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Bulletin

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2017 Illinois Income Tax Guidance - Foreign Income Repatriation Transition Tax

This bulletin is written to inform you of recent changes; it does not replace statutes, rules and regulations, or court decisions.

For information or forms
Visit our website at:
tax.illinois.gov

File your return online at:
mytax.illinois.gov

Call us at:
1 800 732-8866 or
217 782-3336

Call our TDD
(telecommunications device
for the deaf) at:
1 800 544-5304

To: All tax practitioners and businesses who file:

- IL-1120, Corporation Income and Replacement Tax Return,
- IL-1120-ST, Small Business Corporation Replacement Tax Return,
- IL-1065, Partnership Replacement Tax Return,
- IL-1041, Fiduciary Income and Replacement Tax Return,
- IL-990-T, Exempt Organization Income and Replacement Tax Return,
- Schedule M, Other Additions and Subtractions (for businesses), or
- Schedule J, Foreign Dividends

Public Law 115-97, commonly known as the Tax Cuts and Jobs Act, created a new provision under Internal Revenue Code (IRC) Section 965 requiring taxpayers with [untaxed foreign earnings and profits](#) to pay a tax as if those earnings and profits had been repatriated to the United States. The provision will increase federal taxable income. However, the Illinois subtraction modification for foreign dividends will exclude a portion of the increase from Illinois base income for certain taxpayers. This bulletin addresses how the IRS guidance affects Illinois business income tax returns.

Illinois does not follow either the election under IRC Section 965(h) to pay the tax liability in installments over eight years, or the election under IRC Section 965(i) in the case of S corporation shareholders to defer payment of the tax liability until the taxable year which includes a triggering event. Failure to accurately report IRC Section 965 net income and pay the applicable tax, by the original due date of your Illinois income tax return, could result in penalties and interest.

For 2017, according to IRS guidance, a taxpayer who has income under IRC Section 965 is required to include an [IRC 965 Transition Tax Statement](#) with their return, signed under penalties of perjury. This statement is separate from the federal income tax return. Due to the separate nature of the IRC 965 Transition Tax Statement, the income reported may not be included in federal taxable income; however, it must be included when determining Illinois base income. See the revised instructions associated with your specific return type for information on how to report IRC Section 965 net income.

Taxpayers who have already filed a 2017 Illinois income tax return and did not include IRC Section 965 net income must amend their return to account for that income.