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Rev. Proc. 2018-17: Requests by foreign corporations changing tax year, application of section 965

The IRS today released an advance version of Rev. Proc. 2018-17 that modifies the circumstances under which the IRS will grant approval of certain requests by certain foreign corporations for changes in annual accounting periods filed under Rev. Proc. 2002-39 and Rev. Proc. 2006-45.

Rev. Proc. 2018-17 [PDF 24 KB] is issued pursuant to section 965(o) to prevent the avoidance of application of section 965 by changes in the tax years of certain “specified foreign corporations” (within the meaning of section 965(e)). This revenue procedure applies with respect to any request to change an annual accounting period that ends on December 31, 2017, regardless when the request was filed.

Rev. Proc. 2018-17 explains that a section 965 “specified foreign corporation” with a tax year ending on December 31, 2017, could avoid the purposes of section 965 by changing its tax year and provides an example. Under the example, if a deferred foreign income corporation (DFIC) with the calendar year as its tax year elected, effective for its tax year beginning January 1, 2017, a tax year closing on November 30, the election could defer by as much as 11 months a U.S. shareholder’s inclusion with respect to the DFIC under section 965. Further, the election could, depending on the facts, reduce the amount of the tax liability of a U.S. shareholder of the DFIC by reason of section 965, including through the reduction of the post-1986 earnings and profits of the DFIC.

Today’s revenue procedure applies to a section 965 “specified foreign corporation” seeking to change its tax year that ends on December 31, 2017. For purposes of applying this revenue procedure, a 52-53-week tax year is deemed to begin on the first day of the calendar month nearest to the first day of the 52-53-week tax year, and is deemed to end or close on the last day of the calendar month nearest to the last day of the 52-53-week tax year (as applicable).

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