



TaxNewsFlash

United States



No. 2019-336
June 28, 2019

IRS provides Q&As concerning section 965 (including transfer and consent agreements)

The IRS provided a list of questions and answers (Q&As) with general information about payment obligations arising under section 965 and specifically answering questions related to filing transfer and consent agreements arising under section 965(h) and (i).

The [Q&As under section 965](#) (updated June 27, 2019) also refer to tax year 2017 and tax year 2018 return filing and payment obligations arising under section 965.

In this week's item, the IRS provided answers to the following questions:

Payment obligations

Q1: I made a section 965(h) election on a prior tax return, electing to pay the section 965(h) net tax liability portion of a prior income tax liability in eight annual installments. How do I make the subsequent installment payment(s)?

Transfer agreements

Q2: When and where can I file a "Transfer Agreement Under Section 965(h)(3)" and "Transfer Agreement Under Section 965(i)(2)" (hereafter, "Transfer Agreement")?

Consent agreements – S corporation shareholders

Q3: I am a shareholder of an S corporation. I deferred payment of my section 965 net tax liability related to the S corporation (my "section 965(i) net tax liability") pursuant to a section 965(i) election. A triggering event under section 965(i)(2)(A)(ii) has occurred. While the entire section 965(i) net tax liability will be assessed on my return as an addition to tax for the year of the triggering event, I would like to make an election under section 965(h) so that I will pay the liability in eight annual installments. Section 965(i)(4)(D) provides that I must receive the consent of the Commissioner to pay my section 965(i) net tax liability in installments when a triggering event under section 965(i)(2)(A)(ii) has occurred. How can I obtain the consent of the Commissioner?

Q4: Can the S corporation obtain the consent of the Commissioner as required by section 965(i)(4)(D) on behalf of the S corporation shareholders?

Q5: Where can I file a Consent Agreement?

Q6: If I have filed a Consent Agreement, do I still need to make a section 965(h) election on my tax return to pay my section 965(i) net tax liability in eight annual installments?

Excess remittances in the year of a triggering event

Q7: I previously made a section 965(i) election with respect to my section 965(i) net tax liability, and a triggering event described in section 965(i)(2)(A) occurred this year. I made a section 965(h) election on my tax return for the year of the triggering event. If my payments, including estimated tax payments, for the year of the triggering event exceed my net income tax liability described under section 965(h)(6)(A)(ii) and the regulations thereunder (my net income tax determined without regard to section 965) and my first annual installment pursuant to my election under section 965(h), may I receive a refund of such excess amounts or credit such excess amounts to my next year's estimated income tax?

Joint and several liability after election to pay triggered tax in installments

Q8: Do the S corporation and a transferor of the underlying S corporation shares (if any) remain jointly and severally liable for the payment of my section 965(i) net tax liability after I've made a section 965(h) election to pay such liability in eight annual installments?

The information contained in TaxNewsFlash is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader's knowledge on the matters addressed therein, and is not intended to be applied to any specific reader's particular set of facts. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-United States, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)