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## IRS Issues Proposed Regulations on Section 965 Deemed Repatriation Tax

The IRS has issued proposed regulations under Section 965 (<https://www.irs.gov/pub/irs-drop/reg-104226-18.pdf>) (the transition tax provision added to the Internal Revenue Code by the Tax Cuts and Jobs Act). (Section references are to the Internal Revenue Code of 1986, as amended.) In general, the proposed regulations mirror rules that were previewed by the IRS in a series of Notices issued after Section 965 became effective (see our prior coverage of the Notices here (<https://www.stradley.com/insights/publications/2018/01/tax-insights-january-10-2018>), here ([https://www.stradley.com/insights/publications/2018/01/tax\\_insights\\_january\\_24\\_2018](https://www.stradley.com/insights/publications/2018/01/tax_insights_january_24_2018)) and here (<https://www.stradley.com/insights/publications/2018/04/tax-insights-april-11-2018>)). The proposed regulations explain:

- the general rules and definitions under Code Sec. 965 (Proposed Regulation Section 1.965-1);
- how to account for the application of Code Sec. 965 to adjustments to E&P and basis (Proposed Regulation Section 1.965-2);
- how to determine Code Sec. 965(c) deductions (Proposed Regulation Section 1.965-3);
- certain transactions that are disregarded for Code Sec. 965 purposes (i.e., anti-avoidance rules) (Proposed Regulation Section 1.965-4);
- the intersection of Code Sec. 965 and foreign tax credits (Proposed Regulation Sections 1.965-5 and 1.965-6);
- Section 965 elections and payments (Proposed Regulation Section 1.965-7);
- rules regarding affiliated groups, including consolidated groups (Proposed Regulation Section 1.965-8); and
- applicability dates (Proposed Regulation Section 1.965-9).

## IRS Issues Guidance on 529 Plans

The IRS issued Notice 2018-58, 2018-33 IRB (<https://www.irs.gov/pub/irs-drop/n-18-58.pdf>) and an accompanying Information Release (IR 2018-156 (<https://www.irs.gov/newsroom/irs-offers-guidance-on-recent-529-education-savings-plan-changes>)) providing guidance and notice of its intention to issue regulations regarding (a) recontribution of refunded qualified higher education expenses (QHEEs), (b) rollover from a 529 plan to an ABLE account and (c) elementary and secondary education tuition expenses as QHEEs.

## IRS Updates FATCA FAQs on Safe Harbor Statistical Sample for Periodic Reviews

The IRS revised its general frequently asked questions (<https://www.irs.gov/businesses/corporations/frequently-asked-questions-faqs-fatca-compliance-legal>) (FAQs) on the

Foreign Account Tax Compliance Act (FATCA) on Qualified Intermediaries, Withholding Foreign Partnerships, and Withholding Foreign Trusts to provide additional guidance on meeting the periodic review requirement, using the safe harbor statistical sample design set out in Revenue Procedure 2017-15, 2017-3 IRB 437 (<https://www.irs.gov/pub/irs-drop/rp-17-15.pdf>), Appendix II.

### SIFMA Addresses Withholding on Dispositions of Partnership Interests

The Securities Industry and Financial Markets Association (SIFMA) has commented on guidance on the withholding under Section 1446(f) (<https://www.sifma.org/resources/submissions/recommendations-on-implementation-of-section-1446f/>) on dispositions of some partnership interests by foreign persons, providing recommendations for both publicly and nonpublicly traded partnerships.



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