

PUBLICATION

IRS Finally Provides Important Penalty and Filing Relief on the Section 965 Tax for Qualifying Individuals

Authors: [Stuart M. Schabes](#), [Robert L. Ash](#)

June 11, 2018

In three new Q&As issued this past Monday, June 4, 2018, the IRS has provided important guidance and penalty relief for individual taxpayers living abroad or in the U.S. whose "total transition tax liability is less than \$1 million."

1. The IRS has stated that individuals living abroad do not need to make the initial eight percent payment of the Section 965 tax by June 15, 2018. Instead, the multi-year installment payment plan is available and there will be a waiver of late payment penalties provided that –
 - the individual taxpayer files the Section 965 transition statement (listing a transition tax of under \$1 million and electing the installment payment plan) on a timely 2017 tax return filed by June 15, 2018, or assuming valid extension(s) by October 15 (December 17, if a second extension is obtained), 2018; and
 - must be an installment payment made on or before June 17, 2019 representing 16 percent of the Section 965 transition tax liability (i.e., the first and second eight percent annual payments).
 - Notwithstanding the IRS's agreement to waive the late payment penalties, interest will accrue as of June 15, 2018 on the initial eight percent installment payment.
2. Similarly, for individual taxpayers residing in the U.S. who missed the April 17, 2018 deadline for paying the first of the eight annual installment payments, the IRS will allow installment payments and waive the late payment penalty as long as the first and second installments are paid in full by April 15, 2019. However, interest will accrue as of April 17, 2018 on the initial eight percent installment payment.
3. Individuals (whether in the U.S. or abroad) who have already filed the 2017 tax return but did not elect to pay the Section 965 transition tax in annual installments can still make the election by filing an amended 2017 Form 1040X so long as it is done by the permissible extended filing date, October 15, 2018.
4. In addition, the IRS has agreed to waive the estimated tax penalty for taxpayers subject to the Section 965 transition tax who may have attempted to apply to their 2018 estimated tax a 2017 overpayment that was improperly calculated without regard to the transition tax, provided the correct total estimated tax payments for the first two installments are made by June 15, 2018.

[View](#) the complete text of the newly issued FAQs.

To the extent you have questions regarding these matters, please contact [Stuart Schabes](#), [Larry Ash](#), or any member of Baker Donelson's [Tax Group](#).