



Rhode Island Department of Revenue

Division of Taxation

ADV 2018-19
TAX ADMINISTRATION

ADVISORY FOR TAX PROFESSIONALS
APRIL 17, 2018

Division issues reminder on 'Section 965' income

How to report deferred foreign income for Rhode Island tax purposes

PROVIDENCE, R.I. – The Rhode Island Division of Taxation reminds tax preparers and taxpayers about certain Rhode Island tax obligations related to the federal tax legislation enacted in December 2017.

“Due to recent inquiries from practitioners, we are confirming the treatment of Section 965 income under Rhode Island law. This is a reminder that nothing has changed under Rhode Island law, and this guidance is intended to confirm the impact of federal tax reform,” said Rhode Island Tax Administrator Neena S. Savage, who oversees the Division of Taxation.

The following table is provided as a reminder for individuals as well as pass-through entities. Taxpayers affected by the information in the table, who have already filed a return that does not reflect this guidance, should submit an amended return accordingly.

How to treat Section 965 income for Rhode Island tax purposes		
Entity:	Rhode Island tax treatment of Section 965 income:	Can taxpayer defer actual tax due?
Individual	Income is included in federal adjusted gross income (AGI), and should be included for Rhode Island purposes on Form RI-1040, line 1.	No
Partnership	Income is included on line 11 of federal Schedule K, and should be included for Rhode Island purposes on Form RI-1065, line 1. Such income also flows through to partners on Schedule K-1.	No
Limited liability company	See "partnership" above.	No
Fiduciary (trust, estate)	Guidance to come.	No
S corporation	Income is included in federal taxable income, and should be included for Rhode Island tax purposes on Form RI-1120S, Schedule A, line 1.	No
C corporation	Guidance to come.	N/A

Notes: For apportionment purposes, include Section 965 income only in denominator, not in numerator.

Background and discussion

Under federal legislation approved by Congress and signed into law by President Donald J. Trump on December 22, 2018, 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. Such income is subject to tax at special effective 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 taxable year beginning before January 1, 2018.

The table in this Advisory serves as a reminder to certain taxpayers about the Rhode Island tax treatment of Section 965 income.

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.

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