

# Instructions for Form 8895



Department of the Treasury  
Internal Revenue Service

(August 2005)

## One-Time Dividends Received Deduction for Certain Cash Dividends from Controlled Foreign Corporations

Section references are to the Internal Revenue Code unless otherwise noted.

### General Instructions



*Corporations making a section 965 election (defined below) must use these instructions to complete all portions of their tax returns affected by the election. These pages contain many instructions that supplement information provided in other tax forms and instructions issued prior to this instruction booklet.*

*For additional information, see Notice 2005-10, 2005-6 I.R.B. 474; Notice 2005-38, 2005-22 I.R.B. 1100; Notice 2005-64, 2005-36 I.R.B. (page number not available at time of printing), and any subsequent guidance issued by the IRS and Treasury with respect to section 965.*

### Purpose of Form

A corporate U.S. shareholder of a controlled foreign corporation (CFC) uses Form 8895 to elect the 85% dividends received deduction (DRD) provided under section 965 (section 965 election) and to compute the DRD. The corporation may make the election for:

- Its last tax year that begins before October 22, 2004, or
- Its first tax year that begins during the one-year period beginning on October 22, 2004.

The corporation makes the section 965 election by attaching Form 8895 to its timely filed tax return (including extensions) for such tax year. However, a corporation that filed its return before Form 8895 was made available in final form need not file the form with an amended return, but should retain the information requested on the form to be made available to the IRS upon request.

See Notice 2005-10, Section 2, Notice 2005-38, Section 5, and Notice 2005-64, Section 3, for more information.

### Specific Instructions



*The form and instructions contain references to specific lines on Form 1120. If you are filing Form 1120-L, 1120-PC, or 990-C, use the comparable line of your tax return for the line referenced for Form 1120.*

**Note.** If you are a domestic life insurance company filing Form 1120-L, you are not eligible for the section 965 DRD with respect to any amount added to life insurance company taxable income by

reason of section 814(e)(2) (dealing with contiguous country branches). See Notice 2005-38, Section 9.02.

**Note also.** If you are a corporation filing Form 1120S, you are not eligible to claim the section 965 DRD. See section 1373(a).

### Part I—Qualifying Information

#### Items A through C

See Notice 2005-10, Section 4, for detailed information about domestic reinvestment plans (DRPs).

#### Item D and E

If the corporation is a member of a controlled group, see Notice 2005-38, Sections 2.03 and 4, and Notice 2005-64, Section 10.03. Also see Notice 2005-64, Section 10.04, for information relating to restatements of financial statements.

### Part II—Dividends Received Deduction

#### Line 1. Cash Dividends

Enter the gross “cash dividends” the corporation received from all CFCs during the tax year. See Notice 2005-10, Section 3, Notice 2005-38, Section 9.06, and Notice 2005-64, Section 3.01, regarding “cash dividends.”

#### Line 3. Section 965(b)(1) Limit

If the corporation is a member of a controlled group, see Notice 2005-38, Sections 2.03 and 4, and Notice 2005-64, Section 10.03.

#### Line 5. Section 965(b)(2) Limit

Subtract line 4 from line 1. If zero or less, the corporation is not entitled to claim the section 965 DRD and should not file Form 8895.

#### Line 6. Section 965(b)(4) Limit

Enter amounts to be reinvested in the United States under a DRP. See Notice 2005-10, Sections 5, 6, and 8, for detailed information. Also see Notice 2005-38, Sections 2.05, 8, 9.03, 9.05, 10, and 11, and Notice 2005-64, Sections 10 and 11.

#### Lines 8 Through 10. Section 965(b)(3) Limit

For purposes of determining related party indebtedness of the CFC on lines 8 and 9, all CFCs with respect to which the corporation is a U.S. shareholder are treated as a single CFC. Also, for these

purposes, use the definition of “related person” in section 954(d)(3). For more information, see Notice 2005-38, Sections 2.04, 7, and 10, and Notice 2005-64, Section 10.

#### Line 11. Qualifying Dividends

Subtract line 10 from line 7. If zero or less, the corporation is not entitled to claim the section 965 DRD and should not file Form 8895.

Line 11 is the portion of the gross “cash dividends” reported on line 1 that qualify for the DRD (after taking into account all of the limits contained in sections 965(b)(1) through (4)). If line 11 is more than zero, enter it on Form 1120, Schedule C, line 12, column (a) (dividends from CFCs subject to the 85% deduction).



*Section 965(c)(4) states that no deduction is allowed under section 243 or 245 for any dividend for which a deduction is allowed under section 965. As such, do not enter on Form 1120, Schedule C, lines 3, 6, 7, 8, or 11, any amount from Form 8895, line 11 (which is carried over to Form 1120, Schedule C, line 12).*

#### Line 12

Enter all section 965(a)(2) amounts included on line 11. See the instructions for Part V beginning on page 3. These amounts are included on Form 1120, Schedule C, line 12, column (a). Do not include on Form 1120, Schedule C, line 14, column (a), any section 965(a)(2) amount included on Form 1120, Schedule C, line 12, column (a).

#### Line 13. Deductible Portion of Qualifying Dividends

Multiply line 11 by 85%. This is the deductible portion of line 11 qualifying dividends.

**Note.** The corporation cannot take a foreign tax credit or deduction for foreign taxes paid, accrued, or deemed paid on line 13 dividends. See the instructions for Part IV on page 3 for additional information.

#### Line 14. Expenses Disallowed Under Section 965(d)(2) With Respect to Line 13 Amount

Enter the amount of expenses disallowed under section 965(d)(2) with respect to the amount entered on line 13. See Notice 2005-38, Section 9.01, and Notice 2005-64, Section 5, for additional information.

Do not include any of these line 14 expenses on Form 1120 (i.e., page 1, lines 12 through 27; Schedule A; or any other expense or deduction line of Form 1120).

### Line 15. Nondeductible CFC Dividends

Subtract line 13 from line 11. (This also equals 15% of line 11.) The amount entered on line 15 is the amount of nondeductible CFC dividends (as defined in section 965(e)(3)). The corporation's taxable income (Form 1120, line 30) cannot be less than this amount (see section 965(e)(2)(A)). For more information, see Notice 2005-64, Section 7.

## Part III—Regular Tax Liability for Computing Credit Limitations and Alternative Minimum Tax

### Line 16. Corporation's Taxable Income

Enter the corporation's taxable income from Form 1120, line 30.

#### How to Compute NOLs

Section 965(e)(2)(B) states that nondeductible CFC dividends are not taken into account in determining:

- Taxable income for the current year for purposes of determining the portion of the NOL of any "loss year" that may be carried over to the current tax year and
- The amount of any NOL for the current tax year that may be carried over to other tax years.

Therefore, if the corporation's taxable income before the NOL deduction (i.e., Form 1120, line 28, minus Form 1120, line 29b) exceeds the amount of nondeductible CFC dividends reported on Form 8895, line 15, use the excess amount for purposes of determining the portion of the NOL of any "loss year" that may be carried over to the current tax year. If the corporation's taxable income before the NOL deduction (i.e., Form 1120, line 28, minus Form 1120, line 29b) is less than or equal to Form 8895, line 15, the corporation is not entitled to an NOL deduction for the current tax year. In this case, enter on Form 1120, line 30, the amount from Form 8895, line 15, and enter -0- on Form 1120, line 29a. Use the excess of Form 1120, line 30, over the corporation's taxable income before the NOL deduction (i.e., Form 1120, line 28, minus Form 1120, line 29b) as the NOL for the current tax year that may be carried over to other tax years.

### Line 19

Enter the smaller of line 18 or 35% of line 15. This is the corporation's tax on nondeductible CFC dividends. This tax amount may only be reduced by the foreign tax credit and the credit for prior year minimum tax. See section 965(e)(1) and **How to Compute Business Credits** below for details.

### Line 20

Subtract line 19 from line 18. This is the corporation's tax on income other than nondeductible CFC dividends. This tax amount will be used in computing all of the corporation's credits other than the foreign tax credit and the credit for prior year minimum tax.

### Line 21

Enter the portion of the foreign tax credit that is eligible to reduce the tax on nondeductible CFC dividends. Enter the amount from Part IV, line 38, on Form 8895, line 21. If Part IV was completed for more than one separate category, enter the sum of all amounts entered on Part IV, line 38, on Form 8895, line 21.



*In the rare event that the sum of all amounts entered on Part IV, line 38, exceeds the amount shown on line 19, enter on line 21 the amount shown on line 19.*

### Line 22

Subtract line 21 from line 19. This is the amount of tax on nondeductible CFC dividends that remains after being reduced by the applicable portion of the foreign tax credit. You will need this number to compute the credit limit on the credit for prior year minimum tax and the qualified zone academy bond credit (see **How to Compute Business Credits** below). The only remaining credit (after the foreign tax credit) that may be used to reduce this line 22 amount is the credit for the prior year minimum tax. Do not use any of the intervening credits (defined below) to reduce this line 22 amount.

**Intervening credits.** These credits include any credit that a corporation may take that is ordered between the foreign tax credit and the credit for prior year minimum tax. Intervening credits include the possessions tax credit, the nonconventional source fuel credit, the QEV credit, and the general business credits.

### Line 23

Subtract line 21 from line 39. This is the portion of the foreign tax credit that reduces the tax on taxable income excluding nondeductible CFC dividends. You will need this number when computing the credit limit on all of your intervening credits (see **How to Compute Business Credits** below).

### Line 25. Alternative Minimum Tax

Complete the corporation's alternative minimum tax (AMT) on Form 4626 as follows:

- Enter on Form 4626, line 1, the amount from Form 8895, line 17, plus the NOL deduction from Form 1120, line 29a (which is computed using the NOL rules in the instructions for line 16 above).
- Enter on Form 4626, line 11, the portion of the AMTFTC that is attributable to income other than nondeductible CFC dividends. See Notice 2005-64, Section

9.02, 9.03, 9.05, and 9.06, Examples 2, 5, and 6, for additional information.

- Enter on Form 4626, line 13, the amount from Form 8895, line 24, minus the possessions tax credit (computed using the rules described in **How to Compute Business Credits** below).
- Do not take nondeductible CFC dividends (or the tax thereon) into account on any line of Form 4626.

The above steps produce the AMT computed without regard to nondeductible CFC dividends. Enter this AMT amount on Form 8895, line 25, and on Form 1120, Schedule J, line 4.

See Notice 2005-38, Section 9.01, and Notice 2005-64, Sections 9.02, 9.03, 9.05, and 9.06, for more information.

### How to Compute Business Credits

Section 965(e)(1) indicates that, for purposes of computing every business credit other than the foreign tax credit and the credit for prior year minimum tax, "regular tax" does not include any tax "by reason of" nondeductible CFC dividends. The ordering of the credits further complicates the calculation of any business credit the corporation may be entitled to claim. Taking these rules into account, complete the applicable forms for the business credits as follows:

**Foreign tax credit.** See the instructions for Part IV on page 3.

**Possessions tax credit.** Complete Form 5735 as instructed on that form, with the following exception: Do not include on Form 5735, line 14, any tax on nondeductible CFC dividends (Form 8895, Part III, line 19). Enter the credit from Form 5735, line 17 or 27, on Form 1120, Schedule J, line 6b.

**All other intervening credits.** See the instructions for line 22 above for the definition of intervening credit. To compute these credits, complete the applicable form(s) as instructed on that form(s), with the following exceptions:

- On the "regular tax before credits" line of the applicable credit form, you must enter the tax on taxable income excluding nondeductible CFC dividends (Form 8895, Part III, line 20). This is because you may not use the amount of any business credit (other than the foreign tax credit or the credit for prior year minimum tax) to reduce the tax on nondeductible CFC dividends. See section 965(e)(1).
- If there is an "alternative minimum tax" line on the credit form, you must enter on that line the amount from Form 8895, line 25.
- On the "foreign tax credit" line, you must enter only the amount of the foreign tax credit that reduces the tax on taxable income excluding nondeductible CFC dividends (Form 8895, line 23).
- If there is a "tentative minimum tax" line on the credit form, you must enter on that line the amount from Form 4626, line 12 (calculated in accordance with the instructions for line 25 above).

Enter the credit from that form on the applicable line of Form 1120, Schedule J.

**Example.** The corporation completes Form 3800, General Business Credit, as instructed on that form, with the following exceptions:

- Enter the amount from Form 8895, line 20, on Form 3800, line 9 (regular tax before credits).
- Enter the amount from Form 8895, line 25, on Form 3800, line 10 (alternative minimum tax).
- Enter the amount from Form 8895, line 23, on Form 3800, line 12a (foreign tax credit).
- Enter the amount from Form 4626, line 12 (calculated in accordance with the instructions for line 25 on page 2) on Form 3800, line 16 (tentative minimum tax).

Include the credit from Form 3800, line 19, on Form 1120, Schedule J, line 6d.

**Credit for prior year minimum tax.** Complete Form 8827, Credit for Prior Year Minimum Tax—Corporations, as instructed on that form, with the following exception: If the answer to the question on line 6 is “No,” enter on Form 8827, line 6, the tentative minimum tax for the current year determined as if the amount of nondeductible CFC dividends was included on Form 4626, line 1, and the creditable tax attributable to nondeductible CFC dividends was included on Form 4626, line 11. For more information, see Notice 2005-64, Section 9.04.


Enter the amount from Form 8827, line 8, on Form 1120, Schedule J, line 6e.

**Qualified zone academy bond credit.** If the corporation is claiming a qualified zone academy bond credit, complete Form 8860 as instructed on that form, with the following exceptions:

- Enter the amount from Form 8895, line 20, on Form 8860, line 4 (regular tax before credits).
- Enter the amount from Form 8895, line 25, on Form 8860, line 5 (alternative minimum tax).
- Enter the amount from Form 8895, line 23, on Form 8860, line 7a (foreign tax credit).
- Enter the excess, if any, of the amount from Form 8827, line 8, over the amount from Form 8895, line 22, on Form 8860, line 7g (credit for prior year minimum tax).

Enter the amount from Form 8860, line 9, on Form 1120, Schedule J, line 6f.

## Part IV—Foreign Tax Credit—Additional Limitation for Separate Categories With Nondeductible CFC Dividends

 See Notice 2005-64 for rules pertaining to the foreign tax credit and expense allocation.

Complete the following steps to determine the corporation’s foreign tax credit.

1. Complete a preliminary Form 1118. In doing so, complete Form 1118 as instructed on that form and accompanying instructions, and be sure to:

- Include in Schedule A, column 2 or 3, as applicable, all dividends received or deemed received from CFCs (regardless of whether they qualify for the section 965 DRD or whether they are deductible or nondeductible under section 965).
- Use the amount on Form 8895, line 18, with respect to the portion of Form 1118, Schedule B, Part II, line 9, which refers to “regular tax liability.”
- Pencil in (or otherwise tentatively show) the corporation’s preliminary foreign tax credit amounts on Form 1118, Schedule B, Part III.
- Include on Schedule G, line E, all taxes paid, accrued, or deemed paid that are attributable to the deductible portion of qualifying dividends (Form 8895, line 13).

With respect to the last bulleted item above, the corporation may specifically identify which dividends are treated as qualifying dividends. This specific identification is made by entering the qualifying dividends on Form 8895, Part V, column (e). In the absence of such a specification, a pro rata portion of each cash dividend repatriated during the tax year is treated as a qualifying dividend. See Notice 2005-64, Section 3.02. The corporation may not claim a credit or deduction for 85% of the foreign taxes paid, accrued, or deemed paid with respect to qualifying dividends. See Notice 2005-64, Section 4, for more information.

2. Complete Form 8895, Part IV, lines 26 through 37, for each separate category that contains nondeductible CFC dividends. If you have nondeductible CFC dividends in more than one separate category, attach additional Parts IV to Form 8895. Complete lines 26 through 37 using the following line instructions.

- **Line 28.** Subtract line 27 from Schedule B, Part II, line 6, of the corporation’s preliminary Form 1118 (see step 1 above). This is the corporation’s foreign source taxable income exclusive of the nondeductible CFC dividends in the separate category.
- **Line 29.** Subtract line 27 from Schedule B, Part II, line 7c, of the corporation’s preliminary Form 1118 (see step 1 above). This is the corporation’s worldwide taxable income exclusive of the nondeductible CFC dividends in the separate category.
- **Line 32.** Subtract line 31 from Schedule B, Part II, line 9, of the corporation’s preliminary Form 1118 (see step 1 above). This is the corporation’s pre-credit U.S. tax on its worldwide taxable income exclusive of the nondeductible CFC dividends in the separate category.

• **Line 36.** Enter the foreign tax credit computed for the separate category on the corporation’s preliminary Form 1118, Schedule B, Part III. The corporation’s preliminary Form 1118 is the Form 1118 referred to in step 1 above.

• **Line 37.** Enter the smaller of line 35 or line 36. This is the corporation’s allowable foreign tax credit for the separate category (the lesser of the corporation’s regular section 904 limitation or the section 965(e) limitation for the separate category). If line 35 is smaller than line 36, substitute the revised credit amount from this line 37 for the amount tentatively figured on the applicable line of Schedule B, Part III, of the corporation’s preliminary Form 1118. Enter on the dotted line to the left of the applicable entry space “from Form 8895, Part IV, line 37.”

3. Compute the corporation’s revised foreign tax credit for all separate categories and enter the result on Form 8895, line 39, and on Form 1120, Schedule J, line 6a. See the instructions for line 39 below for details.


For additional information, see Notice 2005-64, Section 9.02.

### Line 38

Enter the smaller of line 31 or line 34. This amount is used to determine the portion of the foreign tax credit that may be used to reduce the tax on nondeductible CFC dividends (see instructions for line 21 on page 2).

### Line 39

Enter the corporation’s revised foreign tax credit on line 39. If the corporation entered revised amounts on Schedule B, Part III, of its preliminary Form 1118 (see the instructions for line 37 above), refigure Form 1118, Schedule B, Part III, lines 9, 10, and 11, and enter the revised amount of the foreign tax credit (Form 1118, Schedule B, Part III, line 11) on Form 8895, line 39, and on Form 1120, Schedule J, line 6a. Otherwise, enter the amount of the foreign credit from Schedule B, Part III, line 11, of the corporation’s preliminary Form 1118 on Form 8895, line 39, and on Form 1120, Schedule J, line 6a (i.e., the amounts computed in the corporation’s preliminary Form 1118, Schedule B, Part III, are the amounts to be used on the corporation’s actual Form 1118, Schedule B, Part III).

 The amount on Form 8895, line 39, is generally **not** the amount to enter on the foreign tax credit line of most business credit forms. See the instructions for line 23 on page 2 and **How to Compute Business Credits** on page 2 for details.

## Part V—Schedule of Dividends

List in Part V all gross “cash dividends” the corporation received from all CFCs during the tax year. See Notice 2005-64, Section 3.01, for more information.

## Column (c)


Enter in column (c) the functional currency amount and the U.S. dollar amount of all gross "cash dividends" the corporation received from all CFCs during the tax year. See Notice 2005-64, Section 3.04, for more information. The total of column (c)(2) should equal the amount reported on line 1 of the form.

## Column (d)

For each cash dividend reported in Part V, check the box in column (d) if the dividend is a section 965(a)(2) amount. Section 965(a)(2) provides that if, within the tax year for which the section 965 election is in effect, the corporate U.S. shareholder receives a cash distribution from a CFC that is excluded from gross income under section 959(a), such distribution shall be treated for purposes of section 965 as a cash dividend to the extent of any amount included in income by such U.S. shareholder under section 951(a)(1)(A) as a result of any cash dividend during such tax year to:

- Such CFC from another CFC that is in a chain of ownership described in section 958(a) or
- Any other CFC in such chain of ownership from another CFC in such chain of ownership, but only to the extent of cash distributions described in section 959(b) that are made during such tax year to the CFC from which such U.S. shareholder received such distribution.

If stock of an acquiring CFC is deemed to be issued to another CFC pursuant to section 304(a)(1), the acquiring CFC is treated as being in a chain of ownership described in section 958(a) for purposes of applying section 965(a)(2). See Notice 2005-38, Section 9.04, for an example.

 *Attach to Form 8895 a statement that identifies the lower tier CFC that paid the cash dividend and the CFC that received the dividend, resulting in the U.S. shareholder's income inclusion, and distributed cash (whether directly or through one or more tiers of CFCs) to the corporate U.S. shareholder.*

## Column (e)

Show in column (e) which column (c)(2) line amounts the corporation is

specifically identifying as qualifying dividends. For any line amount specified, the amount entered in column (e) will generally equal the amount in column (c)(2). However, on one line only, the amount entered in column (e) may be smaller than the amount entered in column (c)(2), if that smaller column (e) amount is the amount needed to reconcile the total of all amounts entered in column (e) with the amount of qualifying dividends reported on line 11 of the form. See Notice 2005-64, Section 3.02, for more information.

## Part VI—Section 965(b)(2) Base Period Amount

**Note.** If the corporation has fewer than 5 tax years in its base period (i.e., tax years ending on or before June 30, 2003), the corporation's base period includes all of its tax years ending on or before June 30, 2003. In this case:

- Do not complete lines 47 through 50.
- On line 51, divide line 46 by the number of base period years of the corporation.



*See Notice 2005-38, Sections 2.02, 3, 6, and 10, for rules for adjusting the calculation of the amounts to be entered in columns (a) through (c) to take into account mergers, acquisitions, and spin-offs. Do not take into account any changes in amounts reported on an amended return filed after June 30, 2003. See Notice 2005-64, Section 10.02, for additional information.*

## Column (a)

Enter the amount of dividends the corporation received during each tax year from all CFCs.

## Column (b)

Enter the total amount includible in the corporation's gross income for each tax year under section 951(a)(1)(B) with respect to all CFCs.

## Column (c)

Enter the total amount that would have been included in the corporation's gross

income for each tax year with respect to all CFCs but for section 959(a). For any tax year, do not include in column (c) any distribution that is attributable to an amount included in column (b) for a prior tax year.

## Line 51

Divide line 50 by 3. If the corporation has fewer than 5 tax years in its base period, see the **Note** at the beginning of these Part VI instructions. Enter the line 51 amount on line 4 of the form.

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**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 18 hr., 53 min.; **Learning about the law or the form**, 2 hr., 15 min.; **Preparing and sending the form to the IRS**, 3 hr., 51 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.

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