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The Internal Revenue Service Has Offered Penalty, Filing Relief to Many Who Are Subject to the New Transition Tax on Foreign Earnings

The Internal Revenue Service has issued new guidance, saying that business owners with net tax liabilities under the repatriation tax provisions of less than \$1m for 2017 will no longer face certain penalties or the risk of accelerating the 18 years' worth of installment payments, assuming they elected to pay in installments. This buys time for payment of the first installment by pushing it to the due date for the second installment, generally April 15, 2019. Many taxpayers simply cannot meet the June 15, 2018 deadline. The payment can now be delayed for one year. A special, but narrowly worded, rule gives additional relief to some Americans abroad. Americans abroad "whose tax homes and abodes, in a real and substantial sense, are outside the United States" are given two additional months, until June 17, 2019. See IR-2018-131 (June 4, 2018) and Questions and Answers about Reporting Related to Section 965 on 2017 Tax Returns (June 4, 2018; Question 16) (<https://www.irs.gov/newsroom/questions-and-answers-about-reporting-related-to-section-965-on-2017-tax-returns>.)

"These rules definitely are not for the faint of heart, and people should not delay diving into them," said Charles Bruce, Legal Counsel, ACA.

The Financial Times of London reports that there are an estimated 1 million US citizens and green card holders living overseas with 10% interest in a controlled foreign corporation (CFC) that may be affected by the transition tax.

The Treasury Department's relief on the transition tax issue may indicate some support for a more comprehensive fix for all the collateral damage done in the recent tax bill, including the GILTI provisions and the new pass-thru rules. Add to these the failure to fix the lock-out of Americans abroad from foreign financial services embedded in FATCA, enacted in 2010. Marylouise Serrato, Executive Director, ACA: "As ACA and other groups have said again and again, the answer is Residency-based taxation (RBT), in place of citizenship-based taxation."

The Treasury Department's response to this issue is clearly due to the efforts of all the various overseas organizations and individuals who have been advocating to Congress and the Administration on the subject of the transition tax relief and RBT.

See ACA's PR here: <https://www.americansabroad.org/newsroom/>

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