

## Supplementary Questions regarding Foreign Tax Matters

(Must be completed by all clients)

Taxpayer: \_\_\_\_\_

Spouse: \_\_\_\_\_

The following questions apply to you individually, as well as to any trusts that you settled or of which you are a beneficiary. If you are answering any of the following questions on behalf of a trust you settled and/or you are a beneficiary, please provide a written explanation or a copy of the trust agreement. Unless otherwise stated, the following questions are applicable to the 2018 calendar year.

- During any time in 2018, did your foreign holdings consist solely of foreign investments held through U.S. based publicly traded mutual funds (**NOT** hedge funds) held in

a U.S. bank or securities account? Yes ☐ No ☐ N/A, I had no foreign holdings whatsoever including specified foreign assets as defined on page 3 of this questionnaire. ☐

If "no", please answer the questions below:

### Foreign (Non-US) Corporations (Forms 5471, 8892, 965, 3520, 8858, 8621 and/or 926 may be required)

- Did you own an interest in a foreign corporation? Yes ☐ No ☐  
If so, what was your ownership proportion? Less than 10% ☐ 10% to 50% ☐ More than 50% ☐
- Did any of your family members own an interest in a foreign corporation? Yes ☐ No ☐  
If so, what was their ownership proportion? Less than 10% ☐ 10% to 50% ☐ More than 50% ☐  
Indicate the family relationships i.e. brother/sister, parent, spouse, child, grandchild and whether the individual is US or foreign. Please attach extra sheets if there are multiple family members with ownership interests \_\_\_\_\_  
**SEE BELOW at page 5 regarding Information Required for Section 965 Transition Tax**
- Did you or your spouse own *any* interest in non-US mutual funds, or similar types of non-US collective investments? Yes ☐ No ☐
- Did you contribute any cash/property to a non-US corporation during the year? Yes ☐ No ☐
- Did you increase or decrease your ownership interest in a non-US corporation during the year? Yes ☐ No ☐
- Are you or your spouse an officer or director of any non-US corporation? Yes ☐ No ☐
- Did you receive any kind of distribution from a non-US corporation during the year? Yes ☐ No ☐  
If "yes", what was the value \_\_\_\_\_  
Are you treating it as a gift? Yes ☐ No ☐

### Foreign (Non-US) Partnerships (Forms 8865, 8858, and/or 3520 may be required)

- Did you own an interest in a foreign partnership? Yes ☐ No ☐  
If so, what was your ownership proportion? Less than 10% ☐ 10% to 50% ☐ More than 50% ☐
- Did any of your family members own an interest in a foreign partnership? Yes ☐ No ☐  
If so, what was their ownership proportion? Less than 10% ☐ 10% to 50% ☐ More than 50% ☐
- Did you increase or decrease your ownership interest in a non-US partnership during the year? Yes ☐ No ☐
- Did you contribute any cash or other asset to a non-US partnership during the year? Yes ☐ No ☐
- Did you receive any kind of distribution from a non-US partnership during the year? Yes ☐ No ☐  
If "yes", what was the value? \_\_\_\_\_  
Are you treating it as a gift? Yes ☐ No ☐

Please provide details regarding any "yes" answers above.

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### US Disregarded Entities Owned by Nonresident Aliens (Form 5472 may be required)

- Are you a nonresident alien (i.e., not a US citizen or US resident for federal income tax purposes) who owns or owned during 2018 100% of a US disregarded entity (such as a single member limited liability company)? Ownership can be direct or indirect, such as through another disregarded entity or grantor trust, regardless of whether such disregarded entity or grantor trust is domestic or foreign.

Yes ☐ No ☐

### Foreign (Non-US) Trusts (Forms 3520 or 3520A may be required)

- Did you contribute any property to a foreign trust during the current tax year? Yes ☐ No ☐
- Were you considered the settlor/grantor of, or owner of, a foreign trust during the current year, whether or not you have any beneficial interest in such trust? Yes ☐ No ☐
- Were you a beneficiary of a foreign trust? Yes ☐ No ☐
- Were you a trustee of any foreign trust? Yes ☐ No ☐
- Did you receive a distribution from a foreign trust? Yes ☐ No ☐

### Foreign (Non-US) Gifts and/or Inheritance (Form 3520 may be required)

- Did you receive any gifts during the year with a value, in total, exceeding \$100,000 from foreign individuals or foreign estates? Yes ☐ No ☐
- Did you receive any gifts during the year with a value exceeding \$16,111 from foreign corporations or partnerships? Yes ☐ No ☐

Please provide details regarding any "yes" answers above:

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### Financial Interests (FinCEN 114 and Form 8938)

- Did you have a financial interest in or signature authority over any financial accounts or other investments in a foreign country at any time during 2018? Yes ☐ No ☐

If yes, did the gross value of the accounts or investments in aggregate exceed \$10,000 at any time during the year? Yes ☐ No ☐

Which country were the accounts located in? \_\_\_\_\_

- During 2018 did you own "specified foreign financial assets" (see definition) which in aggregate had a value on December 31, 2018, in excess of \$50,000, or in excess of \$75,000 at any time during the year? Yes ☐ No ☐

If you answered "Yes", are you a US citizen or permanent resident (green card holder) who resided outside the US during 2018? Yes ☐ No ☐

If you answered "Yes" you may be entitled to a higher reporting threshold for the dollar limits above if you have a tax home in a foreign country(ies) and meet an additional test regarding time spent/residence in a foreign country.

- During 2018, did your spouse own "specified foreign financial assets" (see definition) which in aggregate had a value on December 31, 2018, in excess of \$50,000, or in excess of \$75,000 at any time during the year? Yes ☐ No ☐

If you answered "Yes", is your spouse a US citizen or permanent resident (green card holder) who resided outside the US during 2018? Yes ☐ No ☐

If you answered "Yes", your spouse may be entitled to a higher reporting threshold for the dollar limits above if your spouse has a tax home in a foreign country(ies) and meet an additional test regarding time spent/residence in a foreign country.

If you answered "yes" to any of these questions, please provide additional detail on the continuation page, including: Name and address of each financial institution where these accounts are held, type of account, maximum value of the account during 2018, and the value of the account on December 31, 2018.

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**"Specified foreign financial assets"** include, but are not limited to, financial accounts (depository or custodial) maintained by a non-US financial institution or other entity in the business of investing, trading, or holding financial assets for the account of others; non-US mutual funds, hedge funds and private equity funds; non-US stocks, bonds; investments in non-US partnerships held for investment; options, derivatives, investment swap agreements with a non-US counterparty or issuer; interest in a non-US trust or estate; interest in a non-US pension or deferred compensation plan. Note that foreign financial assets held through a brokerage or investment account maintained at US financial institutions are not subject to the foreign financial asset reporting requirements. The aggregate value for determining the minimum threshold should include any assets purchased and sold during the tax year.

Please note that these rules do not require employers to provide information related to the value of foreign pension plans or foreign deferred compensation plans (including, for example, equity awards in the stock of a foreign employer, which includes American Depositary Shares). Taxpayers are to use readily accessible information to report the fair market value of their specified foreign financial assets. If the value cannot be determined by the taxpayer using readily accessible information, then report the aggregate value of any distributions received during the year, if the taxpayer received no distributions, then value may be reported as zero. This may often be the case for a defined benefit pension plan, where actuarial calculations would be needed to estimate the current value of the plan. The employer is not required to provide such calculations if they are not otherwise available to the employee.

**Passive Foreign Investment Company Reporting.** In general, foreign financial assets that qualify as "passive foreign investment companies" ("PFICs") must now be reported annually on Form 8621, regardless of whether the foreign assets are held in a US account. As a general rule a PFIC will include foreign mutual funds, foreign exchange traded funds, and equity interests in private or public foreign corporations whose assets consist primarily of investment assets (cash, securities, loans, rental real estate, or assets generating royalty income) or whose income is derived primarily from investment assets (e.g., income consisting primarily of interests, dividends, rents and/or royalties).

- During 2018, did you own any foreign financial assets that may qualify as "PFICs" at any time during the year? Yes ☐ No ☐
- During 2018, did your spouse own any foreign financial assets that may qualify as "PFICs" at any time during the year? Yes ☐ No ☐

If you answered yes to either of these questions, please provide additional detail regarding the PFIC on the continuation page

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**Gifts or Bequests from a Covered Expatriate** (Form 708 may be required; currently, the filing of Form 708 and payment of any associated tax is delayed until the IRS issues final regulations under Section 2801; when the proposed regulations are finalized, the tax is imposed back to transfers made on or after June 17, 2008. This questionnaire takes the approach of the proposed regulations; the final regulations may differ, and require evaluation.)

- Did you receive gifts or bequests from a "covered expatriate" that total in excess of the gift tax annual exclusion, at any time on or after June 17, 2008? The gift tax annual exclusion amount was \$12,000 in 2008, \$13,000 in 2009-2012, \$14,000 in 2013-2017, and \$15,000 in 2018.

Yes ☐ No ☐ Uncertain ☐

- Did you receive a distribution from a foreign trust that was funded by a covered expatriate, at any time on or after June 17, 2008?

Yes ☐ No ☐ Uncertain ☐

- Are you a domestic trust that has received a contribution from a covered expatriate, on or after June 17, 2008?

Yes ☐ No ☐ Uncertain ☐

### Who is a covered expatriate?

You will need to know detailed tax information and history of the donor or decedent to determine if he or she was a covered expatriate, and if he or she was a covered expatriate, you will have the Section 2801 tax obligation. Section 2801 defines "covered expatriate" by reference to Section 877A(g)(1), which defines that term as an individual who expatriates and meets at least one of three tests described below. Expatriation includes: 1) a US citizen, relinquishing US citizenship, or 2) a long-term green card holder (i.e., holding a green card for any part of 8 of the last 15 tax years), relinquishing the green card or taking a treaty position of non-US residency.

In addition to the act of expatriation, an individual is a "covered expatriate," if, on the expatriation date, on or after June 17, 2008, the individual: (1) had an average annual net income tax liability greater than \$124,000 (indexed for inflation, \$165,000 for 2018, \$162,000 for 2017, \$161,000 for 2016, \$160,000 for 2015, \$157,000 for 2014, \$155,000 for 2013, \$151,000 for 2012, \$147,000 for 2011, \$145,000 for 2010, \$145,000 for 2009, \$139,000 for 2008) for the previous five tax years; (2) the individual's net worth was at least \$2 million (not indexed for inflation); or (3) the individual failed to certify under penalty of perjury that he or she has complied with all US tax obligations for the five preceding tax years.

There are some exceptions to covered expatriate status (e.g., expatriations of dual citizens from birth and individuals who expatriate prior to age 18.5), and some exceptions to the 2801 tax where the transfer: 1) is timely reported by the covered expatriate on a timely filed gift or estate tax return, or 2) where the transfer is to a spouse and the marital deduction would apply.

All transfers are presumed to be from a covered expatriate. Significant tax analysis may need to be done to rule out covered expatriate status.

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### Section 965 Transition Tax

The "Tax Cuts and Jobs Act" signed into law on December 22, 2017 contains a tax on a foreign corporation's unremitted earnings and profits as part of a transition to a territorial tax system. The tax impacts not only domestic corporations but also certain individuals with interests in foreign corporations depending on their percentage of ownership whether held directly, indirectly or constructively. Therefore, depending on the responses below we may need to follow-up with further questions regarding the ownership structure and the nature of the foreign corporation. The analysis requires financial statements (income statements and balance sheets) to determine whether there is any post 1986 earnings and profits that should be included in income as a base for the transition tax.

The Transition Tax applies in the last taxable year of certain foreign corporations starting before January 1, 2018. Many taxpayers who were subject to transition tax reported the tax with their 2017 federal income tax returns. However, taxpayers may have elected to pay their transition tax liability in installments over 8 years, or may have deferred paying transition tax if the tax liability arose through ownership of an S corporation. Additional, annual filing of Form 965 may be required. In addition, taxpayers who have interests in foreign corporations that use a fiscal year may have additional transition tax items to report on their 2018 federal income tax returns.

#### Section 1

- Did you report transition tax on your 2017 tax return?

Yes ☐ No ☐

If "yes," please provide a copy of the IRC 965 Transition Tax Statement that was included with your 2017 federal income tax return. If "no," please go to Section 2.

- Did you elect to pay your transition tax liability in installments pursuant to Section 965(h)?

Yes ☐ No ☐

If "yes," please provide a copy of the "Election to Pay Net Tax Liability Under Section 965 in Installments Under Section 965(h)(1)" that was included with your 2017 federal income tax return.

- Did you elect to defer payment of your transition tax liability pursuant to Section 965(i)?

Yes ☐ No ☐

If "yes," please provide a copy of the "S Corporation Shareholder Deferral Election Under Section 965(i)(1)" that was included with your 2017 federal income tax return.

#### Section 2

Although most taxpayers were subject to transition tax in 2017, some taxpayers may be subject to transition tax in 2018 if they own an interest in certain foreign corporations that have a fiscal tax year.

- During 2018, did you own an interest in a foreign corporation with a fiscal tax year?

Yes ☐ No ☐

If "yes" please review the following statement and provide any additional information.

The filing requirement for Form 5471 and the applicability of Transition Tax are different. Therefore, even if a taxpayer indicates he or she owns less than 10% of a foreign corporation, we may need to be provided with the organization chart (i.e., a summary or picture that describes all of the shareholders' ownership interests) of the foreign corporation to determine the direct, indirect, and constructive ownership interests. If the taxpayer owns more than 10% of the foreign corporation but the foreign corporation is not a "controlled foreign corporation," we still need a copy of the organization chart to determine if the foreign corporation has as a shareholder a US domestic corporation that owns 10% or more of the voting power of the foreign corporation.