

Current Status of Issue

This issue has a limited life. The repatriation deduction can only be claimed for one tax year, either 2004 or 2005. Since the deduction can be claimed on a fiscal year return, the last possible tax year that the deduction can be claimed is the fiscal year ended 9/30/2006. At this point in time, all returns should be filed that will include this deduction. These returns are starting to be put into the audit stream. The examination teams in the field should examine the Section 965 Dividend Repatriation issue following the guidance that is provided in the Notices, the Industry Director's Directives and on the website.

Executing IMT Strategy for Tier I Issues

Audit Teams Should:

- Establish the Tier I Issue on IMS using the UIL code per the ID Directive.
- Research the issue on the Tier I website.
- Communicate with the IMT early to determine the strategy and any special requirements for the issue.
- Consider the issue in the audit planning and risk assessment in accordance with the IMT strategy.
- Utilize the audit tools and techniques provided by the IMT to develop the issue.
- Resolve the issue using all resolution tools in alignment with the IMT strategy.

Issue Management Team (IMT)

Issue Executive Owner - Barry Shott

Senior Manager – Pamela Drenthe

Industry Counsel – Glenn McLoughlin

Industry Counsel – Christine Irwin

Appeals - Gregory Butler

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Tier I



Section 965 Foreign Earnings Repatriation

Quick Reference Guide

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Issue Owner Executive (IOE)

Barry Shott, Deputy

Commissioner (International)



Tier 1

Tier I: Section 965 Foreign Earnings Repatriation

Issue Description

Section 965, enacted by American Jobs Creation Act of 2004, is a temporary provision that allows U.S. companies to repatriate earnings from their foreign subsidiaries at a reduced tax rate provided that specified conditions and restrictions are satisfied.

Section 965 provides that U.S. companies may elect, for one taxable year, an 85% dividends received deduction for eligible dividends from their foreign subsidiaries.

Administrative & Technical Guidance

Notices:

Notice 2005-10:

http://www.irs.gov/irb/2005-06_IRB/ar13.html

Notice 2005-38:

http://www.irs.gov/irb/2005-22_IRB/ar07.html

Notice 2005-64:

http://www.irs.gov/irb/2005-36_IRB/ar09.html

Audit Guidelines:

<http://www.irs.gov/businesses/article/0,,id=186297,00.html>

General Legal Counsel Memo:

<http://www.irs.gov/pub/irs-utl/am2008010.pdf>

Notes

Industry Director Directives (IDDs)

Industry Issue Directive #1, provides the field general guidance and direction on the Section 965 Foreign Earnings Repatriation Issue:

<http://www.irs.gov/pub/irs-utl/idd965final.pdf>

Industry Directive #2 provides guidance on the impact of an election under Revenue Procedure 99-32 to the Section 965 Dividend Repatriation Issue:

<http://www.irs.gov/businesses/article/0,,id=181720,00.html>

Mandatory IDRs

The below IDR is not mandatory; however, it is a model IDR that should be used.

<http://www.irs.gov/businesses/article/0,,id=175606,00.html>

Appeals Settlement Guidelines (ASGs)

Currently there are no ASGs for this Tier I issue.

Issue Specialization Team (IST)

There is no IST for this issue.

Administrative Codes

UIL Codes:

Issue will be tracked thru IMS using the following UIL codes:
Foreign Repatriation of Dividends UIL 965.00-00
Qualifying Dividend UIL 965.01-00
Base Period Computation UIL 965.01-01
APB 23 Amount UIL 965.01-02
Allocation of APB 23 Amount and \$500 Million UIL 965.01-03
Related Party Indebtedness UIL 965.01-04
Domestic Reinvestment Plan UIL 965.01-05
Investments UIL 965.01-06
Safe Harbor UIL 965.01-07
Effect of Transactions UIL 965.01-08
Dividends Received Deduction UIL 965.02-00
Dividends paid indirectly from CFCs UIL 965.02-01
Foreign Tax Credit Special Limitation UIL 965.03-00
Disallowance of Foreign Taxes UIL 965.03-01
Taxable Income Limitation UIL 965.04-00
US Tax on Non-deductible Dividend UIL 965.05-00

SAIN Code: 802-03

Tracking/Project Code: 0572

ITA Codes:

- * I140—Foreign Earnings Repatriation (Sec. 965) Dividends
- * I141—Foreign Earnings Repatriation (Sec. 965)
- * I142—Qualifying Dividend
- * I143—Base Period Computation
- * I144—APB 23 Amount
- * I145—Allocation of APB 23 Amount & \$500 Million
- * I146—Related Party Indebtedness
- * I147—Domestic Reinvestment Plan
- * I148—Investments
- * I149—Safe Harbor
- * I150—Effect of Transactions
- * I151—Dividends Received Deduction
- * I152—Dividends paid indirectly from CFCs
- * I153—Foreign Tax Credit Special Limitation
- * I154—Disallowance of Foreign Taxes
- * I155—Taxable Income Limitation
- * I156—US Tax on Non-deductible Dividend