



Rhode Island Department of Revenue

Division of Taxation

ADV 2018-23
CORPORATE TAX

ADVISORY FOR TAX PROFESSIONALS
JUNE 11, 2018

Division proposes regulation on Section 965 income

Guidance is aimed at C corporations and their advisors; hearing scheduled

PROVIDENCE, R.I. – The Rhode Island Division of Taxation today proposed a regulation that would provide 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.

The regulation, “Treatment of Repatriated Income 2017” (280-RICR-20-25-15), was posted on the Rhode Island Department of State (Secretary of State) website.

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

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

PRIOR GUIDANCE

This Advisory represents the third installment of Section 965 guidance issued by the 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).

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

taxable year beginning before January 1, 2018. (See Internal Revenue Service [Publication 5292](#) for further information.)

Regulation provides details

Under the Division's proposed regulation, C corporations would include, as Rhode Island 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 proposed regulation provides information about whether a Rhode Island dividends-received deduction would be 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 proposed regulation also includes details on the public comment period and on a public hearing:

- The public hearing is to be held on Thursday, June 21, 2018, at 1:30 p.m. at the Powers Building (Department of Administration Building), One Capitol Hill, Providence, Rhode Island, diagonally across Smith Street from the State House. The public comment period ends on Thursday, July 12, 2018.
- The proposed regulation is available through the following link: <https://go.usa.gov/xQ6zd>.

This and other 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>.

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 agency's website: www.tax.ri.gov.
