 of FAS 109. For purposes of this accounting statement, consideration of reversal patterns does not require scheduling beyond that necessary to support establishing or not establishing a valuation allowance adjustment. The application of the statutory valuation allowance adjustment in this statement shall not result in a statutory valuation allowance reserve within the statutory financial statements, but rather should result in a reduction of the gross DTA. [↑](#footnote-ref-1)
2. For purposes of determining the amount of adjusted gross DTA and the amount admitted under paragraph 11, the admission calculation shall be made on a separate company, reporting entity basis. A reporting entity that files a consolidated federal income tax return with its parent should look to the amount of taxes it paid (or were allocated to it) as a separate legal entity in determining the admitted DTA under paragraph 11.a. Furthermore, the DTA under this paragraph may not exceed the amount that the reporting entity could reasonably expect to have refunded by its parent. The taxes paid by the reporting entity represent the maximum DTA that may be admitted under paragraph 11.a., although the amount could be reduced pursuant to the group’s tax allocation agreement. The amount of admitted adjusted gross DTA under paragraph 11.b.i. is limited to the amount that the reporting entity expects to realize within the applicable realization period, on a separate company basis. The reporting entity must estimate its separate company taxable income and the tax benefit that it expects to receive from reversing deductible temporary differences in the form of lower tax payments to its parent. A reporting entity that projects a tax loss in the applicable realization period cannot admit a DTA related to the loss under paragraph 11.b., even if the loss could offset taxable income of other members in the consolidated group and the reporting entity could expect to be paid for the tax benefit pursuant to its tax allocation agreement. [↑](#footnote-ref-2)
3. Changes in DTAs and DTLs due to changes to tax rates and tax status shall be recorded as a “change in net deferred income tax,” excluding any change reflected in unrealized capital gains. Tax effects previously reflected in unrealized capital gains (to present unrealized gains and losses “net of tax”) shall be re-measured for the change in the tax rate in the same reporting line. Changes in net deferred tax shall not include changes in nonadmitted DTAs, as changes in nonadmittance are reported on a separate reporting line. [↑](#footnote-ref-3)
4. For example, under the Federal Internal Revenue Code, ordinary losses can be carried back two years for entities taxed as nonlife insurance companies, while capital losses for entities taxed both as nonlife and life insurance companies can be carried back three years. For losses arising in tax years after 2017, entities taxed as life insurance companies are not permitted to carryback ordinary losses. [↑](#footnote-ref-4)
5. The December 31 Risk-Based Capital ratio is calculated based on the Authorized Control Level RBC for the current reporting period, which is in the process of being filed with the state of domicile, and computed without net deferred tax assets (ExDTA ACL RBC). The interim period (March 31, June 30, and September 30) ExDTA ACL RBC ratio numerator shall use the Total Adjusted Capital (TAC) with current quarter surplus ExDTA and current quarter TAC adjustments. The interim period denominator shall use the Authorized Control Level RBC as filed for the most recent calendar year. [↑](#footnote-ref-5)
6. If the reporting entity is a mortgage guaranty insurer, this ratio is based on the requirements of Section 12 of the NAIC Mortgage Guaranty Insurance Model Law and state laws that, based on the risk characteristics and amount of insurance in force, require aggregate capital to be maintained in a risk-to-capital ratio of not less than 25 to 1. If the reporting entity is a financial guaranty insurer, this ratio is based on the requirements of Section 4C of the NAIC Financial Guaranty Insurance Model Guideline 1626 and state laws that require aggregate capital to be maintained based on the risk characteristics and amount of insurance in force. [↑](#footnote-ref-6)
7. Consistent with the requirements of paragraph 11.b.ii., adjusted statutory capital and surplus used in this calculation component is based on statutory capital and surplus for the current reporting period excluding any net DTA, EDP equipment and operating system software and any net positive goodwill. [↑](#footnote-ref-7)
8. Under the Federal Internal Revenue Code, entities taxed as life insurance companies are not permitted to carryback ordinary losses arising in tax years after 2017. As such, admittance of ordinary DTAs for such entities will be limited to paragraph 11.b. and paragraph 11.c. for reporting periods ending with and subsequent to December 31, 2017. [↑](#footnote-ref-8)
9. One of the four possible sources of taxable income that can be used to realize a tax benefit. See paragraph 13.b. of SSAP No. 101. [↑](#footnote-ref-9)
10. For example, due to the relatively short loss carryback periods under existing tax law, such consideration may be appropriate when taxable temporary differences are expected to reverse in a short number of future years while the deductible temporary differences are expected to reverse over a long number of future years. In addition, for “indefinite-lived” intangible assets (i.e., intangible assets like those discussed in paragraph 11 of FAS 142 for which no legal, regulatory, contractual, competitive, economic, or other factors limit their useful lives), predicting reversal of temporary differences related to such assets would be inconsistent with financial reporting assertions that the assets are indefinite-lived. In such a case, the reversal of taxable temporary differences with respect to such indefinite-lived intangible assets should not be considered a source of future taxable income when determining the statutory valuation allowance adjustment. [↑](#footnote-ref-10)
11. Q&A 2 from the Special Report on Statement 109published by the FASB. [↑](#footnote-ref-11)
12. Q&A 1 from the Special Report on Statement 109published by the FASB. [↑](#footnote-ref-12)
13. For example, under the Federal Internal Revenue Code, ordinary losses can be carried back two years for entities taxed as nonlife insurance companies, while capital losses for entities taxed both as nonlife and life insurance companies can be carried back three years. For losses arising in tax years after 2017, entities taxed as life insurance companies are not permitted to carryback ordinary losses. [↑](#footnote-ref-13)
14. If a reporting entity is not at the minimum capital and reserve requirements, the admitted adjusted gross DTA for this component is zero. [↑](#footnote-ref-14)
15. See Footnote 19 [↑](#footnote-ref-15)
16. Footnote 1 of SSAP No. 101 provides that a reporting entity “shall consider reversal patterns of temporary differences *to the extent necessary* to support establishing or not establishing a valuation allowance adjustment.” (Emphasis added). [↑](#footnote-ref-16)
17. ASC 740-10-30-17 states: “All available evidence, both positive and negative, shall be considered to determine whether, based on the weight of that evidence, a valuation allowance for deferred tax assets is needed. Information about an entity’s current financial position and its results of operations for the current and preceding years ordinarily is readily available. That historical information is supplemented by all currently available information about future years.” [↑](#footnote-ref-17)
18. As noted in the following section of this letter, we also recommend deletion of the word “remaining” before “adjusted gross DTAs” in that sentence for the reasons stated below. [↑](#footnote-ref-18)
19. One of the four possible sources of taxable income that can be used to realize a tax benefit. See paragraph 13.b. of SSAP No. 101 [↑](#footnote-ref-19)
20. For example, due to the relatively short loss carryback periods (or, in the case of entities taxed as life insurance companies, no carryback of operating losses) under current tax law, such consideration may be appropriate when taxable temporary differences are expected to reverse in a short number of future years while the deductible temporary differences are expected to reverse over a long number of future years. In addition, for “indefinite-lived” intangible assets (i.e., intangible assets like those discussed in paragraph 11 of FAS 142 for which no legal, regulatory, contractual, competitive, economic, or other factors limit their useful lives), predicting reversal of temporary differences related to such assets would be inconsistent with financial reporting assertions that the assets are indefinite-lived. In such a case, the reversal of taxable temporary differences with respect to such indefinite-lived intangible assets should not be considered a source of future taxable income when determining the statutory valuation allowance adjustment for entities taxed as non-life insurance companies. On the other hand, entities taxed as life insurance companies may, under current tax law, carry forward operating losses with no expiration period, subject to a utilization limit of 80% of taxable income (before the loss carryforward) in the carryforward year. In such case, the reversal of taxable temporary differences with respect to indefinite-lived intangible assets may be considered a source of taxable income, subject to the applicable tax law limitations. (*Drafting Note-This footnote was revised under agenda item 2019-09 with edits from the TCJA. To eliminate confusion, the revisions from that agenda item have not been shown as tracked changes.)* [↑](#footnote-ref-20)
21. Q&A 2 from the Special Report on Statement 109 published by the FASB. [↑](#footnote-ref-21)
22. One of the four possible sources of taxable income that can be used to realize a tax benefit. See paragraph 13.b. of SSAP No. 101 [↑](#footnote-ref-22)
23. For example, due to the relatively short loss carryback periods (or, in the case of entities taxed as life insurance companies, no carryback of operating losses) under current tax law, such consideration may be appropriate when taxable temporary differences are expected to reverse in a short number of future years while the deductible temporary differences are expected to reverse over a long number of future years. In addition, for “indefinite-lived” intangible assets (i.e., intangible assets like those discussed in paragraph 11 of FAS 142 for which no legal, regulatory, contractual, competitive, economic, or other factors limit their useful lives), predicting reversal of temporary differences related to such assets would be inconsistent with financial reporting assertions that the assets are indefinite-lived. In such a case, the reversal of taxable temporary differences with respect to such indefinite-lived intangible assets should not be considered a source of future taxable income when determining the statutory valuation allowance adjustment for entities taxed as non-life insurance companies. On the other hand, entities taxed as life insurance companies may, under current tax law, carry forward operating losses with no expiration period, subject to a utilization limit of 80% of taxable income (before the loss carryforward) in the carryforward year. In such case, the reversal of taxable temporary differences with respect to indefinite-lived intangible assets may be considered a source of taxable income, subject to the applicable tax law limitations. (This footnote was revised under agenda item 2019-09 with edits from the TCJA. To eliminate confusion, the revisions from that agenda item have not been shown as tracked changes.) [↑](#footnote-ref-23)
24. Q&A 2 from the Special Report on Statement 109 published by the FASB. [↑](#footnote-ref-24)
25. Footnote 1 of SSAP No. 101 provides that a reporting entity “shall consider reversal patterns of temporary differences *to the extent necessary* to support establishing or not establishing a valuation allowance adjustment.” (Emphasis added). [↑](#footnote-ref-25)
26. Footnote 1 of SSAP No. 101 provides that a reporting entity “shall consider reversal patterns of temporary differences *to the extent necessary* to support establishing or not establishing a valuation allowance adjustment.” (Emphasis added). [↑](#footnote-ref-26)
27. Please note the results in this example may be different due to differences in the applicable carryback periods if ABC was taxed as a non-life insurance company. [↑](#footnote-ref-27)
28. It should be noted that if ABC’s hypothetical 20X3 carryback was insufficient to fully offset all capital gain income in 20X0, the company would not be allowed to carryback any of the hypothetical loss from 20X4 or 20X5 to 20X0 per paragraph 11.a., as 20X0 is outside of the timeframe corresponding with capital loss carryback provisions for an insurance company. [↑](#footnote-ref-28)
29. If ABC would not have had sufficient hypothetical capital loss from 20X4 to carryback to 20X1, the company would not have been able to carryback its hypothetical capital loss of $400,000 from 20X5 back to 20X1 pursuant to the applicable tax loss carryback provisions. [↑](#footnote-ref-29)
30. Because ABC projects no capital gain income in 20X3 through 20X5, it is not able to realize a federal income tax benefit on the remaining $300,000 of capital temporary differences reversing in that 3-year period. [↑](#footnote-ref-30)
31. It should be noted that if DEF’s hypothetical 20X3 carryback was insufficient to fully offset all positive taxable income in 20X1, the company would not be allowed to carryback any of the hypothetical loss from 20X4 or 20X5 to 20X1 per paragraph 11.a., as 20X1 is outside of the timeframe corresponding with the tax loss carryback provisions for a nonlife insurance company. [↑](#footnote-ref-31)
32. If DEF would not have had sufficient hypothetical NOL from 20X4 to carryback to 20X2, the company would not have been able to carryback is hypothetical NOL of $2,000,000 from 20X5 back to 20X2 as 20X2 is outside of the timeframe corresponding with the tax loss carryback provisions for a nonlife insurance company. [↑](#footnote-ref-32)
33. DEF’s required consideration of reversal patterns of temporary differences is the same as ABC’s. See Question 4.18.3. [↑](#footnote-ref-33)
34. It should be noted that if GHI’s hypothetical 20X3 carryback was insufficient to fully offset all positive taxable income in 20X1, the company would not be allowed to carryback any of the hypothetical loss from 20X4 or 20X5 to 20X1 per paragraph 11.a., as 20X1 is outside of the timeframe corresponding with the tax loss carryback provisions for a nonlife insurance company. [↑](#footnote-ref-34)
35. If GHI would not have had sufficient hypothetical NOL from 20X4 to carryback to 20X2, the company would not have been able to carryback is hypothetical NOL of $2,000,000 from 20X5 back to 20X2 as 20X2 is outside of the timeframe corresponding with the tax loss carryback provisions for a nonlife insurance company. [↑](#footnote-ref-35)
36. GHI’s required consideration of reversal patterns of temporary differences is the same as ABC’s. See Question 4.18.3. [↑](#footnote-ref-36)