

**Revenue Information Bulletin No. 18-030**  
**October 8, 2018**

**Corporation Income Tax**  
**Individual Income Tax**  
**Fiduciary Income Tax**

**Guidance on Louisiana State Tax Implications of the Tax Cuts and Jobs Act**  
**Changes to IRC Section 965 Repatriation**

On December 22, 2017, Public Law 115-97, more commonly referred to as the Tax Cuts and Jobs Act (“TCJA”), was enacted into federal law. The TCJA amended Internal Revenue Code (“IRC”) Section 965 to require that deferred foreign income corporations increase their Subpart F income by the greater of accumulated post 1986 deferred foreign income as of November 2, 2017, or as of December 31, 2017.

The change at federal law provides that the IRC Section 965 Repatriation income (“965 Income”) is added to Subpart F income. Louisiana generally recognizes and treats Subpart F income as dividends; therefore, 965 Income is deemed dividend income for Louisiana income tax purposes. The TCJA also states that while all 965 Income must be reported on the transitional tax statement for tax year 2017, the taxes related to this income can be paid in installments over an 8-year period.

The purpose of this Revenue Information Bulletin is to provide guidance to Louisiana taxpayers on how to report this item of income for state tax purposes and on how to claim the federal income tax deduction on the income taxed at the federal level.

**Guidance for Corporate Filers**

For federal purposes, 965 Income is reported on the IRC 965 Transition Tax Statement and not directly on Federal Form 1120. While 965 Income is considered a component of federal income, any tax payments owed which are attributable to IRC Section 965 must be separately remitted and not included with any payments attributable to income reported on the taxpayer’s Federal Form 1120.

For Louisiana purposes, dividend income is not specifically identified as allocable income under LA R.S. 47:287.92(B); therefore, the income is apportionable. The 965 Income is eligible for a deduction equal to seventy-two percent of dividends that would otherwise be included in gross income in accordance with LA R.S. 47:287.738(F)(1) for tax year 2017. Additionally, a federal income tax (“FIT”) deduction is allowed on 965 Income apportioned and taxed by Louisiana. As provided by LA R.S. 47:287.83, a federal income tax deduction is not allowed on income upon which no Louisiana income tax is incurred or paid; therefore, the federal income tax paid on the seventy-two percent of dividends that are exempt from Louisiana income tax under LA R.S. 47:287.738(F)(1) are not eligible for the FIT deduction.

To report 965 Income, a taxpayer must follow the instructions and complete the corporate income tax section of Louisiana Form R-620-965, *Louisiana Internal Revenue Code Section 965 Income & FIT Deduction Worksheet*. This worksheet allows the taxpayer to calculate the amount of 965 Income taxable in Louisiana and directs the taxpayer on how that income flows through to the Louisiana Form CIFT-620, *2017 Corporation Income Tax and 2018 Franchise Tax Return*. The worksheet also assists the taxpayer to calculate any additional FIT deduction allowed based upon the 965 Income and directs the taxpayer on how that FIT deduction flows through to the Form CIFT-620. Form R-620-965 must be attached to the taxpayer's tax return in addition to a copy of the Federal IRC 965 Transition Tax Statement for documentation purposes.

## **Guidance for Individual Filers**

### *Resident Filers*

For federal tax purposes, 965 Income is reported on Page 1, Line 21, "Other Income", of IRS Form 1040, *U.S. Individual Income Tax Return*. LA R.S. 47:293(1) defines "adjusted gross income" for Louisiana purposes as the adjusted gross income of the individual that is reportable on the individual's federal income tax return. Adjusted gross income for federal purposes is found on Page 1, Line 37 of the IRS Form 1040. Therefore, the starting point for Louisiana individual income tax is Page 1, Line 37 of the federal income tax return, and all 965 Income for a resident individual is included for Louisiana individual income tax purposes on Page 2, Line 7 of Form IT-540, *2017 Louisiana Resident Income Tax Return*. Additionally, any federal income tax liability due on this income may be claimed as part of the taxpayer's FIT deduction in the year in which the tax liability is paid.

### *Nonresident Filers*

For nonresident individuals, LA R.S. 47:242 specifically classifies dividends as allocable income. As with resident filers, the amount of 965 Income is included in the individual's adjusted gross income for federal purposes on Page 1, Line 37 of IRS Form 1040. As with resident filers, the starting point for Louisiana individual income tax for a nonresident taxpayer in Louisiana is federal adjusted gross income which is reflected on Line 7 of Louisiana Form IT-540B, *2017 Louisiana Nonresident and Part-Year Resident Income Tax Return*. The amount of the 965 Income allocable to Louisiana will be reported on Line 3 of the Nonresident and Part-Year Resident (NPR) worksheet of Form IT-540B, which is included in Louisiana Adjusted Gross income on Line 8 of Form IT-540B. Federal income taxes paid for the taxable year on 965 Income allocated to Louisiana will be included in the FIT deduction as a part of the Allowable Deductions calculation on Line 10F of the IT-540B.

## **Guidance for Fiduciary Filers**

### *Resident Trusts*

For federal tax purposes, 965 Income of a trust or estate is treated differently depending on whether or not the income was distributed to the beneficiaries. To the extent 965 Income is distributed to the trust or estate beneficiaries, the income is reported on Page 1, Line 8, "Other Income", of the IRS Form 1041, *U.S. Income Tax Return for Estates and Trusts*. LA R.S. 47:300.3(1) states that resident trusts and estates are subject to Louisiana income tax upon all income from whatever

source derived. Line 1 of Louisiana Form IT-541, *Fiduciary Income Tax Return*, is federal taxable income for resident trusts and estates which can be found on Line 22 of Form 1041. Therefore, for Louisiana income tax purposes, all 965 Income of resident trusts and estates that is distributed to the trust or estate beneficiaries is included.

To the extent a trust or estate does not distribute 965 Income to beneficiaries, the trust or estate must report such 965 Income on the IRC 965 Transition Tax Statement and not directly on Federal Form 1041. While 965 Income is considered a component of federal income, any tax payments owed which are attributable to IRC Section 965 must be separately remitted and not included with any payments attributable to income reported on the taxpayer's Federal Form 1041. To report 965 Income in Louisiana, a trust or estate must follow the instructions and complete the fiduciary income tax section on Louisiana Form R-620-965, *Louisiana Internal Revenue Code Section 965 Income & FIT Deduction Worksheet*. This worksheet allows the taxpayer to calculate the amount of 965 Income taxable in Louisiana and directs the taxpayer on how that income flows through onto Form IT-541. The worksheet also assists the taxpayer to calculate any additional FIT deduction allowed based upon the 965 Income and directs the trust on how that portion of the FIT deduction flows through onto the Louisiana Form IT-541. Form R-620-965 must be attached to the taxpayer's tax return in addition to a copy of the Federal IRC 965 Transition Tax Statement for documentation purposes.

#### *Nonresident Trusts*

For federal tax purposes, to the extent 965 Income is distributed to the beneficiaries of the trust, the income is reported on Page 1, Line 8, "Other Income", of the IRS Form 1041. LA R.S. 47:300.3(2) states that nonresident trusts are subject to Louisiana income tax upon income earned within or derived from sources within the state and the income will be allocated and apportioned in accordance with LA R.S. 47:241, *et seq.* As stated in the guidance for nonresident individuals, LA R.S. 47:242(d) classifies dividend income as allocable income. The starting point for Louisiana fiduciary income tax purposes for a nonresident trust is Line 4 of Louisiana Form IT-541, which is federal taxable income. Schedule A of Form IT-540 calculates the portion of such income allocated to Louisiana. All Louisiana 965 Income of a nonresident trust or estate must be included on Line 4 of the IT-541.

For federal purposes, a trust or estate who does not distribute 965 Income to beneficiaries must report such 965 Income on the IRC 965 Transition Tax Statement and not directly on Federal Form 1041. While 965 Income is considered a component of federal income tax, any tax payments owed which are attributable to IRC Section 965 must be separately remitted and not included with any payments attributable to income claimed on the taxpayer's Federal Form 1041. To claim 965 Income in Louisiana, the taxpayer must follow the instructions and complete the fiduciary income tax section on Louisiana Form R-620-965. This worksheet allows the taxpayer to calculate the amount of 965 Income taxable in Louisiana and directs the taxpayer on how that income flows through onto Form IT-541. The worksheet also assists the taxpayer to calculate any additional FIT deduction allowed based upon 965 Income and directs the taxpayer on how that portion of the FIT deduction flows through onto the Louisiana Form IT-541. Form R-620-965 must be attached to the taxpayer's tax return in addition to a copy of the Federal IRC 965 Transition Tax Statement for documentation purposes.

Questions concerning this Revenue Information Bulletin should be directed by e-mail to [Policy.Publications@La.gov](mailto:Policy.Publications@La.gov).

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