

TECHNICAL INFORMATION RELEASE

TIR 18-4: Estimated Tax Penalty Relief for Corporations Affected by the Transition Tax on Deferred Foreign Earnings

DATE:

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REFERENCED SOURCES:

[Massachusetts General Laws](#)

On December 22, 2017, Public Law 115-97, originally referred to as the Tax Cuts and Jobs Act of 2017 (the “Act”), was signed into law. The Act made numerous changes to the Internal Revenue Code (the “Code”), including amending § 965 to impose a tax on untaxed earnings and profits of foreign corporations accumulated after 1986 and before 2018. This TIR is being issued to announce estimated tax penalty relief with respect to Massachusetts corporation excise liability attributable to Code § 965.

For corporation excise purposes, Massachusetts generally follows the Code as amended and in effect for the taxable year. G.L. c. 63, §§ 1, 30. Consequently, a business corporation otherwise subject to the Massachusetts corporation excise (or not subject to the excise but filing as a member of a Massachusetts combined group) that has federal gross income attributable to Code § 965 must also report that income for purposes of G.L. c. 63, § 30.

A taxpayer whose corporation excise is reasonably estimated to be more than \$1000 is required to make estimated payments of tax under G.L. c. 63B, § 2. A taxpayer that fails to make its required estimated tax payments is subject to an addition to tax (often referred to as a penalty) on the amount of any

underpayment. G.L. c. 63B, § 3. Safe harbor provisions currently exist to provide certain taxpayers relief from corporate estimated tax penalties. 830 CMR 63B.2.2(8).

In the interest of efficient tax administration and in order to ease compliance for taxpayers, the Department of Revenue intends to waive any estimated tax penalties imposed under G.L. c. 63B, to the extent that an underpayment of estimated tax is attributable to Code § 965. To claim a waiver of penalties, a taxpayer must include Massachusetts Schedule M-2220, Underpayment of Massachusetts Estimated Tax by Corporations, with its return, accompanied by Massachusetts Schedule TDS, Taxpayer Disclosure Statement, identifying the amount of federal gross income attributable to Code § 965 as well as any explanation of the Schedule M-2220 calculation. Estimated payments remain due on the dates prescribed by G.L. c. 63B, § 3.

The Department of Revenue expects to issue additional guidance on the Massachusetts implications of the Act.

/s/Christopher C Harding
Christopher C. Harding
Commissioner of Revenue

CCH:RHF:rmh

May 15, 2018

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