



Rhode Island Department of Revenue

Division of Taxation

ADV 2018-32
CORPORATE TAX

ADVISORY FOR TAX PROFESSIONALS
AUGUST 2, 2018

Division files, as final, its regulation on Section 965 income *Guidance is intended for C corporations and their advisors*

PROVIDENCE, R.I. – The Rhode Island Division of Taxation today filed, as final, a regulation that provides guidance to C corporations and their advisors on how to report deferred foreign income (“Section 965 income”) for Rhode Island tax purposes for the 2017 tax year.

To view the regulation, “Treatment of Repatriated Income 2017” (280-RICR-20-25-15), please use the following link: <https://go.usa.gov/xUf8c>.

“The federal government in December 2017 enacted changes to federal tax law, which in turn required Rhode Island to review its tax laws,” said Rhode Island Tax Administrator Neena Savage.

“This final regulation clarifies Rhode Island law with respect to C corporations that have income pursuant to Internal Revenue Code § 965,” she said.

Background and explanation

Under legislation approved by Congress and signed into law by President Donald Trump on December 22, 2017, taxpayers with untaxed foreign earnings must include, in income for federal tax purposes, their accumulated post-1986 deferred foreign income (“Section 965 income”).¹

Such income must be included, in income for federal tax purposes, for the 2017 tax year, and is subject to tax at special effective federal tax rates. This is referred to as the “repatriation transition tax.”

PRIOR GUIDANCE

This Advisory is the latest in a series of documents involving Section 965 guidance issued by the Rhode Island Division of Taxation.

On April 17, 2018, the Division issued Advisory 2018-19, providing guidance for individuals, partnerships, limited liability companies, and subchapter S corporations.

On April 25, 2018, the Division issued Advisory 2018-21, providing guidance for fiduciaries (estates and trusts).

On June 11, 2018, the Division proposed a regulation to provide guidance to C corporations and their advisors on how to report Section 965 income for Rhode Island tax purposes for the 2017 tax year.

¹ U.S. Public Law 115-97, commonly known as the Tax Cuts and Jobs Act, or TCJA.

Federal law allows certain taxpayers to elect to defer payment of a portion of their repatriation transition tax. This election, however, does not defer recognition of the Section 965 income. Therefore, the Section 965 income, in its entirety, is recognized and must be included on a taxpayer's federal return for its last taxable year beginning before January 1, 2018.²

Rhode Island regulation provides details

Under the Rhode Island regulation, C corporations must include, as income for tax year 2017, the amount of their net Section 965 income – that is, Section 965 income less federal deductions provided under Section 965.

- The Division of Taxation's regulation provides information about whether a Rhode Island dividends-received deduction is allowed against net Section 965 income. The regulation also provides guidance on the computation of apportionment, whether deferral of the Rhode Island tax payment is allowed, and details on filing procedures and penalty relief.
- The Division held a public hearing on its proposed regulation on June 21, 2018. The public comment period ended on July 12, 2018. The Division responded to comments received regarding the proposed regulation.
- As noted in the Rhode Island regulation, taxpayers with Section 965 income must file a Rhode Island Schedule 965 ("965 Transition Tax Statement") with their 2017 Rhode Island return if the return has not yet been filed. If a 2017 Rhode Island return has already been filed, an amended return must be filed that includes Rhode Island Schedule 965. To view or download Rhode Island Schedule 965: <https://go.usa.gov/xUf8S>. The federal "IRC 965 Transition Tax Statement" must be included with the filing of Rhode Island Schedule 965.
- Rhode Island Division of Taxation Advisories, including prior Advisories involving Section 965, are available through the following link: <http://www.tax.ri.gov/Advisory/index.php>.
- For more information, contact the Division's Corporate Tax section at (401) 574-8935 between 8:30 a.m. and 3:30 p.m. business days.

The Rhode Island Division of Taxation office is at One Capitol Hill in Providence, R.I., diagonally across from the Smith Street entrance of the State House, and is open to the public 8:30 a.m. to 3:30 p.m. business days. To learn more, see the Division's website: www.tax.ri.gov, or call (401) 574-8829.

² For more information, see U.S. Treasury and Internal Revenue Service regulation proposed on August 1, 2018: <https://www.irs.gov/newsroom/irs-and-treasury-issue-proposed-regulations-implementing-section-965>.