

## IRM PROCEDURAL UPDATE

**DATE: 06/13/2019**

**NUMBER: wi-21-0619-0768**

**SUBJECT: IRC Section 965**

**AFFECTED IRM(s)/SUBSECTION(s): 21.6.4**

**CHANGE(s):**

### **IRM 21.6.4.4.22.9 - Added new subsection for Form 965-A, Individual Report of Net 965 Tax Liability.**

1. The Form 965 must be completed by a taxpayer for every year for which the taxpayer has any net 965 tax liability outstanding and not fully paid at any point during the tax year, including deferred net 965 tax liabilities with respect to an S corporation. Form 965-A is intended to be a cumulative report of a taxpayer's net 965 tax liabilities through payment in full. Form 965 is used by individual taxpayers and entities taxed like individuals (for example, certain trusts and estates). The Form 965-A is filed with the income tax return of the taxpayer by the due date (taking into account extensions). If the taxpayer files the income tax return electronically, the Form 965-A is filed with the electronic income tax return.

### **IRM 21.6.4.4.22.10 - Added new subsection for acceleration letters.**

1. Cases identified for acceleration will receive a Letter 6154, *965(h) Soft Notice*, giving the taxpayer 30 days to respond with payment, plus interest, and statement of reasonable cause why payment not made timely. If taxpayer does not provide reasonable cause, TC 766/263 will be reversed and account accelerated. This work will all be completed manually in Memphis CSCO.

### **IRM 21.6.4.4.22.11 - Added new subsection for basis election.**

1. The regulations allow a section 958(a) U.S. shareholder to elect to make certain basis adjustments ("specified basis adjustments") with respect to each deferred foreign income corporation (DFIC) and each earnings and profits deficit foreign corporation (EPDFC). Specifically, an election under the regulations allows a section 958(a) U.S. shareholder's basis in the section 958(a) stock of a DFIC or applicable property with respect to the DFIC to be increased by an amount up to the amount of the section 965(b) previously taxed earnings and profits of the DFIC. There is a corresponding reduction in the section 958(a) U.S. shareholder's basis in the section 958(a) stock of an EPDFC or applicable property with respect to the EPDFC.

2. The election must generally be made by the due date of the income tax return.
3. If the due date of the return (under the general rule) is before May 6, 2019, the election (or revocation of the election) must be made by May 6, 2019. This is the transition rule.
4. The basis election statement is attached to the taxpayer's return or, if using the transition rule, to an amended return. The statement must note items such as shareholder's name, taxpayer identification number, and whether the taxpayer is making a limited election.
5. An amended tax return reporting a basis election or election revocation may contain the following terms:
  - o 1-965-2(f)
  - o 1-965-2(f)(2)
  - o Treas. Reg. 1-965-2(f)(iii)(B)(1)
  - o specified basis adjustments
  - o limited basis adjustment
  - o basis election
  - o basis election revocation
6. If the taxpayer files an amended tax return with the above items, then check the amended return receive date.

<b>If</b>	<b>Then</b>
The election (or revocation of the election) is received on or before May 6, 2019	Follow normal amended tax return procedures.
The election (or revocation of the election) is received after May 6, 2019	<p>Reject the election with a 96C letter using the following paragraphs:</p> <p>Q - Thank you for your Amended Return which we received on [Insert Received Date].</p> <p>* - We can't accept your basis election because the amended return wasn't postmarked before the 6th day of May per Treas. Reg. 1.965-2(f)(2)(iii)(B)(1). The election was due by the return due date (with extensions, if any). If the due date of the return (under the general rule) is before May 6, 2019, the election (or revocation of the election) must be made by May 6, 2019.</p>