



TaxNewsFlash

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IRS allows more time for filing transfer agreement under section 965

The IRS today posted a “special update” to a list of questions and answers (Q&As) about reporting related to section 965 on tax returns for 2017.

The special update allows taxpayers more time to file a transfer agreement with respect to an acceleration event that occurred before September 10, 2018.

Background

A section 965(h) election to defer the mandatory repatriation tax liability is extinguished when an acceleration event occurs pursuant to section 965(h)(3) and Prop. Reg. section 1.965-7(b)(3)(ii).

One such acceleration event is a cessation of business, which includes: (1) a person that was not a member of any consolidated group becoming a member of a consolidated group; and (2) when a consolidated group ceases to exist, or otherwise no longer files a consolidated return.

If, for example, there was an acquisition in 2018 in which a standalone target made a section 965(h) election in its 2017 return and was acquired by and joined a consolidated group—or if the common parent of a consolidated group that made a section 965(h) election was acquired by and joined a different consolidated group—an acceleration event has occurred, and the section 965 tax liability becomes due on the date of the acceleration event.

There is an exception to exclude these situations from the definition of an acceleration event when a transfer agreement is filed under Prop. Reg. section 1.965-7(b)(3)(iii)(B).

- For acceleration events occurring prior to September 10, 2018, the filing is due October 9, 2018.

- For acceleration events occurring after September 10, 2018, the deadline is 30 days.

There is no 9100 relief to timely file the transfer agreement.

More time to file transfer agreement filings

The update to the [Q&As on the IRS website](#) provides the following:

The proposed regulations in 1.965-7 call for certain transfer agreements to be filed by October 9, 2018 in accordance with rules provided in forms, instructions, or other guidance. The IRS is aware that taxpayers need more guidance on where and how to submit these agreements and plans to provide further guidance in the near future. Transfer agreements filed in accordance with this future guidance will still be considered timely filed notwithstanding the October 9, 2018 date mentioned in the proposed regulations.

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