



Re: Transition Tax Overpayments under IRC Section 965(h)

December 6, 2018

The Honorable Steven Mnuchin
Secretary
U.S. Treasury Department
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Mnuchin:

I write regarding the IRS guidance issued for overpayments made when paying the transition tax under IRC Section 965. The current interpretation by the IRS is harming taxpayers and economic growth and should be reversed in a way that promotes flexibility and matches Congressional intent.

Under the Transition tax, foreign earnings and profits that have been deferred and not yet taxed in the US must be repatriated and tax paid. Taxpayers have an option to pay the Transition tax over eight years with the following installments – 8 percent of total liability for years one through five, 15 percent of total liability in year six, 20 percent in year seven, and 25 percent in year eight.

However, the IRS has taken the position that then any overpayment of deferred foreign income tax liability must be applied to the Transition tax rather than refunded to the company. This position directly contradicts the provisions and intent of the bill to allow companies to pay their Transition tax liability over eight years.

The IRS position is depriving taxpayers of badly needed cash flow which in many cases was the basis for businesses to invest in factories, on new equipment, or pay their employees bonuses or increase their wages.

The IRS position is also stifling the economic growth the Administration and Congress promised and that the tax bill was designed to deliver.

I urge you to immediately intervene and direct the IRS to change its policy and return any overpayments to taxpayers so that they can continue to create good paying jobs for Americans.

Thank you for your consideration. If you have any questions, please do not hesitate to contact me or ATR's Director of Tax Policy Alex Hendrie at ahendrie@atr.org or at 202-785-0266.

Onward,

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President, Americans for Tax Reform

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