



IRC Section 965 Repatriation Guidance

The federal *Tax Cuts and Jobs Act* (Public Law 115-97) enacted in December 2017 made amendments to Internal Revenue Code section 965 (“IRC § 965”). As a result of these amendments, certain United States taxpayers are required to recognize mandatory deemed repatriation income as Subpart F income in the 2017 taxable year. This Notice provides guidance to taxpayers on how to report IRC § 965 on 2017 North Carolina tax returns.

Taxpayer Type	Form	North Carolina Tax Treatment	Can Taxpayer Elect to Defer Additional Tax Due?
Individual	Form D-400	<p>For federal tax purposes, IRC § 965 net income (IRC § 965(a) income less IRC § 965(c) deduction) is reported as “other income” in the computation of adjusted gross income (“AGI”).</p> <p>For North Carolina tax purposes, because IRC § 965 net income is included in AGI as reported on Form D-400, Line 6, an individual is not required to report IRC § 965(a) or IRC § 965(c) separately on Form D-400.</p>	<p>No. An individual is required to pay any additional North Carolina tax generated from IRC § 965 net income in the year the income is included in AGI.</p>
Partnership	Form D-403	<p>For federal tax purposes, IRC § 965(a) income is reported as “other income” on the partners’ distributive share of income, and any IRC § 965(c) deduction is reported as “other deductions” on the partners’ distributive share of deductions.</p> <p>Additional information is provided to the partners with the federal Schedule K-1.</p>	<p>No. A partnership that pays tax on behalf of a nonresident partner is required to pay the additional North Carolina tax generated by IRC § 965(a) income in the year it is included in the partnership’s Schedule K.</p> <p>Note. The IRC § 965(c) deduction is not deductible in the calculation of North Carolina income tax for a partnership that pays tax on</p>

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		<p>For North Carolina tax purposes, because IRC § 965(a) income is included in the partners' distributive share of income as reported on Form D-403, Part 1, Line 1, a partnership is not required to report IRC § 965(a) income separately on Form D-403.</p> <p>IRC § 965(a) income will also flow through to the individual partners on Form D-403 NC K-1.</p>	<p>behalf of a nonresident partner.</p> <p>A nonresident partner who wishes to deduct his/her pro rata share of any IRC § 965(c) deduction should file a North Carolina individual income tax return, Form D-400. The nonresident partner can claim his/her share of the tax paid to North Carolina by the manager of the partnership on his/her distributive share of the partnership's income on Form D-400, Line 21c.</p>
C Corporation	Form CD-405	<p>For federal tax purposes, IRC § 965 net income (IRC § 965(a) income less IRC § 965(c) deduction) is not included in the computation of federal taxable income (FTI), as reported on federal form 1120, Line 30, but instead is reported on the IRC § 965 Transition Tax Statement.</p> <p>For North Carolina tax purposes, because IRC § 965 net income is not included in FTI as reported on Form CD-405, Schedule B, Line 10, a C corporation is not required to report IRC § 965(a) income or any IRC § 965(c) deduction separately as North Carolina adjustments to FTI on Form CD-405, Schedule H.</p>	Not Applicable
S Corporation	Form CD-401S	For federal tax purposes, IRC § 965(a) income is reported as "other income"	No. An S Corporation paying tax on behalf of a nonresident shareholder is

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		<p>on the shareholders' pro rata share of income, and any IRC § 965(c) deduction is reported as "other deductions" on the shareholders' pro rata share of deductions. Additional information is provided to the shareholders with the federal Schedule K-1.</p> <p>For North Carolina tax purposes, because IRC § 965(a) income is included in the shareholders' pro rata share of income as reported on Form CD-401S, Part B, Line 10, an S corporation is not required to report IRC § 965(a) income separately on Form CD-401S.</p> <p>IRC § 965(a) income will flow through to the individual shareholders on Form NC K-1 CD-401S.</p>	<p>required to pay any additional North Carolina tax generated from IRC § 965(a) income in the year the income is included in the S-Corporation's Schedule K.</p> <p>Note. IRC § 965(c) deduction is not deductible in the calculation of North Carolina income tax for an S Corporation filing a composite return on behalf of nonresident shareholders.</p> <p>A nonresident shareholder who wishes to deduct his/her pro rata share of any IRC § 965(c) deduction must file a North Carolina individual income tax return, Form D-400. The nonresident shareholder can claim his/her share of the income tax paid to North Carolina by the S corporation on his/her distributive share of the S corporation's income on Form D-400, Line 21d.</p>
Limited Liability Company Taxed as a Partnership	Form D-403	See "Partnership" guidance.	See "Partnership" guidance.
Limited Liability Company Taxed as a C Corporation	Form CD-405	See "C-Corporation" guidance.	See "C Corporation" guidance.

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Limited Liability Company Taxed as an S Corporation	Form CD-401S	See "S Corporation" guidance.	See "S Corporation" guidance.
Fiduciary (Estate and Trust) - Income Distributed to Beneficiary	Form D-407	<p>For federal tax purposes, IRC § 965 net income (IRC § 965(a) income less IRC § 965(c) deduction) is reported as "other income" and deducted as an "income distribution deduction" in the computation of federal taxable income (FTI).</p> <p>For North Carolina tax purposes, because IRC § 965 net income has no tax impact on FTI as reported on Form D-407, Line 1, the fiduciary is not required to report IRC § 965 net income separately on Form D-407.</p>	Not Applicable
Fiduciary (Estates and Trust) - Income Not Distributed to Beneficiary	Form D-407	<p>For federal tax purposes, IRC § 965 net income (IRC § 965(a) income less IRC § 965(c) deduction) is not directly included in the computation of federal taxable income (FTI), but instead is reported on the IRC § 965 Transition Tax Statement. However, IRC § 965 net income is still considered a component of federal taxable income.</p> <p>For North Carolina tax purposes, because IRC § 965 net income is not included in FTI as reported on Form D-407, Line 1, the fiduciary is required to add the entire amount of IRC §</p>	No. The fiduciary is required to pay any additional North Carolina tax generated from IRC § 965 net income in the year the income is included in FTI.

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		965 net income to Form D-407, Line 1. In addition, include a statement similar to the IRC § 965 Transition Tax Statement reporting the amount of IRC § 965 income included in calculating North Carolina taxable income.	

2017 Amended Returns

Taxpayers that have already filed a 2017 North Carolina income tax return and whose federal taxable income or federal adjusted gross income is impacted by the amendments to IRC § 965 must file an amended North Carolina tax return. If the amended return reflects additional tax due, the taxpayer will avoid a late-payment penalty if the additional tax reflected on the amended return is paid when the amended return is filed. If the amended return reflects additional tax due but some or all of the additional tax is not paid when the amended return is filed, the unpaid tax is subject to [applicable penalties](#). In addition, [statutory interest](#) accrues on tax not paid by the original due date of the tax return. Taxpayers that owe additional North Carolina income tax may request a waiver of penalties resulting from the underpayment of tax attributable to such income within the provisions of the Department's [Penalty Waiver Policy](#).

Installment Payments

While the Internal Revenue Code permits certain taxpayers to elect to remit federal tax on IRC § 965 income in installments over several years, this election does not apply to North Carolina tax. Therefore, any North Carolina tax attributable to IRC § 965 income is due at the same time as the North Carolina tax return. Taxpayers who owe North Carolina income tax may request a monthly installment agreement, but interest will continue to accrue on any tax under such an agreement until the tax is paid in full. For more information, see "[Installment Agreements](#)" on the Department's website.

Assistance

If you have any questions about this Notice, you may call the Contact Center at 877-252-3052 (8:00 am until 5:00 pm EST, Monday through Friday), or write the Department at PO Box 1168, Raleigh, NC 27602.

To the extent there is any change to a statute or regulation, or new case law subsequent to the date of this Notice, the provisions in this Notice may be superseded or voided. To the extent that any provisions in any other notice, directive, technical bulletin, or published guidance regarding the subject of this Notice and issued prior to this Notice conflict with this Notice, the provisions contained in this Notice supersede the previous guidance.