



Tax News and Views Health Care Edition

Tax Reform

Additional Guidance

As the requests for guidance relating to provisions of the tax reform bill are increasing, the IRS is issuing notices that may give practitioners and taxpayers glimpses of regulations the Treasury Department intends to issue. Below is a summary of what has been released to date:

- [Notice 2018-26](#) provides additional guidance for computing the Section 965 “transition tax” on the foreign earnings of foreign subsidiaries of U.S. companies. This notice provides rules intended to prevent the avoidance of section 965, rules and procedures relating to certain special elections under section 965, and guidance on the reporting and payment of the transition tax. The notice also provides relief to taxpayers from certain estimated tax requirements and penalties arising from the enactment of the transition tax and the change to existing stock attribution rules in the tax reform bill.

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- [Notice 2018-28](#) provides guidance for computing the business interest expense limitation under recent tax legislation enacted on Dec. 22, 2017. In general, newly amended section 163(j) of the Internal Revenue Code imposes a limitation on deductions for business interest incurred by certain large businesses. For most large businesses, business interest expense is limited to any business interest income plus 30 percent of the business' adjusted taxable income.
- [Notice 2018-29](#) provides guidance regarding the implementation of new Section 1446(f) for partnership interests that are not publicly traded. The guidance relates to qualifying for exemptions from withholding or reductions in the amount of withholding under this Section 1446(f). The notice also includes interim guidance designed to allow for the effective and orderly implementation of this section. In addition, the notice suspends secondary partnership level withholding requirements.
- [Publication 5292](#), How to Calculate Section 965 Amounts and Elections Available to Taxpayers, has been released which provides additional guidance on compliance with Section 965.
- The IRS updated the previously released [FAQs about Reporting related to Section 965 on 2017 Tax Returns](#). The following FAQs were updated.
 - **Q3.** Is there any other reporting in connection with Section 965 of the Code required on a 2017 return?
 - **Q5.** Who can make an election with respect to section 965 of the Code on a 2017 tax return?
 - **Q8.** Is a Form 5471 with respect to all specified foreign corporations with respect to which a person is a United States shareholder required to be filed with the person's 2017 tax return, regardless of whether the specified foreign corporations are CFCs?
 - **Q9.** Are domestic partnerships, S corporations, or other passthrough entities required to report any additional information to their partners, shareholders, or beneficiaries in connection with section 965 of the Code?
 - **Q10.** How should a taxpayer pay the tax resulting from section 965 of the Code for a 2017 tax return?
- The following questions were added.
 - **Q13.** How will the IRS apply 2017 estimated tax payments (including credit elects from 2016) to a taxpayer's net tax liability under section 965?
 - **Q14.** If a taxpayer's 2017 payments, including estimated tax payments, exceed its 2017 net income tax liability described under section 965(h)(6)(A)(ii) (its net income tax determined without regard to section 965) and the first annual installment (due in 2018) pursuant to an election under section 965(h), may the taxpayer receive a refund of such excess amounts or credit such excess amounts to its 2018 estimated income tax?

- [Notice 2018-38](#) provides guidance on the changes to federal income tax rates for corporations under Section 11(b) and to the alternative minimum tax for corporations under Section 55 and on the application of Section 15 in determining the federal income tax (including the alternative minimum tax) of a corporation for a taxable year that begins before January 1, 2018, and ends after December 31, 2017.

Forms Update

According to statements made by Margaret Von Lienen, exempt organizations director, IRS Tax-Exempt and Government Entities Division, the IRS is updating Form 990-T, Exempt Organization Business Income Tax Return, to address the reporting requirements under Section 512(a)(6), disallowing the netting of unrelated business activities that produce losses with unrelated business activities that produce income, and Section 512(a)(7), inclusion in unrelated business income of certain qualified transportation fringe benefits.

In addition, Ms. Von Lienen stated that Form 4720, Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code, is being updated to allow reporting of excise taxes under Section 4960, tax on excess tax-exempt organization executive compensation, and Section 4968, excise tax based on investment income of private colleges and universities.

For information on these and other provision of the Act, please reach out to your Deloitte contact.

Software Development Organization Denied Exemption

In [PLR 201814010](#), the IRS denied exemption to an organization whose purpose it was to promote and support an open source software which allowed physicians to more efficiently run their medical office or clinic and to assist in compliance with federal regulations. In its denial, the IRS stated that while the promotion of health is a charitable purpose not every activity that generally promotes health furthers a charitable purpose.

The activities of the organization were determined to benefit the physicians operating the medical office or clinic because in the absence of this open source software the medical office or clinic would have had to purchase commercial software or build their own thus providing these organizations with a commercial advantage. Further, the activities of the organization benefit the vendors who provide services related to the software for a fee and/or sell or distribute versions of the software for a fee. Finally, the board members of the organization also had substantial business relationships with vendors of the software. For these reasons the IRS ruled that the organizations was operated for a substantial private benefit.

Did you know?

Off-Shore Voluntary Disclosure Program

The Internal Revenue Service announced that effective September 28, 2018 the 2014 Offshore Voluntary Disclosure Program will be closed. For organizations that wish to participate before the program closes, complete submissions must be received on or before September 28, 2018. Incomplete, partial, or placeholder submissions will not be accepted. If your organization is considering making a disclosure, please reach out to your Deloitte contact.

For additional information about the program, see [2014 Offshore Voluntary Disclosure Program FAQs](#) or see [Closing the 2014 Offshore Voluntary Disclosure Program FAQs](#).

Technical Corrections made to Partnership Audit Rules

On March 23, the Consolidated Appropriations Act, 2018 was signed into law. Included in the Act were technical corrections relating the partnership audit rules enacted by the Bipartisan Budget Act of 2015. The technical corrections clarify the scope of the provision by eliminating references the partnership income adjustments and now reference partnership-related items.

The technical corrections also clarify that except as specifically provided the rules do not apply to taxes imposed under IRC Chapter 2, tax on self-employment income, and IRC Chapter 2A, tax on net investment income. The technical corrections also do not apply except as specifically provided to amounts withheld or deducted under IRC Chapter 3, withholding tax on nonresident alien individuals or foreign corporations, and IRC Chapter 4, withholding tax on certain foreign accounts.

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Federal Tax

Quarterly federal tax roundup: A pass-throughs update

May 2 | 2 p.m. ET | 19:00 GMT

The pass-throughs area of tax generally focuses on the taxation of partnerships and S corporations, along with their respective partners and shareholders. Among other things, it considers the taxation of contributions, distributions, and transfers of owners' interests. What are some recent technical developments and potential tax planning considerations that may impact your company? Participants will learn about recent developments in pass-throughs tax and potential implications for your company.

Register



Transfer Pricing

Special Edition | Transfer pricing and permanent establishment: Insights on new guidance

May 8 | 11 a.m. ET | 15:00 GMT

The valuation of dependent agent PE (DAPE) and of digital PEs relies heavily on transfer pricing concepts in one of the most controversial areas of international tax. Participants will learn about the transfer pricing aspects of these recent developments, along with legal and economic insights on potential implications and considerations.

Register





Business Strategy & Tax

Human capital balance sheet: A snapshot of costs, risks, and potential

May 15 | 2 p.m. ET | 18:00 GMT

With talent expense being a significant P&L component for many organizations, evolving workforce models, tax reform, and regulatory changes can present considerable financial risk if not proactively addressed. How can a human capital balance sheet help executives see, understand, and align talent strategy, incorporating valuable input from HR, tax, finance, and other stakeholders? Participants will gain insights on the decision-making value of a human capital balance sheet.

Register



Life Sciences & Health Care

The explosion of data in health care: Rethinking business strategies

May 16 | 1 p.m. ET | 17:00 GMT

The explosion of data in life sciences and health care holds much promise. How can improvements in data management amplify current efforts to help patients own their health and create insights to streamline business functions and develop new innovations?

Register



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