

SALT INSIGHTS

Jurisdiction: Indiana
Tax Type: Income Tax
Issue: Indiana IRC §965 Conformity
Date: July 9, 2018

SYNOPSIS:

As of Dec. 31, 2017, the IRS requires, under IRC § 965, any untaxed foreign earnings or profits to be treated as repatriated dividends that must be reported on a taxpayer's state and federal tax returns. For federal purposes, the statute allows dividend received deduction for a portion of the foreign earnings in determining federal adjusted gross income.

Indiana however, requires taxpayers to addback the entire federal income deduction when determining their Indiana adjusted gross income. Indiana taxpayers who have already filed the original return will be required to file an amended return for tax year 2017, which must be filed by paper. Also, taxpayers who are filing under extension will not be eligible to file electronically but must also file a paper return.

The Indiana Department of Revenue ("DOR") has provided general guidelines for what to report. However, the information may not address rare or unusual situations.

INSIGHT:

Where taxpayers have foreign earnings or profits that have not been reported to the Internal Revenue Service or the Indiana Department of Revenue, they should be aware of the impact to their 2017 Indiana returns and the nuances between federal and state treatment of IRC § 965 repatriated dividends. Further, determining IRC § 965 earnings can be rather complex depending on the number of Controlled Foreign Subsidiaries ("CFCs"), the CFCs foreign activities and overall foreign ownership structure.

To avoid or reduce potential penalties, taxpayers should evaluate their foreign income streams as soon as possible so as to file an amended return if needed. Contact SimekScott to discuss.

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