



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

21.5.13

AUGUST 18, 2023

## EFFECTIVE DATE

(10-01-2023)

## PURPOSE

- (1) This transmits revised IRM 21.5.13, Account Resolution IRC 965 Transition Tax Procedures - Accounts Management.

## MATERIAL CHANGES

- (1) The following table outlines changes made to IRM 21.5.13 relating to IRC 965.

IRM	Changes
IRM 21.5.13.2 IPU 23U0369 issued 03-09-2023	Updated paragraph 3 to add tax year 2019. Added new paragraphs 4, 5, 6, 7 to define IRC 965 Transition Tax Statement. Updated paragraph 12 and 13 to add Triggering Events. Added new paragraph 18 to clarify IRC 965(i) election on Form 1041 pertaining to a Triggering Event. Restructured and clarified remaining IRM.
IRM 21.5.13.2.1 IPU 23U0369 issued 03-09-2023	New subsection created to explain a Triggering Event.
IRM 21.5.13.2.2 IPU 23U0369 issued 03-09-2023	New subsection created to explain TC 971 AC 114 and when to input it.
IRM 21.5.13.2.10 IPU 23U0709 issued 06-08-2023	Updated e-Fax number to fax possible acceleration cases per SERP Feedback #11350.
IRM 21.5.13.4 IPU 23U0369 issued 03-09-2023	Updated paragraph 1 with correct IDRS assignment number. Added e-Fax number for sites without access to CII.
IRM 21.5.13.4.3 IPU 23U0369 issued 03-09-2023	New subsection created to provide instructions on using Command Code BMFOLM to identify IRC 965(h) deferral payments for business accounts.

## EFFECT ON OTHER DOCUMENTS

IRM 21.5.13, IRC 965 Transition Tax Procedures - Accounts Management dated July 22, 2022, (effective October 1, 2022) is superseded. The following IRM Procedural Updates (IPU), issued on March 9, 2023 and June 8, 2023, have been incorporated into this IRM: 23U0369 and 23U0709.

**AUDIENCE**

The primary users of this IRM are Wage and Investment (W&I) Customer Account Services Employees.

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21.5.13

IRC 965 Transition Tax Procedures - Accounts Management

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21.5.13.1  
(10-01-2022)  
**Program Scope and Objectives**

- (1) This IRM section provides procedures and guidance for resolving Individual Master File (IMF) and Business Master File (BMF) IRC 965 Transition Tax accounts.
- (2) **Purpose:** This IRM provides general information concerning individual and business income tax returns and procedures for working telephone inquiries and correspondence relating to IRC 965 Transition Tax. See IRM 21.6.4.4.21 IRC 965 - Transition Tax on Untaxed Foreign Earnings, and IRM 21.7.4.4.25, Section 965 Transition Tax for instructions prior to 10-01-2022.
- (3) **Audience:** Customer Account Services, Customer Service Representatives (CSR) in Accounts Management trained on IRC 965 who answer telephone inquiries and/or work taxpayer correspondence.
- (4) **Policy Owner:** The Director, Accounts Management, Wage and Investment Division.
- (5) **Program Owner:** Wage and Investments, Customer Account Services, Accounts Management, Policy & Procedures BMF, Business Adjustments.
- (6) **Primary Stakeholders:** Taxpayers, Wage and Investment (W&I), Large Business and International (LB&I).
- (7) **Program Goals:** The objectives for this program ensure taxpayers will receive timely and accurate responses to their inquiries and quickly and effectively resolve issues with their IRC 965 Transition Tax accounts by outlining the steps for employees to accomplish their tasks.

21.5.13.1.1  
(10-01-2022)  
**Background**

- (1) IRC 965 trained contact representatives in Accounts Management (AM) respond to taxpayer inquiries as well as process claims and other internal adjustment requests. The IRS is committed to a customer service program that encourages taxpayers to comply voluntarily with the tax laws and that assists them in meeting their obligations.
- (2) AM employees provide customers with assistance in a manner that warrants the highest degree of public confidence, CSR's practice courtesy and proper communication techniques while ensuring that taxpayers receive complete and accurate responses.

21.5.13.1.2  
(10-01-2022)  
**Authority**

- (1) The procedures in this IRM attempt to translate a variety of legal and administrative authorities into practical guidance assistors can use. These authorities take many forms: Treasury Regulations, Internal Revenue Code (IRC), etc.
- (2) IRM 1.2.61, Servicewide Policies and Authorities, Policy Statements for Customer Account Services Activities, contains the Policy Statements which relate to Customer Account Services activities.
- (3) The authorities for this IRM include:
  - The IRC is the authority for the procedures in this Internal Revenue Manual.
  - The IRS official tax guidance, including revenue rulings, revenue procedures, notices, (which may contain guidance that involves substantive

interpretations of the IRC or other revenue laws), and announcements (through which the IRS makes public pronouncements of immediate or short-term value).

**Note:** The authoritative instrument for the distribution of all forms of official IRS tax guidance is the Internal Revenue Bulletin (IRB), a weekly collection of these and other items of general interest to the tax professional community. See *Tax Code, Regulations and Official Guidance*, for a comprehensive list of official IRS guidance.

21.5.13.1.3  
(10-01-2022)  
**Responsibilities**

- (1) Accounts Management Policy and Procedures BMF has responsibility in this IRM for issuing guidance to employees who help taxpayers in resolving account issues, work amended returns, prepare installment agreements and process penalty abatement requests among many other duties. These procedures include instructing employees on how to input data into the Integrated Data Retrieval System (IDRS).
- (2) Guidance for Accounts Management employees comes from many sources, including:
  - Reports - Equipment & Phones (REP)
  - AM Operations Support (AMOS)
  - Resource Management & Training (RMT)
  - Policy and Procedures BMF (PPB)
  - Policy and Procedures IMF (PPI)
  - Technology Assistance & Stakeholder Communication (TASC)
  - Identity Protection Strategy and Oversight (IPSO)
  - The Wage and Investment Commissioner, who has overall responsibility for the policy related to this IRM, which is published on a yearly basis
  - Field Directors, AM
  - The Chief of PPB, who ensures this IRM is timely submitted to Publishing each year
- (3) IRM 21.1.1, Accounts Management and Compliance Services Overview, provides guidance to employees assigned to the Accounts Management organization.

21.5.13.1.4  
(10-01-2022)  
**Program Management and Review**

- (1) **Program Reports:** The program reports provided in this IRM help Accounts Management CSR's. For reports concerning quality, inventory, and aged listings, refer to IRM 1.4.16, Accounts Management Guide for Managers. View aged listings by accessing Control Data Analysis, Project PCD, on the Control-D/Web Access server, which has a login program control.
- (2) **Program Effectiveness:** Program effectiveness is determined by Accounts Management's employees successfully using IRM guidance to perform necessary account actions and duties. Use the following reports to ensure program effectiveness:
  - National Quality Review System (NQRS)
  - Centralized Evaluative Review (CER)
  - Managerial Reviews
- (3) **Annual Review:** Review the processes included in this manual annually to ensure accuracy and promote consistent tax administration.

21.5.13.1.5  
(10-01-2022)  
**Program Controls**

- (1) See IRM 21.10.1, Embedded Quality (EQ) Program for Accounts Management, Campus Compliance, Field Assistance, Tax Exempt/Government Entities, Return Integrity and Compliance Services (RICS) and Electronic Products and Services Support, for quality data and guidelines for measurement. The Embedded Quality Review Program is the system used by Accounts Management for reviewing employees' work quality. The quality review process provides a method to monitor, measure, and improve the quality of work. Quality review data is used to provide statistics on quality for the Service's Business Results part of the Balanced Measures and/or to identify trends, problem areas, training needs, and opportunities for improvement.
- (2) Centralized Quality Review System (CQRS) is operated by JOC to provide independent quality review services for a number of product lines.
- (3) Perform local and operation reviews to focus attention on areas that require improvement. The Quality Assurance Manager's staff performs local quality reviews. Local quality reviews are used for employee development and on-the-job instruction. The Accounts Management function may also request that local quality reviews be performed on processes not subject to the national quality review. Managerial reviews, prepared on EQRS, measure employee performance.
- (4) Quality review data is used by management to provide a basis for measuring and improving program effectiveness by identifying:
  - Defect(s) resulting from site or systemic action(s) or inaction(s),
  - Driver(s) of customer accuracy,
  - Reason(s) for defect occurrence,
  - Defect trends,
  - Recommendation(s) for corrective action, and
  - Training needs.

21.5.13.1.6  
(10-01-2022)  
**Terms/Definitions/  
Acronyms**

- (1) The Reference Net Legal and Tax Research Service provides an *Acronym Database*, to research acronyms found within this IRM.
- (2) See Exhibit 21.5.13-1, Acronyms and Abbreviations Used in This IRM, to research acronyms and abbreviations found in IRM 21.5.13.

21.5.13.1.7  
(10-01-2022)  
**Related Resources**

- (1) Below are websites, job aids, or electronic tools needed to complete the work in Accounts Management:
  - The Correspondence Imaging Inventory (CII) for case inventory
  - The Employee User Portal (EUP) to view corporate, estate and trust, partnership, and individual electronic tax returns filed via MeF
  - Exhibit 21.2.2-2, Accounts Management Mandated IAT Tools. These IAT tools simplify taxpayer account processing by assisting the user with IDRS research and input.
  - Servicewide Electronic Research Program (SERP) to view SERP Alerts, IRM Procedural Update (IPUs), Correspondence Letters and IRM supplements, among others
  - The Electronic Publishing Website to research forms, instructions and publications, other Internal Revenue Manuals, revenue procedures and IRS announcements

21.5.13.2  
(03-09-2023)

### IRC 965 Transition Tax Overview

- (1) IRC 965 requires certain taxpayers to pay a transition tax on the untaxed foreign earnings of certain specified foreign corporations as if those earnings had been repatriated to the United States. For this purpose, a specified foreign corporation is a foreign corporation that either is a controlled foreign corporation (within the meaning of IRC 957) or has one or more United States shareholders that is a domestic corporation. Those potentially subject to the transition tax include:

- United States shareholders of a specified foreign corporation
- Certain direct/indirect domestic partners in domestic partnerships that are United States shareholders of specified foreign corporations
- Shareholders in an S corporation that is a United States shareholder of a specified foreign corporation
- Certain beneficiaries of another pass-through entity that is a United States shareholder of a specified foreign corporation
- Certain beneficiaries of a cooperative association that is a United States shareholder of a specified foreign corporation

**Note:** A United States shareholder is one who owns 10 % or more of the foreign corporation's stock, applying the indirect stock ownership principles of IRC 958.

- (2) Very generally, it is intended that foreign earnings held in the form of cash and cash equivalents are subject to an effective rate of approximately 15.5% and foreign earnings held in other than cash and cash equivalents are taxed at an effective tax rate of approximately 8%. The reduced tax rate is accomplished through a deduction under IRC 965(c).
- (3) IRC 965's inclusion period was December 1, 2017 through November 30, 2019. After November 30, 2019, no new IRC 965 inclusions can be made. During the inclusion period taxpayers could elect one or more of the following on the inclusion year return:
- Taxpayers could pay the IRC 965 transition tax in full
  - Taxpayers can make an IRC 965(h) election to pay the IRC 965 transition tax in eight annual installments (other than REITs that make an IRC 965(m) election).
  - Eligible Real Estate Investment Trusts (REITs) could elect to defer the inclusion of the IRC 965(a) inclusion amount and corresponding IRC 965(c) deduction over eight years.
  - S corporation shareholders could elect to defer the assessment and payment of their IRC 965(i) net tax liability with respect to an S corporation until a triggering event occurred by making an IRC 965(i) election
  - The taxpayer could elect to exclude IRC 965 income when determining the net operating loss (NOL) deduction and when determining the amount of income that can be reduced by a NOL carryback or carryforward, thereby making the NOL available to offset the non-IRC 965 income ONLY for the inclusion year return
- (4) A person/entity that had income under IRC 965 for its 2017 taxable year was required to include with its return an IRC 965 Transition Tax Statement signed under penalties of perjury and, in the case of an electronically filed return, in Portable Document Format (.pdf) with a filename of "965 Tax". Multiple IRC

965 Transition Tax Statements could be combined into a single .pdf file. The IRC 965 Transition Tax Statement was required to include the following information:

- Total amount required to be included under IRC 965(a)
- Aggregate foreign cash position, if applicable
- Total deduction under IRC 965(c)
- Foreign taxes paid with respect to the total amount required to be included in income by reason of IRC 965(a)
- Disallowed foreign taxes deemed paid pursuant to IRC 965(g)
- Total net tax liability under IRC 965 (as determined under IRC 965(h)(6))
- Amount of the net tax liability under IRC 965 to be paid in installments (including the current year installment) under IRC 965(h), if applicable, which would be assessed
- Amount of the net tax liability under IRC 965, the assessment and payment of which had been deferred, under IRC 965(i) , if applicable
- Listing of all elections under IRC 965 or the election provided for in Notice 2018-13 that the taxpayer had made, if applicable

(5) In taxable year 2018, Forms 965-A and 965-B replaced the IRC 965 Transition Tax Statement.

- a. Any individual taxpayer or taxpayer taxed like an individual (i.e., Form 1041 filer) who has a net IRC 965 tax liability for any tax year or has any net IRC 965 tax liability remaining unpaid at any time during a tax year must file Form 965-A.

**Note:** Taxpayers that made an IRC 965(i) election must file Form 965-A with their Form 1041 each year until the IRC 965(i) net tax liability is assessed in full. Form 1041 filers that made an IRC 965(h) election in the year of inclusion or in the year of the triggering event must file a Form 965-A each year with their Form 1041 until the IRC 965 liability is paid in full.

- b. The following taxpayer's must file Form 965-B in the following circumstances. Any corporate taxpayer who has a net IRC 965 tax liability for any tax year. Any net IRC 965 tax liability remaining unpaid at any time during a tax year. An electing REIT with any IRC 965 amount taken into account in accordance with IRC 965(m) or not fully taken into account at any time during a tax year.

**Note:** Corporate taxpayers that made an IRC 965(h) election in the year of inclusion must file a Form 965-B each year with their corporate income tax return until the liability is paid in full.

(6) For BMF returns with an IRC 965 inclusion, there will be a **CCC "J"** present on BRTVU response screen R1 and/or TRDBV "Codes" response screen. Computer Condition Codes may also be viewed on CC TXMODA response screen in the Posted Return Information section.

(7) See the table in IRM 3.14.2.7.5(9), IRC 965 Transition Tax Overview, which explains where the IRC 965 tax was reported during the inclusion period on the 2017 BMF return and/or IRC 965 Transition Tax Statement. See IRM 3.14.2.7.5(10), and (11), for IRC 965 tax reported on 2018 and 2019 BMF

returns and/or Form 965-A and Form 965-B. BMF programming systemically posted the TC 971 AC 114 and TC 766 CRN 263 amounts on the 2018 and 2019 inclusion year module.

- (8) Taxpayers who make an IRC 965(h) election pay the IRC 965 transition tax in 8 annual installments of the following amounts:
- 8 % in years 1 through 5
  - 15 % in year 6
  - 20 % in year 7
  - 25 % in year 8
- (9) Taxpayers make the IRC 965(h) election to pay the IRC 965 transition tax in installments by including attachments with their returns:
- a. Taxpayers subject to the transition tax for 2017 make the IRC 965(h) election to pay the transition tax in installments by following the rules in the *Questions and Answers About Reporting Related to Section 965 on 2017 Tax Returns*. Specifically, taxpayers must attach the election statement described in Question and Answer 7.
  - b. Taxpayers subject to the transition tax for 2018 make the IRC 965(h) election to pay the transition tax in installments by satisfying the requirements of Treas. Reg. 1.965-7(b)(2) (including attaching any required statements), indicating that such election was made on Form 965, Part III.
- (10) Taxpayers must make the IRC 965(h) election by the due date of their return, including extensions, whether or not an extension of time was requested by the taxpayer.
- (11) The annual installment due date is the due date of the return (not the extended due date). Failure to pay a required installment timely could result in an addition to tax or accelerate the entire balance of IRC 965(h) net tax liability.

**Note:** Relief was available for individual taxpayers who made an election on their 2017 return but missed the first of the 8 annual installments, if the individual's total transition tax liability was less than \$1 million and the first installment was paid in full by April 15, 2019.

**Note:** Federal tax filing deadlines from April 1, 2020, to July 14, 2020, were postponed to July 15, 2020 due to COVID-19. This also postponed the due date for IRC 965(h) installment payments for affected taxpayers.

**Note:** The postponement of individual filing deadlines from April 15, 2021 to May 17, 2021 similarly postponed the section 965(h) installment payment due date for affected taxpayers.

- (12) Instructions in the *Questions and Answers About Reporting Related to Section 965 on 2017 Tax Returns* tell taxpayers to make two separate payments; one for the transition tax (which is identified as a TC 670 with a Designated Payment Code (DPC) 064) and one for the remaining tax due. The TC 150 is a combination of regular income tax and 100% of the total IRC 965 liability. For returns with an IRC 965(h) election made in the inclusion year and/or in the year of the triggering event, a TC 766 with a Credit Reference Number (CRN)

263 will be posted to the module indicating the remaining unpaid IRC 965 liability amount (deferred amount) to be paid in installments.

**Example:** A taxpayer's regular tax is \$5,000. The transition tax is \$25,000. The TC 150 is \$30,000. The taxpayer makes the 2017 IRC 965(h) election. Since 8% of the transition tax is due in year one ( $\$25,000 \times .08 = \$2,000$ ), a TC 766 CRN 263 is posted for \$23,000.

**Exception:** For S Corporation shareholders the full amount of the transition tax will not be included in the TC 150 amount if the taxpayer made an election under IRC 965(i). See IRM 21.5.13.2.1(1) IRC 965 Transition Tax Overview for additional information.

**Note:** The TC 971 AC 114 will reflect an amount of "0" for Form 1120S and Form 1065 because no IRC 965 tax is assessed on the returns.

- (13) For returns where there is an IRC 965 inclusion, there will be a **TC 971 AC 114** posted with the original return. The **Miscellaneous Field** on IDRS will show the total amount of the IRC 965 transition tax minus any amount deferred under IRC 965(i), as shown on the original return. This amount will be included in the TC 150 amount. For 2017 BMF returns, if the taxpayer elected the IRC 965(h) tax deferral method, there will also be a **TC 971 AC 115** posted for the deferred tax amount with the original return. The TC 971 AC 115 was temporarily used until programming could be established to generate the TC 766/263. The TC 971 AC 115 will be repurposed midyear 2023 to identify examinations that resulted in IRC 965 tax as a result of statute/regulation challenge being assessed but not eligible for deferral.

**Note:** A TC 971 AC 114 miscellaneous field of zero could also be present if the taxpayer reported an income inclusion and fully paid the tax but failed to provide a transition tax statement or the transition tax statement was incomplete. The TC 971 AC 114 miscellaneous field of zero could also indicate the liability was below tolerance.

**Note:** The only time a TC 971 AC 114 should be input on a module after November 2019 is if the taxpayer already has an established IRC 965(i) election and experiences a triggering event. A triggering event would be reported on Form 965-A, Part 4, Column (f) as a negative number and transferred to column (f) on one of lines 5 through 8 in Part 1 as a positive number. The triggered liability should be input as a TC 971 AC 114 on the module in which the triggering event occurred.

- TC 971 AC 114 - Total net tax liability under IRC 965 found in the miscellaneous field
- TC 971 AC 115 - Deferred net tax liability under IRC 965 found in the miscellaneous field

- (14) For tax years 2018 or subsequent, the taxpayer will file *Form 965-A* or *Form 965-B* to report the installment payments.
- (15) For more information on elections and reporting and paying IRC 965 amounts, see *Questions and Answers about Reporting related to Section 965 on 2017 Tax Returns*, *Questions and Answers about Tax Year 2018 Reporting and Pay-*

*ments Arising under Section 965 and General Section 965 Questions and Answers (Including Transfer and Consent Agreements) on IRS.gov.*

- (16) The Department of Treasury and IRS have published final regulations under IRC 965. Additional guidance was published in Rev. Proc. 2018-17 and Publication 5292, *How to Calculate Section 965 Amounts and Elections Available to Taxpayers*. The IRS will provide additional guidance and other information on *IRS.gov* as necessary.
- (17) For taxpayers who made an IRC 965(h) election, the IRS generally will issue an installment notice and payment voucher for each successive installment approximately six to eight weeks before the respective due dates. The installment notice will provide the total amount of the unpaid IRC 965(h) net tax liability and the amount of the IRC 965(h) net tax liability for the inclusion year (generally 2017 through 2019) and the amount of the IRC 965(h) net tax liability to be paid by the installment notice due date. If taxpayers do not receive a notice and do not know the amount to be paid for an installment, they should contact the IRS at 800-830-5215, Ext 708 for Business Tax Returns and 855-223-4017, Ext 729 for Individual Tax Returns.
- (18) For returns with an IRC 965(i) election made on Form 1041, the IRC 965(i) deferral is for both the assessment and payment of the IRC 965 tax amount. In the case of an IRC 965(i) election on Form 1041, there will be a TC 971 AC 114 for zero input on the module for the year of inclusion. The IRC 965(i) election deferral will remain intact until a triggering event occurs provided that a transfer agreement was not entered into at which time the tax is assessed and payable. A TC 971 AC 165 will be input on the 965(i) inclusion year tax module and on every Form 1041 tax year module thereafter until the year of the triggering event when the IRC 965(i) net tax liability is assessed and payable.

21.5.13.2.1  
(03-09-2023)

#### Triggering Events

- (1) An election made under IRC 965(i)(1) allows a shareholder of an S corporation that is an IRC 958(a) US shareholder to defer the assessment and payment of the IRC 965(i) net tax liability. An IRC 965(i) deferral is indefinite and will remain intact until a triggering event occurs, provided that a transfer agreement was not entered into at which time the IRC 965(i) deferred liability is assessed and payable.
- (2) Triggering events include:
  - The S corporation ceases to be an S corporation (i.e., the S corporation changes its status)
  - A liquidation sale, exchange, or other disposition of substantially all the assets of the S corporation (including in a title 11 or similar case), a cessation of business by the S corporation, or the S corporation ceases to exist
  - The electing shareholder transfers any share of stock in the S corporation
  - A material misrepresentation or omission on a transfer agreement
- (3) See the tables in IRM 3.14.2.7.5.2 (5) & (8) IRC 965(i) Elections which explain where the IRC 965(i) elections were reported on the inclusion year return and the Transition Tax Statement and Form 965, Form 965-A.

21.5.13.2.2  
(03-09-2023)  
**TC 971 AC 114**  
**Explained**

- (1) The TC 971 AC 114 represents the IRC 965 Total Tax Liability minus any amount that was deferred under IRC 965(i). A TC 971 AC 114 is only applicable to BMF MFT's 02, 05, 06, 34, and 44. A TC 971 AC 114 should only be present on the IRC 965 inclusion year module and/or the triggering event year module. There should not be a TC 971 AC 114 on non-inclusion years and/or non-triggering event year modules.
- (2) See the table below for a description of when a TC 971 AC 114 should be present on the module:

If	Then
A IRC 965 income inclusion and/or election is being made on a tax period 201712-201911 (MFT 02, 05, 06, 34, or 44) return. If Form 1041 filers (MFT 05) made a IRC 965(i) election during the inclusion period, subsequently	A TC 971 AC 114 should be present on the inclusion year module.
If a TC 971 AC 114 is present on an MFT 02, 06, 34 or 44 after 201911, it is an indication of a late election or it is erroneous.	If after 201911 an erroneous TC 971 AC 114 is present on a module, reverse it.
Form 1041 filers (MFT 05) made a IRC 965(i) election during the inclusion period, and subsequently experience a triggering event.	A TC 971 AC 114 will be input on the triggering event module when the IRC 965(i) tax is assessed. This is the only time that TC 971 AC 114 will be present on a tax module after 2020. If an erroneous TC 971 AC 114 is present on a module, reverse it.
A triggering event is being reported on Form 1041 and Form 965-A for the reporting year	A TC 971 AC 114 should <b>NOT</b> be present on the reporting year module.
The taxpayer is ONLY reporting a 965 installment payment that is being made towards a IRC 965(h) election that was made during the inclusion period on Form 965-A or Form 965-B attached to the reporting year return.	A TC 971 AC 114 should <b>NOT</b> be present on the reporting year module.

If	Then
The taxpayer is ONLY reporting that the IRC 965(i) election that was made during the inclusion period remains intact for the reporting year on Form 965-A attached to the reporting year return.	A TC 971 AC 114 should <b>NOT</b> be present on the reporting year module.  <b>Note:</b> However a TC 971 AC 165 for the amount of the intact IRC 965(i) election should be present on the reporting year module.

21.5.13.2.3  
(10-01-2022)  
**IRC 965 Balance Due  
Modules**

- (1) The taxpayer may have received a balance due notice because computer programming was not available for processing IRC 965 transition tax on 2017 returns until the beginning of July 2018. Some returns were processed prior to the completion of the programming and the correct transaction codes were not input during pipeline processing. This condition may have caused the taxpayer's account to show a balance owed. Each account will require verification of the net tax liability under IRC 965 and the deferral amount located on master file. In some cases, it may be necessary to review the income tax return on EUP or request the paper return. On a balance due tax module, always ensure notices are delayed to prevent unnecessary collection activity. If the IRC 965(i) deferred liability was included in the total tax liability in error, take the following action(s):
  - Reduce the total tax liability (TC 150) by the amount of net tax liability deferred under IRC 965(i) by inputting TC 291. The amount of net tax liability deferred under IRC 965(i) for 2017 appears on line 7 of the transition tax statement.
  - For an IRC 965(i) election, a TC 971 AC 114 must be present on the account. The TC 971 AC 114 will only be zero if there is only a IRC 965(i) election made with no other election. If a IRC 965(i) election was made with an IRC 965(h) election then the TC 971 AC 114 will be for the amount of the IRC 965 total tax minus the amount deferred under IRC 965(i). Input the correct amount into the miscellaneous field if the taxpayer has no net tax liability under IRC 965 not subject to the IRC 965(i) election.
- (2) While analyzing IRC 965 transition tax accounts, review the tax return data on every module to determine whether the account accurately reflects the taxpayer's IRC 965(h) election.
  - Review the tax module and determine the underpayment amount (balance due minus the penalty and interest).
  - Research the tax return for the net tax liability under IRC 965 and the deferral amount for the IRC 965(h) election.
  - Input a TC 971 AC 114 for the total net tax liability under IRC 965.
  - Input a TC 290 for zero with the CRN 263 for the amount of the net tax liability under IRC 965 to be paid in installments (deferred amount). If inputting TC 290 CRN 263 and TC 971 AC 114, use posting delay code (PDC) 1 on the CRN 263 adjustment.

21.5.13.2.4  
(10-01-2022)  
**Application of Excess  
Remittances**

- (1) For tax years where a taxpayer has an IRC 965 inclusion, or assessment the Service does not have the authority to refund or credit elect payments in excess of the currently due IRC 965(h) installment until the entire liability for the year is paid, including the full net tax liability under IRC 965. Programming froze 2017 overpayment tax modules, and the identified modules were reviewed and worked through a manual process for accounts processed through cycle 201852. A TC 767/CRN 263 (minus) for the excess remittance amount will be necessary. This action will reduce the deferred amount.
- (2) For tax years where a taxpayer has an IRC 965 inclusion, or assessment if any excess credit remains after all the installments are paid and after the input of the TC 767/CRN 263 (net tax liability under IRC 965 fully paid), refund the remaining excess credit or apply it to the next tax period as requested by the taxpayer. See IRM 21.5.8.4.2, Determining Correct Credit Transfer Format, for credit elect guidance.
- (3) Beginning in cycle 201903, this process was automated for tax returns with an IRC 965 inclusion, or assessment and with payments in excess of the current IRC 965(h) installment. The only time an overpayment will be applied systemically is upon return settlement, not if an overpayment is created as a result of an adjustment. Those will need to be manually input. After midyear 2023, the systemic TC 766 CRN 263 posting will be obsolete, however the systemic posting of the TC 767 CRN 263 resulting from a DPC 64 payment posting will continue.
- (4) In a year where a taxpayer has an IRC 965 inclusion, or assessment until the taxpayer pays the entire amount of the liability for a year (including any amount of net tax liability under IRC 965 for the year except to the extent deferred under IRC 965(i)), there can be no overpayment. Meaning the taxpayer is not entitled to a refund. If the posting or related processing (i.e., posting freeze codes) of the administrative credit (TC 766 CRN 263), which was created solely for the IRS to process IRC 965(h) elections and prevent balance due notices from being issued, caused the taxpayer's account (for the inclusion year) to appear overpaid and the overpayment was erroneously refunded by the IRS, the event is considered a computer processing mistake and erroneous refund procedures are required by the IRS. IRM 21.4.5.2, Erroneous Refunds Overview, provides guidance.
- (5) For subsequent years after the inclusion year (or year of assessment) where the taxpayer does not have an IRC 965 inclusion or assessment, but where the taxpayer has an IRC 965(h) installment payment due, the taxpayer *may* have an overpayment that can be refunded or applied as a credit elect to a subsequent year. See *FAQs 2018*.

21.5.13.2.5  
(10-01-2022)  
**IRC 965 Transition Tax  
Payments and  
Designated Payment  
Code (DPC) 064**

- (1) *Questions and Answers about Reporting related to Section 965 on 2017 Tax Returns*, Question and Answer 10, (for 2017 returns) and Question and Answer 2, (for 2018 returns) instructs transition tax taxpayers to make two separate payments, one for the transition tax (identified as a TC 670 with DPC 064) and one for the remaining regular tax due. This may be an installment of the IRC 965 transition tax owed or (for a year in which there is an IRC 965(a) inclusion) the remaining full net tax liability under IRC 965.
- (2) The IRC 965 initial transition tax payments can be made electronically using Direct Pay, credit/debit card payment options and EFTPS. This is either the

first year's installment of the IRC 965 transition tax owed or the remaining full net tax liability under IRC 965. For the IRC 965 transition tax payment, there is no penalty for taxpayers electing to use wire transfers as an alternative to otherwise mandated EFTPS payments. Taxpayers normally required to pay through EFTPS must submit the net tax liability under IRC 965 via wire transfer or they may be subject to penalties. On a wire payment of net tax liability under IRC 965, the taxpayer must use a 5-digit tax type code of 09650.

**Note:** Taxpayers may not have followed FAQ 10 (2017) /FAQ 2 (2018) and the payment posted as a TC 610, EFTPS, or estimated tax payment (TC 660). These payments can be corrected to the TC 670 DPC 64 if they are IRC 965 payments that posted without the DPC 64 in error.

21.5.13.2.6  
(10-01-2022)  
**Statute Imminent  
Adjustments**

- (1) IRC 965(k) allows for a 6-year statute of limitations (SOL) on assessments for IRC 965 net tax liabilities. This provision allows 6 years from when the original return was filed, including extensions (3 years past the assessment statute expiration date (ASED)) to assess IRC 965 net tax liabilities.
- (2) If the ASED is within 90 days of expiration or expired, review the original return, and amended return if applicable, to determine the needed changes. Use the table below for procedures.

**Note:** If a case is received from any source and the case is not an IRC 965 tax module or is an increase to non-IRC 965 tax, see IRM 25.6.1.9.9.2, After Hours and Imminent Assessments, for procedures.

If	And	Then
The change is for IRC 965 tax only	The timeframe is greater than 90 days from the ASED or extended 6 year ASED	Keep and work. Update the ASED if needed per paragraph 3 below. The update to the ASED must post before adjusting the module.
The change is for a combination of IRC 965 tax and non-IRC 965 tax	The non-IRC 965 tax is a decrease and allowable per IRM 25.6.1.10.2.7.2, Limitations on the Amount of a Claim	Keep and work both adjustments. Update the ASED if needed per paragraph 3 below. The update to the ASED must post before adjusting the module.
The change is for a combination of IRC 965 tax and non-IRC 965 tax	The non-IRC 965 tax change is a decrease and not allowable per IRM 25.6.1.10.2.7.2, Limitations on the Amount of a Claim	Keep and work both adjustments. <ul style="list-style-type: none"> <li>Update the ASED if needed per paragraph 3 below. The update to the ASED must post before adjusting the module.</li> <li>Follow the partial disallowance procedures in IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures, to disallow the non-IRC 965 tax decrease.</li> </ul>

If	And	Then
The change is for a combination of IRC 965 tax and non-IRC 965 tax	There is an increase to the non-IRC 965 portion of the tax	<p>Follow procedures in IRM 25.6.1.9.9.2, After Hours and Imminent Assessments, for the non-IRC 965 tax increase only.</p> <ul style="list-style-type: none"> <li>If expedited routing to Statutes with 6 or more calendar days before the ASED expiration of the IRC 965 tax is needed, include a statement saying the IRC 965 tax of \$XXXX is allowable for increase per IRC 965(k) and will be assessed by the 965 team. Any other tax increase is outside the scope of the 965 team to consider.</li> <li>Update the ASED if needed per paragraph 3 below after approval from the Statute function. The update to the ASED must post before adjusting the module.</li> </ul>

- (3) If there is an IRC 965 inclusion on the return and it was originally filed and accepted, and the ASED must be extended an additional three years, correct the ASED by inputting a TC 560 to extend the ASED an additional three years (i.e., three years from the IRS received date of the return). Input the following using CC REQ77:

- EIN/TIN
- MFT
- Tax Year
- TC 560
- The later of the return received date or return due date plus 3 years (in the "Extension Dt" field)
- "70" (in the "DLN-CD" field) to extend the ASED or "99" to back date/back down the ASED

**Note:** If the ASED is expired, input the transaction date that is one day prior to the ASED expiration date to avoid an unpostable.

- No Source Document (NSD), with an explanation the ASED is corrected per IRC 965(k)
- (4) If the Statute function forwards cases to the IRC 965 team to review, review the cases on an expedited basis to see if the adjustment has a non-IRC 965 tax increase.

21.5.13.2.7  
(10-01-2022)

### IRC 965 Recovery Cases

- (1) IRC 965 Recovery cases, identified by the posting of a TC 971 AC 114 will show a total net tax liability greater than the TC 150. However not all of the recovery cases will be a result of TC 971 AC 114 greater than the TC 150. Headquarters will refer these cases to the IRC 965 Tiger Teams. Thorough research of the original and duplicate filed returns (if applicable) is performed on the same tax period for the inclusion year. Research may extend to subsequent years, which requires obtaining the original returns if paper filed or accessing MeF for electronically-filed returns.
- (2) Taxpayers may not understand that the total IRC 965(h) tax must be reported only on the inclusion year. A common scenario for these cases shows only a part of the IRC 965(h) tax being reported with the total tax liability of the inclusion year.

**Example:** The taxpayer files a 201712 return reporting IRC 965 transition tax. The IRC 965(h) tax reported on the transition tax statement is \$100,000 with non-IRC 965 tax reported of \$50,000. The correct TC 150 amount is \$150,000; however, the taxpayer is reporting only \$50,000 and the first 8% installment payment of \$8,000, (8% of the \$100,000 transition tax) for a total tax of \$58,000 reported on the inclusion year. The subsequent year (201812) shows the taxpayer reports \$8,000 for the next installment payment for 201712 along with the non-IRC 965 tax.

- (3) To research and process the IRC 965 recovery cases per IRC 6213(g)(2)(C), applicable returns must be obtained or accessed.
  - Employees order paper-filed returns not available through CFO.
  - Create a CII case with the current date.
  - Complete Form 2275, Records Request, Charge, and Recharge, as a special search using the CII ID and send the CII ID to the P & A analyst to order the return using established procedures.
  - Create a CII case for electronically-filed (MeF) returns. A copy of the return does not need to be attached to the CII case.
- (4) To create a CII case:
  - Use category "965X."
  - Use status "S" if monitoring the account for pending documents or information.
  - Use the date the CII case is created for the IRS received date.
- (5) Adjustment process:
  - Adjust the tax to reflect the correct IRC 965 tax and non-IRC 965 tax using Hold Code (HC) 3. The subsequent year may need to be adjusted if the IRC 965 tax was reported there in error.
  - Send a letter to the taxpayer explaining the adjustment and how to pay installments correctly on the inclusion tax year.
  - Update CII with a note stating this is a 965 Recovery Case per IRC 6213(g)(2)(C) before closing the case.

**Note:** If the ASER is expired, see IRM 21.5.13.2.6, Statute Imminent Adjustments.

21.5.13.2.8  
(10-01-2022)  
**Issuance of Notice and Demand Letter Procedures**

- (1) For accounts processed through 201852, the manual issuance of the Notice and Demand letter was a collaborative effort by Submission Processing (SP) and AM. Letter 3064C will be issued to taxpayers with an IRC 965(h) election advising them that the IRS assessed the 2017 tax liability (regular tax plus the IRC 965 transition tax) and reminding them that future installments are required to pay the tax in full. AM will issue letters on tax modules identified with a zero balance or overpayment/excess remittance. SP will issue letters on accounts with a balance due. In certain situations, a balance due account may require the issuance of a Notice and Demand letter by AM when perfecting the account.
- (2) HQ will periodically provide a Notice and Demand Excel listing to Brookhaven and Ogden for issuance of the Notice and Demand letters to accounts identified with a zero balance or overpayment/excess remittance.
- (3) CSRs will analyze the tax module for IRC 965 transactions and make the account whole (ensure accurate IRC 965 transactions, STAUPS, etc.). A valid IRC 965(h) election must have a TC 971 with AC 114 and a TC 766 with CRN 263. If necessary, correct any erroneous transactions or input missing transactions.
- (4) If a taxpayer has an IRC 965 inclusion and made an IRC 965(h) election and there is a payment in excess of the amount currently due, FAQs 13 and 14 (for 2017 returns) and FAQs 4 and 5 (for 2018 returns) explain that the Service cannot issue a credit elect or refund for the inclusion year until the net tax liability under IRC 965 is paid in full. A TC 767/CRN 263 (minus) for the excess payment amount will be necessary. This action reduces the deferred amount. If the net tax liability under IRC 965 is paid in full, (the full amount of the inclusion year tax liability, including the full net tax liability under IRC 965), the taxpayer may receive the remaining overpayment as a credit elect or refund, if available. If a taxpayer had an IRC 965 inclusion in a previous year but not in the current year, the taxpayer may receive a refund or credit elect of an overpayment for the current year as long as the taxpayer has fully paid their tax liability for the current year along with any installment payment due for the current year. See FAQ 1 of the General 965 FAQs.
- (5) An Account Management System (AMS) case note identifying the date and condition of the issuance of the Letter 3064-C, (i.e., 3064-C 02/07/2019 condition 1) is required.
- (6) Update the Notice and Demand Excel listing with the date the Letter 3064-C is input.
- (7) Input the Letter 3064-C with selective paragraphs ABDLM\*Z. See IRM 21.5.13.2.8.1, Notice and Demand Letters (Letter 3064-C), for open paragraphs (LM\*) selection. It may not be necessary to use all three open paragraphs. The first open paragraph fill-in is the tax module TC 150 amount. The paragraph Z fill-in is the Accounts Management phone number (800-830-5215 Ext 708 for BMF accounts and 855-223-4017 Ext 729 for IMF accounts).
- (8) The systemic programming for issuance of the Notice and Demand letters became available in cycle 201903. Accounts processed beginning in cycle 201903 will systemically receive one of the Notice and Demand notices. See IRM 21.5.13.3.6 IRC 965 CP Notices - IMF and IRM 21.5.13.4.5 IRC 965 CP Notices - BMF .

**Note:** If correcting an account in which the TC 114 and TC 263 were missed in original processing, issue the Letter 3064-C manually since systemic generation is not available after posting of the original return.

21.5.13.2.8.1  
(10-01-2022)

**Notice and Demand  
Letters (Letter 3064-C)**

- (1) For accounts processed prior to 201903, the letter advised the taxpayer that the IRS assessed the 2017 tax liability (regular tax plus the IRC 965 transition tax) and reminded the taxpayer that future installments were required to pay the tax in full. Letter 3064-C, IDRS Special Letter, will be used for the IRC 965(h) Notice and Demand requirement. The Notice and Demand letter is issued to taxpayers with an IRC 965(h) election (election to defer payment over 8 installments) within 60 days of the TC 150 posting date. Tax modules reporting an IRC 965(h) election in 2017 processed on or before cycle 201852 required a manual input of Letter 3064-C. The 2018 Notice and Demand letters are systemically generated.
- (2) The following five conditions require a Notice and Demand letter. Chief Counsel (CC) provided paragraphs for each condition.

**Note:** Condition 5 applies only to IMF.

- (3) **Condition 1 (zero balance):** For taxpayers with an effective IRC 965(h) election who have no balance due and have not overpaid their first installment, use the following open paragraphs:
  1. Paragraph L - We received and processed your 2017 income tax return. We assessed the \$[xx 16\$] you reported as the amount of tax you owed. You elected to pay your Internal Revenue Code (IRC) Section 965 net tax liability in installments over 8 years. The installment due for the first year is equal to 8% of the IRC 965 net tax liability.
  2. Paragraph M - We received your payments or applied your credits and you have no balance due at this time. Continue to make timely IRC 965(h) annual installment payments.
  3. Paragraph Z - If you have questions, you can call [800-830-5215 Ext. 708] for BMF assistance or call [855-223-4017 Ext. 729] for IMF assistance.
  4. If you prefer, you can write to the address at the top of the first page of this letter.
- (4) **Condition 2 (credit balance):** For taxpayers with an effective IRC 965(h) election who requested a refund because of payments or credits exceeding the amount currently due but who still owe net tax liability under IRC 965, use the following open paragraphs:
  1. Paragraph L - We received and processed your 2017 income tax return. We assessed the \$[xx 16\$] you reported as the amount of tax you owed. You elected to pay your Internal Revenue Code (IRC) Section 965 net tax liability in installments over 8 years. The amount of the installment due for the first year is equal to 8% of the IRC 965 net tax liability.
  2. Paragraph M - We received your payments or applied your credits and you have no balance due at this time. Continue to make timely IRC 965(h) annual installment payments.
  3. Floating Paragraph \* - We can't issue a refund for the amount you requested because your total payments and credits don't exceed the \$[xx 16\$] you reported as your total tax liability. We'll apply any payments or

credits exceeding the amount currently due to your next IRC 965(h) installment, and so on, until we either apply the full amount or you satisfy the full income tax liability for 2017.

4. Paragraph Z - If you have questions, you can call [800-830-5215 Ext. 708] for BMF assistance or call [855-223-4017 Ext. 729] for IMF assistance.
5. If you prefer, you can write to the address at the top of the first page of this letter.

(5) **Condition 3 (credit balance):** For taxpayers with payments/credits exceeding the amount currently due but not more than the assessed TC 150 amount who requested that such excess be applied as a credit elect to 2018, use the following open paragraphs:

1. Paragraph L - We received and processed your 2017 income tax return. We assessed the \$[xx 16\$] you reported as the amount of tax you owed. You elected to pay your Internal Revenue Code (IRC) Section 965 net tax liability in installments over 8 years. The amount of the installment due for the first year is equal to 8% of the IRC 965 net tax liability.
2. Paragraph M - We received your payments or applied your credits and you have no balance due at this time. Continue to make timely IRC 965(h) annual installment payments.
3. Floating Paragraph \* - We can't credit any amount to your next tax year because your total payments and credits don't exceed your \$[xx 16\$] total tax liability. We'll apply any payments or credits exceeding the amount currently due to your next IRC 965(h) installment payment obligation, and so on, until we either apply the full amount or you satisfy the full income tax liability for 2017.
4. Paragraph Z - If you have questions, you can call [800-830-5215 Ext. 708] for BMF assistance or call [855-223-4017 Ext. 729] for IMF assistance.
5. If you prefer, you can write to the address at the top of the first page of this letter.

(6) **Condition 4 (balance due):** For taxpayers with a reported IRC 965 net tax liability and a past-due balance on their first 965 installment payment, use the following open paragraphs:

1. Paragraph L - We received and processed your 2017 income tax return. We assessed the \$[xx 16\$] you reported as the amount of tax you owed. You elected to pay your Internal Revenue Code (IRC) Section 965 net tax liability in installments over 8 years. The amount of the installment due for the first year is equal to 8% of the IRC 965 net tax liability.
2. Paragraph M - You must fully pay your first IRC 965(h) installment as soon as possible. Interest will accrue on any balance due until it is paid in full. We may charge a failure to pay penalty and the full amount of your IRC 965 net tax liability may become immediately due if you don't timely pay the full amount of your first installment.
3. Floating Paragraph\* - Going forward, make timely IRC 965(h) annual installment payments.
4. Paragraph Z - If you have questions, you can call [800-830-5215 Ext. 708] for BMF assistance or call [855-223-4017 Ext. 729] for IMF assistance.

5. If you prefer, you can write to the address at the top of the first page of this letter.
- (7) **Condition 5 (balance due):** (IMF Only) For taxpayers with a reported IRC 965 net tax liability of \$1 million or more and a past-due balance on their first installment payment, use the following open paragraphs:
  1. Paragraph L - We received and processed your 2017 income tax return. We assessed the \$[xx 16\$] you reported as the amount of tax you owed. You elected to pay your Internal Revenue Code (IRC) Section 965 net tax liability in installments over 8 years.
  2. Paragraph M - You must fully pay your (insert the appropriate installment) IRC Section 965(h) installment as soon as possible. Interest will accrue on any balance due until it is paid in full.
  3. Floating Paragraph \* - Going forward, make timely IRC Section 965(h) annual installment payments.
  4. Paragraph Z - If you have questions, you can call [855-223-4017 Ext. 729] for IMF assistance.
  5. If you prefer, you can write to the address at the top of the first page of this letter.

21.5.13.2.9  
(10-01-2022)  
**IRC Section 965(n)  
Election**

- (1) If the IRC 965(n) election is made, the net operating loss (NOL) is determined without regard to amounts related to inclusions under IRC 965, increasing the NOL available for carryforward or carryback, and the taxable income for the year that may be reduced by carryforwards or carrybacks is also determined without regard to such amounts.
- (2) For 2017 elections must be made by attaching a statement as shown in *Q and A7* to a timely-filed return (including extensions). The IRC 965(n) election, once made, is generally irrevocable. See Treas. Reg. 1.965-7(e)(2)(iii), IRM 21.5.9.5.6.4, Carryback Applications and Claims with Section 965 Involvement, for IMF and IRM 21.5.9.5.10.8.8, Carryback Applications (TENTs) with Section 965 Involvement - CARES Act, for BMF. After 2017, elections are made on Form 965.

21.5.13.2.10  
(06-08-2023)  
**IRC 965 Acceleration  
Letters**

- (1) Cases identified for acceleration will receive a Letter 6154, Notice of Intent to Terminate Your IRC Section 965(h) Payment Agreement. The letter gives the taxpayer 30 days to respond with payment, plus interest, and a statement of reasonable cause explaining why payment was not made timely. If the taxpayer does not provide reasonable cause, TC 766/263 will be reversed, and account accelerated. This work will all be completed manually in Brookhaven CSCO.
- (2) If a possible acceleration case is identified and research shows no Letter 6154 has been sent, route the case via e-Fax to 855-384-8822, Attn: Brookhaven CSCO 965 Program. If research shows a Letter 6154 has been sent, there is no need to refer the case.

21.5.13.2.11  
(10-01-2022)  
**Making or Revoking  
Basis Election**

- (1) Regulations under IRC 965 allow U.S. shareholders who directly or indirectly own the stock of specified foreign corporations within the meaning of IRC 958(a) to elect to make certain basis adjustments with respect to each deferred foreign income corporation (DFIC) and each earnings and profits deficit foreign corporation (EPDFC). The election allows the shareholder's basis in the DFIC stock or applicable property to be increased up to the

amount of the IRC 965 previously taxed earnings and profits of the DFIC. There is a corresponding reduction to the EPDFC stock or applicable property of the shareholder.

- (2) The election must be made by the due date (including extensions) of the income tax return.
- (3) If the due date of the return was before May 6, 2019, the election, or revocation of the election, must be made by May 6, 2019. A revocation may only be made if the election was made before February 5, 2019.
- (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 the statements required by the regulations.
- (5) An amended tax return reporting a basis election or election revocation may contain the following terms:
  - 1.965-2(f)
  - 1.965-2(f)(2)
  - Treas. Reg. 1.965-2(f)(2)(iii)(B)(1)
  - Specified basis adjustments
  - Limited basis adjustment
  - Basis Election
  - Basis Election Revocation
- (6) If the taxpayer files an amended tax return with the above terms, then check the amended return received date.

If	Then
The election is postmarked on or before May 6, 2019	Follow normal amended tax return procedures.
The revocation is postmarked on or before May 6, 2019, and the election was made before February 5, 2019	Follow normal amended tax return procedures.
The revocation is postmarked on or before May 6, 2019, but the election was made on or after February 5, 2019	<p>Reject the election with a Letter 96-C using the following paragraphs:</p> <p>Thank you for your amended return, which was postmarked on [insert postmark date] and which we received on [insert received date].</p> <p>*We can't accept your basis election revocation because the election was not made before February 5, 2019, per Treas. Reg. 1.965-2(f)(2)(iii)(B)(1)(ii).</p>

If	Then
The election (or revocation of the election) is received after May 6, 2019	<p>Reject the election with a Letter 96-C using the following open paragraphs:</p> <p>(Q) Thank you for your amended return, which was postmarked on [insert postmark date] and which we received on [insert received date].</p> <p>(*) We can't accept your basis election because the amended return wasn't postmarked by May 6, 2019, per Treas. Reg 1.965-2(f)(2)(iii)(B)(1)(ii). 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>

21.5.13.3  
(10-01-2022)  
**IRC 965 Transition Tax  
IMF**

- (1) The IMF transition tax program is centralized at the Brookhaven Accounts Management Campus (BAMC). Correspondence referencing IRC 965/ Repatriation tax / loose transition tax statement, or internal transcripts (category code 965C), or an amended return referencing the same as above (category code 965X), should be reassigned per the *AM Site Specialization Temporary Holding Numbers*. Phone calls are centralized in Brookhaven. If not trained to answer these calls, transfer the caller to 1171/1172. If preparing a Form 4442, provide a timeframe of 60 days. Fax the Form 4442 to the number shown in the *Form 4442 Referral Fax Numbers*.

21.5.13.3.1  
(10-01-2022)  
**IRC 965 IDRS Tax  
Module and Transaction  
Codes IMF**

- (1) The following Return Processing Codes (RPC) and Computer Condition Codes (CCC) are used to identify IRC 965 tax returns and initiate specific processing:
  - RPC 7 - Tax returns reporting an IRC 965(i) election
  - RPC F - Tax returns reporting an income inclusion under IRC 951 and IRC 965
  - CCC 3 - Tax returns reporting an overpayment; this CCC sets a TC 570, which freezes the overpayment

**Note:** RPCs post to the Return Transaction File (RTF) and do not move to Masterfile. RPCs can be identified using CC RTVUE and/or CC TRDBV.
- (2) The following TC 971 Action Codes are used for original return processing and post processing adjustments:
  - AC 114 - represents the total transition tax reported by the taxpayer and assessed
  - AC 165 - represents the IRC 965(i) tax liability deferral amount

21.5.13.3.2  
(10-01-2022)

## IRC 965 Tax Return and Transfer Agreement Identification IMF

- (1) Taxpayers were given specific IRC 965 tax return reporting instructions. For tax year 2017, these instructions were provided in the *Questions and Answers about Reporting Related to Section 965 on 2017 Tax Returns*. For tax year 2018 and subsequent, form instructions provide guidance about the reporting of transition tax.
  - Line 21 of the tax year 2017 Form 1040 reflects the income inclusion.
  - Line 73 box “d” of the tax year 2017 Form 1040 is the amount of the tax being paid in installments (TC 766/263 amount).
  - The transition tax statement must be attached.
  - Line 5 of the transition tax statement is the total transition tax (TC 971/114).
  - Line 6 of the transition tax statement is the amount of the net tax liability to be paid in installments.
- (2) IMF account with an IRC 965(i) election:
  - Line 21 of the Form 1040 reflects the income inclusion.
  - Line 44 of the Form 1040 does not include the tax of the election. The taxpayer must reduce Line 44 by the amount of the net tax liability deferred, indicated by checking box “c” on Line 44.
  - The transition tax statement must be attached.
  - Line 7 of the transition tax statement is the amount of the net tax liability that is being deferred. The TC 971 AC 114 miscellaneous field will always reflect zero. A taxpayer may also have included the amount reported on line 7 in the amount reported on line 5.
- (3) Use the Employee User Portal (EUP) to review e-filed tax returns with an income inclusion. If a paper return is filed, use IDRS command codes (such as CC TRDBV) to research the entries. It may be necessary to request the return from Files.
- (4) If a transfer agreement is identified, close the case and leave a note on AMS, make a copy of the transfer agreement and e-Fax it to 855-384-8822, Attn: Brookhaven CSCO 965 Program.

**Note:** A Transfer Agreement can be identified by an unreversed TC 971 AC 507 on the transferor account with a cross-reference to the transferee account and tax period. For additional information, see IRM 3.17.277.2.4.20, Internal Revenue Code 965 (IRC 965) Payment (including IRC 965 Transferee Payment).

21.5.13.3.3  
(10-01-2022)  
**IRC 965(h) Liability Schedule Screen (Command Code IMFOLM)**

- (1) CC IMFOLM assists in determining the IRC 965(h) deferral payments on accounts. See IRM 2.3.51-31, Command Code IMFOL Output Display - IRC 965 Liability, for a detailed display.
- (2) On the IMFOLM screen, “TAX LIABILITIES AND INSTALLMENTS” reflects the latest TC 971 AC 114 (total net transition tax liability). “DEFERRED AMOUNT” reflects the transition tax deferred (CRN 263). The screen also provides the yearly percentage of the 8 installments based upon the TC 971 AC 114 amount, remaining tax amount, and the yearly due dates of the installments. This screen assists in determining the amount of deferral paid and the remaining amount of deferral to pay. The screen recalculates when a new TC 971 AC 114 or TC 766 /767 is input.

21.5.13.3.4  
(10-01-2022)  
**IRC 965 Payment  
Processing IMF**

- (1) When a payment (TC 670 with DPC 064) is received, a TC 767 CRN 263 systematically generates with the installment due date. There is no programming that requires the computer to determine if the installment payment is late. When a module is identified with a late installment payment, manually correct the TC 767 CRN 263 posted with an incorrect date to reflect the date of payment.
- (2) If the module has a TC 606 (accruals less than \$5.00) posted, no action is required.
- (3) If the module dropped from IDRS, MFREQ the account. Use CC INTSTD to verify penalty and/or interest assessments/accruals.
- (4) Use CC IMFOLM to verify payments and installment due dates.  
**Caution:** If the TC 766/767 data on CC TXMOD is incorrect, CC IMFOLM will also be incorrect.
- (5) Reversal of the TC 767 is required to correct the module.
  1. Input a TC 298 .00 with CRN 263 (positive) for the dollar amount of the payment with the date of the payment as the Interest Computation Date. Use an HC 4, SC 4, RC 050 and 190.
  2. Input a TC 298 .00 with CRN 263 (minus) for the dollar amount of the payment with the installment due date as the Interest Computation Date. A PDC 1 is required.

Multiple TCs 298 may be required if more than one payment is present. If the input of the TC 298 results in a credit balance and the following criteria are met:

- The penalty (and related interest) was assessed separately from the income tax liability that included the IRC 965 liability (i.e., the TC 150 amount for the inclusion year), and
- The payment was clearly intended as a payment of the penalty and/or interest.

then HC 3 is required if refunding the penalty and/or interest payment. Use HC 4 if reversing offsets.

- (6) If a TC 706 (offset) is present due to erroneous assessed interest or penalty, the above paragraphs 4 through 6 are required prior to inputting the offset reversals.
- (7) If the input of the TC 298 results in an overpayment, send Letter 544-C, Apology for IRS Error, which explains that the refund due to the adjustment notice is being held. Use one of the following floating paragraphs along with paragraph R:
  - Floating paragraph (use if payment refunding): We have determined that a notice we sent you for tax year 2017 was incorrect. You have made a payment towards the penalty and/or interest amounts determined in that notice. If you don't owe other taxes, penalties, or interest, we'll send you a refund of your overpayment within four to six weeks. No further action is required on your part.
  - Floating paragraph (use if offset refunding): We have determined that a notice we sent for tax year 2017 was incorrect. The overpayment applied to the 2017 income tax return will be reapplied to the tax period

ending Month, DD, YYYY. If you don't owe other taxes, penalties, or interest, we'll send you a refund of your overpayment within four to six weeks. No further action is required on your part.

- Paragraph R: We apologize for our error. If you have questions, call us toll free at (855-223-4017, Ext. 729). If you prefer, you can write to us at the address at the top of the first page of this letter.

**Note:** Not all reversals will fall under these procedures. Complex cases will need to be reviewed and more guidance provided. If the complex case is in a balance due status, input a STAUP or TC 470.

- (8) While analyzing the module, you may identify a missing installment payment. View subsequent years to determine if an installment payment erroneously posted to those modules. If you can clearly identify the posted payment was meant to be an IRC 965 installment, reverse the payment and apply it as a TC 670 DPC 064 after you have completed the guidance above.
- (9) If you identify a refund of a misapplied installment payment while analyzing the module, input a TC 767 CRN 263 for the payment amount (placing the account in debit balance) prior to following IRM 21.4.5.6, Category D Erroneous Refund Procedures.

## 21.5.13.3.5 (10-01-2022) Incorrect Failure to Pay and/or Interest

- (1) Due to programming limitations, Failure to Pay penalty and/or interest may have been charged when a taxpayer made an IRC 965 installment payment. These can be identified as follows:
  - Posting of a TC 767 with the processing of a TC 290/TC 298 CRN 263 in which penalty and/or interest may have been erroneously assessed
  - Posting of a TC 767 during original return processing with the return due date as the transaction date instead of the payment date or installment due date.

**Note:** Taxpayers who meet the criteria for relief as shown in IRM 21.5.13.2(11) IRC 965 Transition Tax Overview, may request abatement of the Failure to Pay penalty attributable to the late payment of IRC 965 tax, which would follow reasonable cause procedures, but interest still applies.
- (2) If the module dropped from IDRS and is only available on CC IMFOLT, MFREQ the module. No action is required if the interest shown on CC IMFOLT is less than \$1.00 or the module has a TC 606 (accruals less than \$5.00) posted.

### Example:

CC IMFOLT Field	Balance
ASSESSED BAL:	.00
TOT INTEREST:	1.71
INT ASSESSD:	.81

CC IMFOLT Field	Balance
INT PAID:	.81-

- (3) Input a TC 290 .00 CRN 263 for the dollar amount of the posted TC 767 using HC 4, SC 4, RC 190.
- (4) Input a TC 298 .00 CRN 263 (minus) for the dollar amount of the overpayment with an interest computation date to set the transaction date of the TC 767 CRN 263 using a PDC 1, SC 4, RC's 050 and 190. The interest computation date is the earlier of the date of payment or the due date of the installment being collected via the TC 767. Multiple TC 767's may be required if more than one payment is present. Use HC 4 if reversing offsets or no overpayment. If the input of the TC 298 results in a credit status (refund) and the following criteria are met, then a HC 3 is required when refunding the penalty and/or interest payment.
- The penalty (and related interest) was assessed separately from the income tax liability that included the IRC 965 liability (i.e., the TC 150 amount for the inclusion year), and
  - The payment was clearly intended as a payment of the penalty and/or interest and not a payment generally intended as relating to IRC 965 obligations.

**Reminder:** Input a TC 290 .00 PC 5 with a posting delay code of 1, HC 0 if applicable. The module will have interest and/or penalty due after the reversal and posting of the new TC 767 (e.g., TP filed balance due return 04/15/2018 and late payment received resulting in TC 767. Interest may be due from 04/15/2018 to receipt of payment).

- (5) If a TC 706 (offset) is present on the module due to money being applied to the erroneous assessed interest and/or penalty, paragraphs 3 and 4 above are required prior to inputting the reversal of offsets.
- (6) A Letter 544-C, Apology for IRS Error, is required to explain the refund since the adjustment notice is being held. Use one of the following floating paragraphs along with paragraph R:
- Floating paragraph (use if payment refunding): We have determined that a notice we sent you for tax year 2017 was incorrect. You have made a payment towards the penalty and/or interest amounts determined in that notice. We have allowed a refund of your overpayment and we'll send you a refund within four to six weeks. No further action is required on your part.
  - Floating paragraph (use if offset refunding): We have determined that a notice we sent for tax year 2017 was incorrect. The overpayment applied to the 2017 income tax return will be reapplied to the tax period ending Month, DD, YYYY. If you don't owe other taxes, penalties, or interest, we'll send you a refund of your overpayment within four to six weeks. No further action is required on your part.
  - Paragraph R: We apologize for our error. If you have questions, call us toll free at (855-223-4017, Ext. 729). If you prefer, you can write to us at the address at the top of the first page of this letter.

- (7) Complex cases will need to be reviewed and more guidance provided. If the complex case is in a balance due status, input a STAUP or TC 470.
- (8) While analyzing the account you may identify that required installment payments are not present. Review all subsequent tax years to clearly identify any/all posted payments that were meant to be applied as an installment, reverse the payment so the payment will post as a TC 670 DPC 064 after you completed the guidance above.
- (9) If you identify a refund of a misapplied installment payment while analyzing the module, you must input a TC 767 CRN 263 for the payment amount (placing the account in debit balance) prior to following IRM 21.4.5.6, Category D Erroneous Refund Procedures.
- (10) While analyzing the module, if you determine it meets acceleration criteria see IRM 21.5.13.2.10 IRC Acceleration Letters.

21.5.13.3.6  
(10-01-2022)  
**IRC 965 CP Notices - IMF**

- (1) The following CP notices were created for IRC 965 processing:
  - CP 47A, Tax Assessed - Notification of the Requested Credit Elect/Refund Being Applied to Section 965 Tax Liability
  - CP 47B, Tax Assessed - Notification of a Credit Elect/Refund Being Applied to Section 965 Tax Liability
  - CP 47C, Tax Assessed - Including Section 965 Tax Liability
  - CP 56, Annual Section 965(h) Installment Notice

**Note:** CP 56 correspondence may be received questioning the installment amount. Review the entire account to validate the accuracy of the notice.

21.5.13.3.7  
(10-01-2022)  
**Form 965 - A, Individual Report of Net 965 Tax Liability**

- (1) An individual taxpayer (or taxpayer taxed as an individual) must complete Form 965-A, Individual Report of Net 965 Tax Liability, 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 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 - A 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 (including extensions).

21.5.13.4  
(03-09-2023)  
**IRC 965 Transition Tax BMF**

- (1) The BMF IRC 965 transition tax program is centralized at the Ogden Accounts Management Campus (OAMC). For correspondence referencing IRC 965/Repatriation tax/loose transition tax statement (category code 965C), or an amended return referencing IRC 965/Repatriation tax/transition tax statement (category code 965X), reassign per *AM Site Specialization Temporary Holding Numbers*. If another site provides phone coverage and receives an IRC 965 call, prepare Form 4442, Inquiry Referral, to OAMC for all adjustment and credit transfer actions.
  - Create a CII case with Doc Type 4442, Category 965C, and Function/Program Code 710-85376.
  - Attach Form 4442 to the new CII case and reassign to IDRS number 0430404307.

- For sites that do not have access to CII, prepare e-4442 and e-fax di-  
case.

#

**Note:** On February 4, 2019, category code 965C replaced category code IEIN, and category code 965X replaced category code NYCX.

21.5.13.4.1  
(10-01-2022)

**IRC 965 IDRS Tax  
Module and Transaction  
Codes BMF**

- (1) Review the tax module to ensure the IRC 965 transactions have posted to the account and make any necessary corrections.
- (2) The following Return Processing Codes (RPC) and Computer Condition Codes (CCC) are used to identify IRC 965 tax returns and to initiate specific processing:
  - CCC B - Tax returns reporting an IRC 965(i) election
  - CCC J - Tax returns reporting an IRC 965 liability/inclusion
  - CCC X - Tax returns reporting an overpayment/excess remittance. This CCC sets the -R Freeze, which freezes any overpayment on the account from offsetting or refunding.

**Note:** The CCC X may not be functional on all BMF accounts for IRC 965 transition tax. Error Resolution System (ERS) reduced the TC 971 AC 115 amount by the credit elect amount, which in turn reduces the TC 766 CRN 263 and prevents the overpayment from being available for credit elect for accounts processed 201852 and prior. This is being done only on BMF accounts because the TC 766 is determined from the AC 115 amount and not from a return entry.
- (3) The following Transaction Codes (TC) are used for IRC 965 pipeline processing and for post-processing adjustments:
  - TC 971 AC 114 represents the total net tax liability under IRC 965 reported by the taxpayer.
  - TC 971 AC 115 represents the total net tax liability under IRC 965 designated to be paid in installments (deferred) under section 965(h). This coding had limited use during the 2017 tax year to assist background programming (accounts processed 201852 and prior).

**Note:** AM will never adjust the TC 971 AC 115 amount on BMF accounts.

  - TC 766 with CRN 263 represents the amount of the net tax liability under IRC 965 to be paid in installments (deferred amount).

21.5.13.4.2  
(10-01-2022)

**IRC 965 Tax Return and  
Transfer Agreement  
Identification BMF**

- (1) Use the Employee User Portal (EUP) for identification of e-filed tax returns with income inclusions under IRC 965. The taxpayer is required to report the net tax liability under IRC 965 and any deferred amount on specific income tax return lines. If a paper tax return is filed by the taxpayer, attempt to use IDRS Command Codes (e.g., TRDBV) to research the entries. It may be necessary to request the tax return manually from Files.
- (2) Taxpayers were given specific IRC 965 transition tax return reporting instructions. For 2017, these instructions were provided in the *Questions and An-*

*swers about Reporting Related to Section 965 on 2017 Tax Returns.* For 2018, specific IRC 965 forms and instructions (Form 965) were created to facilitate IRC 965 transition tax reporting.

(3) A BMF account with an IRC 965(h) election:

- The FAQs provide BMF reporting instructions for each tax return type (Form 1041, Form 1120, Form 1120-PC, Form 1120-L, Form 1120-REIT, Form 1120-RIC, and Form 990-T).
- Form 1120 is the most common BMF tax return.
- For the 2017 tax year, Form 1120, Page 3, Schedule J, Part I, Line 11 must include the net tax liability under IRC 965.
- For the 2017 tax year, Form 1120, Page 3, Schedule J, Part II, Line 19 d must include the net tax liability under IRC 965 being deferred (TC 766 CRN 263 amount).
- Line 5 of the transition tax statement attached to the 2017 return is the total net tax liability under IRC 965 (TC 971 AC 114).
- The Form 965 must be attached to the 2018 return to report IRC 965 inclusions for 2018. Taxpayers with IRC 965 inclusions for 2017 were instructed to report those amounts on Form 965 and attach it to their 2018 returns.

(4) A BMF account with an IRC 965(i) election:

- BMF IRC 965(i) elections are reported with Form 1041 in limited circumstances. Form 1120-S and Form 1065 will not report a net tax liability under IRC 965.
- Schedule K-1 is for reporting the IRC 965 amounts, which pass through to the shareholders' income tax returns (i.e., Form 1040 and Form 1120).

(5) A transfer agreement is identified by an unreversed TC 971 AC 507 on the transferor account with a cross-reference to the transferee account and tax period. For more information, see IRM 3.17.277.2.4.20, Internal Revenue Code 965 (IRC 965) Payment (including IRC 965 Transferee Payment).

(6) If a transfer agreement is identified, close the case and leave a note on AMS. Make a copy of the transfer agreement and e-Fax it to 855-384-8822, Attn: Brookhaven - CSCO 965 Program.

21.5.13.4.3  
(03-09-2023)  
**IRC 965(h) Liability  
Schedule Screen  
(Command Code  
BMFOLM)**

- (1) Command Code **BMFOL** with Definer **M** was created to assist in identifying the IRC 965(h) deferral payments on the account.
- (2) The amount listed under the title "**Tax Liabilities and Installments**" reflects the latest TC 971 AC 114 (Total Net Tax Liability under IRC 965) reported by the taxpayer.
- (3) The amount listed under the title "**Deferred Amount**" reflects the latest TC 766 CRN 263 remaining deferred amount.
- (4) The remainder of the screen display reflects the yearly percentage of the 8 installments based on the latest TC 971 AC 114 and the remaining installment amounts due based on the latest TC 766 CRN 263, along with the yearly due dates of the installments.

- (5) BMFOLM will assist in determining the amount of the IRC 965 deferral amount paid, as well as the remaining deferral amount still owed. It will determine if an installment amount was paid, overpaid with the overpayment being credited to the next installment or if the installment was underpaid.
- (6) BMFOLM will recalculate with the input of a new TC 971 AC 114 and/or a new TC 766/767 CRN 263 amount.

**Note:** See IRM 2.3.59-117, *Command Code BMFOL IRC 965 Liability Schedule Screen*, for a detailed display.

21.5.13.4.4  
(10-01-2022)

**Carryback CAT-A  
Referrals Involving  
Section 965**

- (1) To expedite the processing of carryback cases involving IRC 965 that are being referred to CAT-A, select Carryback/Carryforward as the primary referral reason from the drop-down listing in CII. Select the correct secondary referral reason specific to the case and include remarks if necessary.

**Note:** This involves both tentative (TENT) carrybacks and restricted interest (RINT) carrybacks. The case type is identified in CII. For additional information see 21.5.9.5.6.4 *Carryback Applications and Claims with Section 965 Involvement*.

21.5.13.4.5  
(10-01-2022)

**IRC 965 CP Notices -  
BMF**

- (1) The following CP notices were created for IRC 965 processing:

- CP 247A - Tax Assessed - Notification of the Requested Credit Elect/Refund Being Applied to Section 965 Tax Liability
- CP 247B - Tax Assessed - Notification of Credit Elect/Refund Being Applied to Section 965 Tax Liability
- CP 247C - Tax Assessed - Including Section 965 Tax Liability
- CP 256 - Annual Section 965(h) Installment Notice
- CP 947A - Tax Assessed - Notification of the Requested Credit Elect/Refund Being Applied to Section 965 Tax Liability (Spanish)
- CP 947B - Tax Assessed - Notification of Credit Elect/Refund Being Applied to Section 965 Tax Liability (Spanish)
- CP 947C - Tax Assessed - Including Section 965 Tax Liability (Spanish)
- CP 956 - Annual Section 965(h) Installment Notice

**Note:** CP 256 correspondence may be received questioning the installment amount. Review the entire account to validate the accuracy of the notice.

21.5.13.4.6  
(10-01-2022)

**Form 965 - B, Corporate  
and Real Estate  
Investment Trust (REIT)  
Report of Net 965 Tax  
Liability and Electing  
REIT Report of 965  
Amounts**

- (1) Any corporate taxpayer who meets any of the following conditions must file Form 965 - B:
  - Has a net IRC 965 tax liability for any tax year
  - Has any net IRC 965 tax liability remaining unpaid at any time during a tax year
  - Is an electing REIT with any IRC 965 amount taken into account in accordance with IRC 965(m)
  - Is an electing REIT with any IRC 965 amount not taken into account at any time during a tax year

- (2) The Form 965 - B is filed with the income tax return of the taxpayer. If the taxpayer files the income tax return electronically, the Form 965 - B is filed with the electronic income tax return.

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## Exhibit 21.5.13-1 (10-01-2022)

### Acronyms and Abbreviations Used in This IRM

Acronym	Definition
AGI	Adjusted Gross Income
AM	Accounts Management
BAMC	Brookhaven Accounts Management Campus
BMF	Business Master File
BMFOL	Business Master File On-Line
BS	Blocking Series
CFOL	Corporate File On-Line
CII	Correspondence Imaging Inventory
EIN	Employer Identification Number
FR	Filing Requirement
FTC	Foreign Tax Credit
FTD	Federal Tax Deposit
IAT	Integrated Automation Technologies
IDRS	Integrated Data Retrieval System
IDT	Identity Theft
IMF	Individual Master File
IMFOL	Individual Master File On-Line
LC	Large Corp
LCI	Large Corp Indicator
MeF	Modernized e-File
MFT	Master File Tax
P&A	Planning & Analysis
SSN	Social Security Number
TC	Transaction Code
TXI	Taxable Income

