

(b)(2) of this section is determined under section 959.

\* \* \* \* \*

■ **Par. 5.** Section 1.965-7 is amended by revising paragraphs (c)(3)(iv)(A)(2) and (c)(3)(iv)(B)(4)(viii) to read as follows:

**§ 1.965-7 Elections, payment, and other special rules.**

\* \* \* \* \*

- (c) \* \* \*
- (3) \* \* \*
- (iv) \* \* \*
- (A) \* \* \*

(2) *Requirement to enter into a transfer agreement.* The shareholder with respect to which a triggering event occurs and an eligible section 965(i) transferee (as defined in paragraph (c)(3)(iv)(B)(1) of this section) must enter into an agreement with the Commissioner that satisfies the requirements of paragraph (c)(3)(iv)(B) of this section.

- (B) \* \* \*
- (4) \* \* \*

(viii) An acknowledgement that the eligible section 965(i) transferor and any successor to the eligible section 965(i) transferor will remain jointly and severally liable for the section 965(i) net tax liability being assumed by the eligible section 965(i) transferee;

\* \* \* \* \*

■ **Par. 6.** Section 1.965-8 is amended by revising the heading of paragraph (e) and paragraphs (e)(1) and (g)(1)(ii)(B)(2) to read as follows:

**§ 1.965-8 Affiliated groups (including consolidated groups).**

\* \* \* \* \*

(e) *Treatment of a consolidated group or other affiliated group as a single section 958(a) U.S. shareholder or a single person—(1) In general.* All members of a consolidated group that are section 958(a) U.S. shareholders of a specified foreign corporation are treated as a single section 958(a) U.S. shareholder for purposes of section 965(b), § 1.965-1(b)(2), and § 1.965-3. Furthermore, all members of a consolidated group are treated as a single person for purposes of paragraphs (h), (k), and (n) of section 965 and § 1.965-7. In addition, all members of an affiliated group that are section 958(a) U.S. shareholders of a specified foreign corporation are treated as a single section 958(a) U.S. shareholder for purposes of § 1.965-2(f). Thus, for example, any election governed by section 965(h) and § 1.965-7(b) must be made by the agent (within the meaning of § 1.1502-77) of the group as a single election on behalf of all members of the consolidated group. Similarly, the

determination of whether the transfer of assets by one member to a non-member of the consolidated group would constitute an acceleration event under § 1.965-7(b)(3)(ii)(B) takes into account all of the assets of the consolidated group, which for purposes of this determination, includes all of the assets of each consolidated group member. In analyzing issues relating to the transfer of assets of a consolidated group, appropriate adjustments are made to prevent the duplication of assets or asset value.

\* \* \* \* \*

- (g) \* \* \*
- (1) \* \* \*
- (ii) \* \* \*
- (B) \* \* \*

(2) *Determining section 965(a) inclusion amounts under section 965(b)(5).* Under section 965(b) and paragraph (b) of this section, for purposes of determining the section 965(a) inclusion amount of a section 958(a) U.S. shareholder with respect to a deferred foreign income corporation, if, after applying § 1.965-1(b)(2), the section 958(a) U.S. shareholder is an E&P net surplus shareholder, then the U.S. dollar amount of the section 958(a) U.S. shareholder's pro rata share of the section 965(a) earnings amount of the deferred foreign income corporation is further reduced (but not below zero) by the deferred foreign income corporation's allocable share of the section 958(a) U.S. shareholder's applicable share of the affiliated group's aggregate unused E&P deficit. USS3 is the only E&P net deficit shareholder in the USP Group, and, therefore, the aggregate unused E&P deficit of the USP Group is equal to USS3's excess aggregate foreign E&P deficit (\$100x). The applicable share of the USP Group's aggregate unused E&P deficit of each of USS1 and USS2, respectively, is an amount that bears the same proportion to the USP Group's aggregate unused E&P deficit as the product of the group ownership percentage of USS1 and USS2, respectively, multiplied by the amount that would (but for section 965(b)(5) and paragraph (b) of this section) constitute the aggregate section 965(a) inclusion amount of USS1 and USS2, respectively, bears to the aggregate of such amounts with respect to both USS1 and USS2. Therefore, USS1's applicable share of the USP Group's aggregate unused E&P deficit is \$40 (\$100x × (\$200x/(\$200x + \$300x))) and USS2's applicable share of the USP Group's aggregate unused E&P deficit is \$60x (\$100x × (\$300x/(\$200x + \$300x))). Because USS1 is a section 958(a) U.S. shareholder with respect to only one

deferred foreign income corporation, the entire \$40x of USS1's applicable share of the USP Group's aggregate unused E&P deficit is treated as CFC1's allocable share of USS1's applicable share of the USP Group's aggregate unused E&P deficit, and thus USS1's section 965(a) inclusion amount with respect to CFC1 is reduced to \$160x (\$200x - \$40x). Because USS2 is a section 958(a) U.S. shareholder with respect to only one deferred foreign income corporation, the entire \$60x of USS2's applicable share of the USP Group's aggregate unused E&P deficit is treated as CFC3's allocable share of USS2's applicable share of the USP Group's aggregate unused E&P deficit, and thus USS2's section 965(a) inclusion amount with respect to CFC3 is reduced to \$240x (\$300x - \$60x).

**Martin V. Franks,**  
*Chief, Publications and Regulations Branch,  
 Legal Processing Division, Associate Chief  
 Counsel (Procedure and Administration).*

[FR Doc. 2019-07012 Filed 4-9-19; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[TD 9846]

RIN 1545-BO51

**Regulations Regarding the Transition Tax Under Section 965 and Related Provisions; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations; correction.

**SUMMARY:** This document contains a correction to final regulations (TD 9846) that were published in the **Federal Register** on Tuesday, February 5, 2019 (84 FR 1838). The final regulations implement section 965 of the Internal Revenue Code (the "Code"). Section 965 was amended by the Tax Cuts and Job Act, which was enacted on December 22, 2017.

**DATES:** This correction is effective on April 10, 2019.

**FOR FURTHER INFORMATION CONTACT:** Natalie Punchak at (202) 317-6934 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations (TD 9846) that are the subject of this correction are issued under section 965 of the Code.

**Need for Correction**

As published, the final regulations (TD 9846) contain errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the final regulations (TD 9846), that are the subject of FR Doc. 2019-00265, are corrected as follows:

On page 1874, in the preamble, the second column, under the caption "Special Analyses," is amended by adding section VI. to read as follows:

**VI. Congressional Review Act**

The Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget has determined that this is a major rule for purposes of the Congressional Review Act (5 U.S.C. 801 *et. seq.*) ("CRA"). Under section 801(3) of the CRA, a major rule takes effect 60 days after the rule is published in the **Federal Register**. Notwithstanding this requirement, section 808(2) of the CRA allows agencies to dispense with the requirements of 801 when the agency for good cause finds that such procedure would be impracticable, unnecessary, or contrary to the public interest and the rule shall take effect at such time as the agency promulgating the rule determines.

Pursuant to section 808(2) of the CRA, the Treasury Department and the IRS find, for good cause, that a 60-day delay in the effective date is unnecessary and contrary to the public interest. The Treasury Department and the IRS have determined that the rules in this Treasury decision shall take effect on December 22, 2017. December 22, 2017, is the date that section 965 in its current form was enacted. Section 965 applies to the last taxable year of foreign corporations that began before January 1, 2018, and to the taxable years of United States persons in which such taxable years of foreign corporations end. This means that the statute is currently effective, and taxpayers may be required to make payments under section 965 on a U.S. federal income tax return for 2017 or 2018 tax years. These final regulations provide crucial guidance for taxpayers on how to apply the rules of section 965, correctly calculate their liability under section 965, and accurately file their U.S. Federal income tax returns. Because the statute already requires taxpayers to comply with section 965, a 60-day delay

in the effective date is unnecessary and contrary to the public interest.

**Martin V. Franks,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. 2019-07018 Filed 4-9-19; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 100**

[Docket Number USCG-2019-0051]

RIN 1625-AA08

**Special Local Regulation; Choptank River, Cambridge, MD**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary special local regulations for certain navigable waters of the Choptank River. This action is necessary to provide for the safety of life on these waters located at Cambridge, MD, on May 11, 2019, during a morning swim event. This regulation prohibits persons and vessels from being in the regulated area unless authorized by the Captain of the Port Maryland-National Capital Region or Coast Guard Patrol Commander.

**DATES:** This rule is effective from 8 a.m. to 11 a.m. on May 11, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2019-0051 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Ronald Houck, U.S. Coast Guard Sector Maryland-National Capital Region; telephone 410-576-2674, email [Ronald.L.Houck@uscg.mil](mailto:Ronald.L.Houck@uscg.mil).

**SUPPLEMENTARY INFORMATION:****I. Table of Abbreviations**

CFR Code of Federal Regulations  
COTP Captain of the Port  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
PATCOM Coast Guard Patrol Commander  
§ Section  
U.S.C. United States Code

**II. Background Information and Regulatory History**

The TCR Event Management of St. Michaels, MD, notified the Coast Guard that it will be conducting a swim event on the morning of May 11, 2019. The open water swim starts at the beach of Bill Burton Fishing Pier State Park at Trappe, MD, proceeds across the Choptank River along and between the fishing piers and the Senator Frederick C. Malkus, Jr. Memorial (US-50) Bridge, and finishes at the beach of the Dorchester County Visitors Center at Cambridge, MD. In response, on February 26, 2019, the Coast Guard published an NPRM titled "Special Local Regulation; Choptank River, Cambridge, MD" (84 FR 6107). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this paddle race. During the comment period that ended March 28, 2019, we received no comments.

**III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The COTP Maryland-National Capital Region has determined that potential hazards associated with the swim will be a safety concern for anyone intending to operate in or near the swim area. The purpose of this rule is to protect event participants, spectators, and transiting vessels on specified waters of the Choptank River before, during, and after the scheduled event.

**IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received no comments on our NPRM published February 26, 2019. There are no substantive changes in the regulatory text of this rule from the proposed rule in the NPRM. However, there are two small, nonsubstantive changes. The first change is in paragraph (a), to the definition of "participants." The proposed rule stated the event name as the Flying Point Park Outboard Regatta. The name of the event has been changed to the Maryland Freedom Swim. The second change is a slight modification in the paragraphing structure of paragraph (b). There were no changes to the regulatory text of paragraph (b).

This rule establishes a special local regulation from 8 a.m. to 11 a.m. on May 11, 2019. The regulated area will cover all navigable waters of the Choptank River, from shoreline to shoreline, within an area bounded on the east by a line drawn from latitude 38°35'14.2" N, longitude 076°02'33.0" W, thence south to latitude 38°34'08.3" N,