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NOTICE

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IRC Section 965: Guidance for Corporate Filers, Partnerships, S Corporations, and Individual Taxpayers

Guidance for Corporate Filers

IRC Section 965 Repatriation Income, although a component of federal taxable income, is being reported separately for federal purposes (not on the Federal Form 1120). As a result of the special federal treatment, specific instruction is being provided on how to report this item for Alabama purposes.

For federal purposes, items of income/expense related to IRC Section 965 are reported on the IRC 965 Transition Tax Statement, not directly on the Federal Form 1120. Any federal tax payments attributed to IRC Section 965 are asked to be remitted separately from your normal income tax remittance. However, this item of income/expense is still considered a component of federal taxable income.

For Alabama purposes, these items of income/expense are to be reported on Schedule A of the Alabama Form 20 C for corporate taxpayers. Any items of IRC Section 965 income should be reported on Schedule A, line 9, Form 20C, and a brief description of the source of income should be provided in the space provided on the form. Any items of IRC Section 965 expense should be reported on Schedule A, line 23 or 24, Form 20C, and a brief description of the expense should be provided in the space provided on the form. Any tax associated with IRC Section 965 income will be computed with any other income tax liability due. A separate payment is not required for Alabama income tax purposes for liabilities resulting from income from IRC Section 965 sources.

IRC Section 965 Income (net of related deductions) may be offset by a dividends received deduction if the corporate taxpayer reporting the deemed dividend owns more than 20% of the controlled foreign corporation from which the deemed dividend is received. The dividend received deduction should be claimed on Schedule A, line 18, and a statement should be provided as an attachment to the return that provides the name, taxpayer ID and ownership interest of the controlled foreign corporation from which the IRC Section 965 deemed dividend was received.

Alabama will require a copy of the IRC 965 Transition Tax Statement for documentation, so a copy should be provided as an attachment when the Alabama Form 20C is filed, or if this form is not available, a statement should be provided describing the nature and source of the IRC Section 965 income/expense being reported.

Guidance for Partnerships

The Alabama Form 65 is patterned closely after the Federal Form 1065. As a result, the reporting requirements for IRC Section 965 income and expense mirrors the reporting being utilized for federal purposes.

For federal purposes, IRC Section 965 income is reported on Schedule K, Line 11, Other Income. Any deductions related to IRC Section 965 are reported on Schedule K, Line 13d, Other Deductions. Additional information is required to be provided with the Schedule K-1s. For Alabama purposes, IRC Section 965 Income is to be reported on Schedule K, line 11, Other Income. Any deductions related to IRC Section 965 are to be reported on line 15, Other Deductions.

Guidance for S Corporations

In accordance with Section 40-18-161, the taxable income of an Alabama S corporation shall be determined in the same manner as in the case of an individual. As a result, IRC Section 965 will not apply if an Alabama S corporation is a direct shareholder of a foreign corporation that is subject to the provisions of IRC Section 965.

Guidance for Individual Taxpayers

Alabama Individual Income taxpayers are not subject to the provisions of IRC Section 965 as direct shareholders of foreign corporations. They will, however, be required to report any IRC Section 965 income that may flow through to them from their interest in an underlying partnership that may have directly owned an interest in a foreign corporation subject to the IRC Section 965 provisions. As a result, there may be differences between the taxable income reported on the Federal Form 1040, and the individual taxpayer's Alabama individual income tax return (Form 40). If the taxpayer receives income from IRC Section 965 that is required to be reported for federal purposes but is not required to be reported for Alabama purposes, the amount and the source should be disclosed as income reported on the federal return not reported on the Alabama return (Part IV, line 5 of the Alabama Form 40). Otherwise, any items of IRC Section 965 income that flows through to them from an interest in a partnership should be reported similarly to how it is reported on their federal return (Report on Form 40, Page 2, Part I, line 8, Other Income, and include a description on the line provided).