Instructions for Form 965

Inclusion of Deferred Foreign Income Upon Transition to Participation Exemption System

Instructions for Form 965 (Rev. 01-2021) Catalog Number 72149Y
Department of the Treasury **Internal Revenue Service** www.irs.gov

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Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Form 965, its separate schedules, and its instructions, such as legislation enacted after they were published, go to *IRS.gov/Form965*.

What's New

Most of the lines on Form 965 are reserved. For 2020 tax years (defined later), Form 965 will be used only for section 965(a) inclusions derived solely through interests in pass-through entities that are U.S. shareholders of deferred foreign income corporations (DFICs), defined later. In these cases, the taxpayer or other filer will complete the January 2021 revision of Form 965, and, if applicable, Schedule F (Form 965), and Schedule H (Form 965).

As a result of the above changes, for 2020 tax years, Schedule F (Form 965) has also been revised. Schedule F, line 16 (total not from pass-throughs), has been deleted. Former line 17 (total from pass-throughs) of Schedule F has been

renumbered as new line 16. For 2020 tax years, Schedule F is only for use by filers that have a section 965(a) inclusion solely through interests in pass-through entities that are U.S. shareholders of DFICs, and either:

- Are eligible to claim a deemed-paid foreign tax credit under section 960 with respect to such section 965(a) inclusion; or
- Are pass-through entities, the owners or beneficiaries of which may be able to claim such a deemed-paid foreign tax credit.

Most of the lines on Schedule H remain reserved.

For 2020 tax years, Schedule H is used only to report the following amounts with respect to section 965(a) inclusions through pass-through entities that are U.S. shareholders of DFICs:

- Section 965(a) inclusion,
- Section 965(c) deduction,
- Applicable percentage for disallowance of foreign taxes, and
- If applicable, foreign taxes deemed paid, and foreign taxes deemed paid that are disallowed under section 965(g), in connection with a section

965(a) inclusion derived through pass-through entities that are U.S. shareholders of DFICs.

Reminders

On December 22, 2017, section 965 of the Code (section 965) was amended by section 14103 of the Tax Cuts and Jobs Act (TCJA) (P.L. 115-97). As a result of the amendment, certain taxpayers are required to include in income an amount (section 965(a) inclusion amount) based on the accumulated post-1986 deferred foreign income of certain foreign corporations of which they are U.S. shareholders, either directly or indirectly through other entities. Other taxpayers may have inclusions in income under section 951(a) by reason of section 965 due to ownership of DFICs (defined below) through pass-through entities that are themselves U.S. shareholders of DFICs. When referring to both amounts in the preceding two sentences, the Form 965 and these instructions use the term “section 965(a) inclusion.” Section 965 also allows for a deduction (section 965(c) deduction). Section 965(a) inclusions and corresponding section 965(c)

deductions are taken into account in the U.S. shareholder's year that includes the last day of the relevant foreign corporation's last tax year that began before January 1, 2018.

General Instructions

Purpose of Form

Use the January 2021 revision of Form 965 and the December 2020 revisions of separate Schedules F and H to report:

- 2020 tax year share of section 965(a) inclusions from pass-through entities,
- 2020 tax year share of section 965(c) deductions from pass-through entities,
- 2020 tax year share of foreign taxes deemed paid in connection with the 2020 tax year share of section 965(a) inclusions from pass-through entities, and
- 2020 tax year foreign taxes disallowed under section 965(g) with respect to foreign taxes deemed paid in connection with the 2020 tax year share of section 965(a) inclusions from

pass-through entities.

Also use separate Schedule H to report the applicable percentage for disallowance of foreign taxes.

Definitions

2020 tax years. Throughout these instructions, the term “2020 tax year” refers to 2020 calendar years and fiscal tax years of the person filing Form 965 and related schedules that begin in 2020.

Controlled foreign corporation (CFC). A CFC is any foreign corporation if more than 50% of the total combined voting power of all classes of stock or 50% of the total value of the stock of the foreign corporation is owned (directly, indirectly, or constructively) by U.S. shareholders (defined later) on any day during the tax year of the foreign corporation.

Deferred foreign income corporation (DFIC). A DFIC is, with respect to any U.S. shareholder, any specified foreign corporation (SFC) (defined later) of the U.S. shareholder that has accumulated post-1986 deferred foreign income as of November

2, 2017, or December 31, 2017, that is greater than zero.

Specified foreign corporation (SFC). An SFC is (i) any CFC and (ii) any foreign corporation with respect to which one or more domestic corporations is a U.S. shareholder. However, if a passive foreign investment company (as defined in section 1297) with respect to the shareholder is not a CFC, then such corporation is not an SFC. See Regulations section 1.965-1(f) (45)(ii) for a special attribution rule for purposes of determining whether a foreign corporation is an SFC within the meaning of section 965(e)(1)(B).

United States shareholder (U.S. shareholder). For tax years of foreign corporations beginning before January 1, 2018, a U.S. shareholder is a U.S. person who owns (directly, indirectly, or constructively) 10% or more of the total combined voting power of all classes of stock of a foreign corporation. A U.S. person for this purpose is defined in section 957(c).

Who Must File

Any person that is required to include amounts in income under section 965(a) of the Code in its 2020 tax year (defined above) because the person is a direct or indirect partner in a domestic partnership, a shareholder in an S corporation, or a beneficiary of another pass-through entity, and such pass-through entity is a U.S. shareholder of a DFIC, must complete and attach Form 965 and, as applicable, separate Schedules F and H to its income tax return.

Exception. An organization exempt from tax under section 501(a) is required to complete Form 965 only if the section 965 amounts are subject to tax under section 511 (unrelated business income) or section 4940 (private foundation investment income).

When and Where To File

Attach Form 965 and separate Schedules F and H, if applicable, to your income tax return (or other applicable form, such as a partnership or exempt organization return) and file both by the due date (taking into account extensions, if any) for

that return.

Electronic Filing of Form 965

If you file your income tax return electronically, Form 965 and separate Schedules F and H are filed with the electronic income tax return. See the instructions for your income tax return for general information about electronic filing.

Corrections to Form 965

If you file a Form 965 and separate Schedules F and H that you later determine are incomplete or incorrect, file a corrected Form 965 and separate Schedules F and H with an amended tax return, using the amended return instructions for the return with which you originally filed Form 965. Write “corrected” at the top of the Form 965 and separate Schedules F and H and attach a statement identifying the changes.

How To Complete

All U.S. persons required to include the following amounts in income for their 2020 tax year should file Form 965 and, if applicable, separate Schedules F and H.

- **Section 965(a) inclusions.** Owners and beneficiaries of U.S. shareholder pass-through entities should receive information about their shares of the section 965(a) inclusion amounts of such U.S. shareholder pass-through entities for 2020 tax years from the U.S. shareholder pass-through entities and report those amounts on Form 965, Part I, line 3.
- **Section 965(c) deductions/aggregate foreign cash position.** Owners and beneficiaries of U.S. shareholder pass-through entities should receive information about their shares of the section 965(c) deductions of such U.S. shareholder pass-through entities for 2020 tax years from the U.S. shareholder pass-through entities and report those amounts on Form 965, Part II, line 17.
- **Deemed-paid foreign taxes and disallowance (Schedules F and H).**

1. **Owners and beneficiaries eligible to claim deemed-paid credits**. Eligible individuals making a section 962 election, and domestic corporations, should use Schedules F and H to determine the foreign taxes deemed paid with respect to their share of section 965(a) inclusions from U.S. shareholder pass-through entities and the portion of such deemed-paid foreign taxes disallowed under section 965(g). Under section 962 and Regulations sections 1.962-1 and 1.962-2, an individual U.S. shareholder of a CFC may elect for a tax year to be taxed at corporate rates under section 11 on amounts included in his or her gross income under section 951(a) and to claim a foreign tax credit for foreign income taxes deemed paid with respect to such amounts under sections 902 and 960.
2. **Non-pass-through entity owners and beneficiaries ineligible to claim deemed-paid credits.** Even if the owner or beneficiary of a U.S. shareholder pass-through entity is ineligible to claim deemed-paid credits, the owner or beneficiary should still complete

Schedule H, lines 3, 6 and 11. The applicable percentage from pass-throughs is relevant for purposes of determining the disallowed portion of foreign taxes paid or accrued on distributions of previously taxed earnings and profits with respect to section 965(a) inclusions. Furthermore, the amounts of the section 965(a) inclusion and the section 965(c) deduction derived through pass-throughs are relevant in determining foreign source taxable income for purposes of the foreign tax credit limitation with respect to other foreign tax credit claims.

An owner or beneficiary need not complete Schedule F if it is not a pass-through entity and is ineligible to claim deemed-paid credits. Similarly, such an owner or beneficiary need not complete lines 9 and 14 of Schedule H.

3. **Pass-through entity owners and beneficiaries.** If the filer of Form 965 is itself a pass-through entity, the filer should complete Schedule F and Schedule H if one or more of its owners or beneficiaries might be eligible to claim deemed-paid credits under section 960 with

respect to its share of the U.S. shareholder pass-through entity's section 965(a) inclusion. If no owner or beneficiary of the U.S. shareholder pass-through entity is eligible to claim deemed-paid credits, the pass-through entity need not complete Schedule F or lines 9 and 14 of Schedule H, but must complete Schedule H, lines 3, 6 and 11.

Important. Form 965 is completed once. Separate Schedules F and H may be completed more than once (for each applicable separate category of income).

Separate categories of income. Schedules F and H have lines a and b at the top of page 1 of the schedule. These lines are used to identify the separate category for which the schedule is being completed. If more than one category of income applies, the schedule must be completed more than once. See *Categories of Income* in the Instructions for Form 1118, Foreign Tax Credit–Corporations, or the Instructions for Form 1116, Foreign Tax Credit (Individual, Estate, or Trust), for the separate category code to be entered on line a. If code 901j is entered on line a, also see those instructions for the

country code of the sanctioned country to be entered on line b. If there are multiple sanctioned countries, leave line b blank and fill out the schedule taking into account all sanctioned countries and attach separate completed schedules by country in PDF format. Attached files should be named in the following format: “F965 [relevant schedule] 901j [country code] [identification number].” For example, an attached Schedule H would be named: “F965 Sch H 901j [country code] [identification number]”.

Specific Instructions

Important. If the information required in a given section exceeds the space provided within that section, **do not** write “see attached” in the section and then attach all of the information on additional sheets. Instead, complete all entry spaces in the section and attach the remaining information on additional sheets. The additional sheets must conform with the IRS version of that section.

Part I – Section 965(a) Inclusion

Lines 1, 2, 4, 5, and 6. Reserved.

Line 3. Shares of section 965(a) inclusion amounts allocated to a taxpayer from U.S. shareholder pass-through entities are entered on line 3 for the 2020 tax year. Attach a schedule setting forth each of these shares by U.S. shareholder pass-through entity and DFIC.

Enter the amount from line 3 on your tax return as follows.

Corporations: Enter the amount from Form 965, line 3, on Form 1120, Schedule C, line 15, column (a), or on the corresponding line of other corporate income tax returns.

Individuals: Enter the amount from Form 965, line 3, minus the amount from Form 965, line 17, on the "other income" line of your tax return (that is, Schedule 1 (Form 1040), line 8).

All others: If filing a return other than a corporate income tax return or an individual income tax return, follow the form instructions for that other applicable return.

Part II, Section 1 – Section 965(c) Deduction by Tax Year

Lines 7 through 16. Reserved.

Line 17. Enter the 2020 tax year shares of section 965(c) deductions allocated to a taxpayer from U.S. shareholder pass-through entities. Attach a schedule setting forth each of these shares by U.S. shareholder pass-through entity.

Enter the amount from line 17 on your tax return as follows.

Corporations: Enter the amount from Form 965, line 17, on Form 1120, Schedule C, line 15, column (c), or on the corresponding line of other corporate income tax returns.

Individuals: As indicated in the instructions for Part I, line 3, above, enter the amount from Form 965, line 3, minus the amount from Form 965, line 17, on the "other income" line of your tax return (that is, Schedule 1 (Form 1040), line 8).

All others: If filing a return other than a corporate income tax return or an individual income tax return, follow the form instructions for that other

applicable return.

Part III – Elections

Indicate in this part whether or not any of the listed elections were made. Elections for 2020 tax years should be made in the manner set forth in regulations under section 965. A person generally makes an election with respect to section 965 by attaching to a tax return a statement signed under penalties of perjury and, in the case of an electronically filed return, in Portable Document Format (PDF), for each such election.

Schedule F – Foreign Taxes Deemed Paid by Domestic Corporation (2020 Tax Year)

Use Schedule F to provide the information necessary to compute foreign taxes deemed paid in the 2020 tax year by an eligible domestic corporation or an individual with respect to section 965(a) inclusions derived through pass-through entities that are U.S. shareholders of DFICs. Taxpayers eligible for a deemed-paid credit include

certain individuals who make an election under section 962 and certain domestic corporations. (See section 902 for eligibility requirements.) U.S. shareholder pass-through entities with owners or beneficiaries that are eligible to claim deemed-paid credits should provide the owner or beneficiary with the information necessary to make the deemed-paid credit calculations. Also use Schedule F to provide information necessary to compute foreign taxes deemed paid if the owner or beneficiary is itself a pass-through entity that may have owners or beneficiaries eligible to claim deemed-paid credits.

Lines a and b. Complete a separate Schedule F for each applicable separate category of income. Enter the appropriate code on line a (at the top of Schedule F). To determine the appropriate code, see *Categories of Income* in the Instructions for Form 1118, Foreign Tax Credit—Corporations, or the Instructions for Form 1116, Foreign Tax Credit (Individual, Estate, or Trust). If code 901j is entered on line a, enter on line b the country code for the sanctioned country using the two-letter codes (from the list at *IRS.gov/CountryCodes*). If there are multiple sanctioned countries, see *Separate*

categories of income, earlier.

In the first column, enter the name of the DFIC with respect to which the taxpayer filing the Schedule F derives a section 965(a) inclusion through pass-through entities that are U.S. shareholders of DFICs.

Column (a). Enter the EIN or reference ID number of the foreign corporation. For basic information about reference ID numbers (including the requirements as to the characters permitted), see the Instructions for Form 1118.

Column (b). Owners or beneficiaries of U.S. shareholder pass-through entities should provide the EIN or reference ID number of the Schedule K-1 issuer. A U.S. shareholder pass-through entity with a section 965(a) inclusion amount with respect to a DFIC should complete all columns with the exception of columns (g) and (l) and provide a copy to its owners or beneficiaries that are eligible to claim deemed-paid credits or to pass-through entities with owners or beneficiaries that may be eligible to claim deemed-paid credits.

Column (c). Enter the year and month in which the

DFIC's U.S. tax year ended using the format YYYYMM.

Column (d). Enter the applicable two-letter code from the list at *IRS.gov/CountryCodes*.

Column (e)(1). Report (in U.S. dollars) the section 965(a) inclusion with respect to the DFIC for the tax year indicated in column (c).

Column (e)(2). Report the column (e)(1) amounts, translated from U.S. dollars into functional currency at the spot rate as of December 31, 2017, entered on the relevant row on Schedule A, column (d). If the foreign corporation's functional currency is the U.S. dollar, report the same amount as in column (e)(1).

Column (f). Enter the foreign corporation's post-1986 undistributed earnings for the separate category for which the Schedule F is being completed. Generally, this amount is the corporation's E&P (computed in the corporation's functional currency according to sections 964(a) and 986) accumulated in tax years beginning after 1986, determined as of the close of the corporation's tax year without reduction for any earnings distributed or otherwise included in income (that is, under section

304, 367(b), 951(a), 1248, or 1293) during the current tax year.

Post-1986 undistributed earnings are reduced to account for distributions or deemed distributions that reduced E&P and inclusions that resulted in previously taxed amounts described in section 959(c)(1) and (2) or section 1293(c) in prior tax years beginning after 1986. See Regulations section 1.902-1(a)(9). Also see section 902(c)(3) and Regulations section 1.902-1(a) (13) for special rules treating earnings accumulated in post-1986 years as pre-1987 accumulated profits when no U.S. shareholder was eligible to claim a deemed-paid credit with respect to taxes paid by the foreign corporation.

Column (h). Enter the opening balance in the foreign corporation's post-1986 foreign income taxes for the tax year indicated in column (c). Generally, this amount is the foreign income taxes paid, accrued, or deemed paid (in U.S. dollars) by the foreign corporation for prior tax years beginning after 1986, reduced by foreign taxes attributable to distributions or inclusions of earnings in prior tax years. See Regulations section 1.902-1(a)(8)(i).

Column (i). Enter the foreign income taxes paid or accrued by the foreign corporation for the tax year indicated in column (c), translated into U.S. dollars using the exchange rate specified in section 986(a).

Column (j). Enter the foreign income taxes deemed paid (under section 902(b)) by the foreign corporation for the tax year indicated in column (c).

Note. Columns (h), (i), (j), and (k) are not reduced by foreign taxes attributable to distributions or inclusions of earnings in the 2020 tax year.

Line 16. In column (e)(1), enter the total amount of section 965(a) inclusions that are derived through U.S. shareholder pass-through entities. A U.S. person's share of a U.S. shareholder pass-through entity's section 965(a) inclusion amount must be included in this total.

In column (l), only enter taxes deemed paid with respect to the filer's share of a U.S. shareholder pass-through entity's section 965(a) inclusion amount in this total if the filer is eligible to claim a deemed-paid credit with respect to such amount.

Schedule H, Section 1 – Amounts Reported on Forms 1116 and 1118 and Disallowed Foreign Taxes

See the Instructions for Form 1116, Form 1118, and Form 5471 (Information Return of U.S. Persons With Respect to Certain Foreign Corporations) for reporting the amount of foreign taxes disallowed with respect to distributions of section 965 previously taxed E&P.

Lines a and b. Complete a separate Schedule H for each applicable separate category of income. Enter the appropriate code on line a (at the top of Schedule H). To determine the appropriate code, see *Categories of Income* in the Instructions for Form 1118, Foreign Tax Credit—Corporations, or the Instructions for Form 1116, Foreign Tax Credit (Individual, Estate, or Trust). If code 901j is entered on line a, enter on line b the country code for the sanctioned country using the two-letter codes (from the list at *IRS.gov/CountryCodes*). If there are multiple sanctioned countries, see *Separate categories of income*, earlier.

Line 3. Enter the total amount of section 965(a)

inclusions in U.S. dollars derived through U.S. shareholder pass-through entities for the 2020 tax year from Schedule F, column (e)(1), line 16, by separate category.

For example, Domestic Partnership has a $20 general category section 965(a) inclusion amount with respect to direct ownership in a DFIC. With respect to Domestic Corporation's 25% interest in Domestic Partnership, Domestic Corporation enters $5 on line 3 of Schedule H, Section 1, with respect to general category income.

The line 3 amount represents the total amount of section 965(a) inclusions for the separate category. Enter this amount here and on the applicable Form 1116, Part I, or Form 1118, Schedule A.

In the example above, Domestic Corporation has total general category section 965(a) inclusions of $5 and will enter this amount on the general category Form 1118, Schedule A. Domestic Partnership is ineligible to claim deemed-paid credits and will not file either Form 1116 or Form 1118.

and will not file either Form 1116 or Form 1118.

Lines 4 and 5. Reserved.

Line 6. Enter the section 965(c) deduction in U.S. dollars derived through U.S. shareholder pass-through entities for the 2020 tax year.

For example, if Domestic Corporation reports on Form 965, Part II, Section 1, line 17, that it has a section 965(c) deduction of $3 with respect to section 965(a) inclusions derived through U.S. shareholder pass-through entities, it will need to allocate and apportion this deduction to reduce its section 965(a) inclusions in each separate category.

Lines 7 and 8. Reserved.

Line 9. Enter the amount from Schedule F, column (l), line 16. Also report on Form 1118, Schedule B, Part I, column 3. Taxpayers or other filers not required to complete Schedule F should not complete this line. See "*How To Complete*" above.

Line 10. Reserved.

Line 11. Enter the applicable percentage from a U.S. shareholder pass-through entity.

Note. Schedule H (Form 965), line 11 instructs filers to "enter the 2019 applicable percentage from pass-throughs." Please disregard "2019" and instead use the following instruction.

The applicable percentage from a U.S. pass-through entity is calculated by each U.S. shareholder pass-through entity that has a section 965(a) inclusion amount. The applicable percentage was reported on such U.S. shareholder pass-through entity's 2018 Form 965, Schedule H, Section 2, line 37 and/or line 46. The U.S. shareholder pass-through entity should provide the applicable percentage to its owners and beneficiaries that are eligible to claim a foreign tax credit (whether directly under section 901 or indirectly under sections 902 and 960). If the filer has an interest in only one such U.S. shareholder pass-through entity, enter the applicable percentage on line 11. If the filer has an interest in multiple U.S. shareholder pass-through entities with section 965(a) inclusion amounts, attach a schedule setting forth the applicable percentage for each U.S. shareholder pass-through entity and leave this line blank.

Lines 12 and 13. Reserved.

Line 14. Enter the amount of disallowed taxes with respect to foreign taxes deemed paid in connection with the 2020 tax year share of section 965(a) inclusions from pass-through entities (that is, the

amount reported on line 9). Attach a schedule setting forth, by U.S. shareholder pass-through entity and relevant DFIC, the amount of deemed-paid taxes, applicable percentage,

and disallowed taxes. Taxpayers or filers not required to complete Schedule F should not complete this line. See "*How To Complete*" above.

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the

form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return

information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for business taxpayers filing this form is approved under OMB control number 1545-0123 and is included in the estimates shown in the instructions for their business income tax return.

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