



Rhode Island Department of Revenue

Division of Taxation

ADV 2018-21
TAX ADMINISTRATION

ADVISORY FOR TAX PROFESSIONALS
APRIL 25, 2018

Division issues further reminder on ‘Section 965’ income *Guidance expanded to include reporting for fiduciaries (estates and trusts)*

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.

At issue, in general, is how to report deferred foreign income (“Section 965 income”) for Rhode Island tax purposes for the 2017 tax year. The Division’s first installment of guidance was posted April 17, 2018 (see [ADV 2018-19](#)). Today’s installment includes guidance for fiduciaries. The following table has been updated accordingly.

How to treat Section 965 income for Rhode Island tax purposes		
<i>Entity:</i>	<i>Rhode Island tax treatment of Section 965 income:</i>	<i>Can taxpayer defer actual tax due?</i>
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)	With respect to Section 965 income that has been distributed to the beneficiary, such income is included on line 8 of federal Form 1041, and should be included for Rhode Island purposes on Form RI-1041, line 1. With respect to Section 965 income that has not been distributed to the beneficiary, such income is included on line 1 of the Transition Tax Statement attached to federal Form 1041, and should be included for Rhode Island purposes on Form RI-1041, line 1.	No
S corporation	Income is included in federal taxable income, and should be included for Rhode Island purposes on Form RI-1120S, Schedule A, line 1.	No
C corporation	Guidance to come	N/A

Notes: Partnerships and LLCs include Section 965 income on Form RI-1065, S corporations on Form RI-1120S, trusts and estates generally on Form RI-1041. 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, 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. Such income 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 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).