

July 19, 2017

The Honorable Steven Mnuchin  
Secretary of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Dear Secretary Mnuchin:

We, the undersigned associations, write to thank you and the Treasury Department for identifying the still-problematic Sec. 385 regulations, among others, as requiring further modifications or rescission in the report mandated by Executive Order 17389.<sup>1</sup> We urge Treasury to act quickly to ease the burden of the Sec. 385 regulations—and ultimately completely rescind the flawed regulatory package—which distort investment and other business decisions, to the detriment of U.S. jobs.

As some of the undersigned noted in a May 1 letter, these regulations will impose excessive and unwarranted compliance and financial burdens on businesses operating in the United States. We were pleased to see the report acknowledge the concerns the business community raised regarding the regulations' effects on inbound investment, the continued challenges that the documentation rules create for all U.S. business, and the need for a longer delay—at minimum—in their effective date.<sup>2</sup>

However, the process laid out in Executive Order 17389 mandates a second report, released at least 90 days after this report (September 2017), recommending how best to reduce the burden of the identified regulations. It would not be unprecedented for the process to implement those recommendations to take several additional months, potentially pushing past the January 1, 2018 deadline for companies to begin complying with the documentation rule.

Prior to the release of the final report, and the subsequent activity to implement the burden reduction recommendations, it would be particularly important for Treasury to quickly roll back or delay the onerous documentation requirements. This will provide certainty to the U.S. business community and ensure that investment decisions are made in the most economically productive manner, ultimately creating jobs for U.S. workers.

Although this process may alter or rescind the regulations, many companies have already begun to set up the new systems and procedures needed to comply with the complex reporting requirements, and others are facing the deadline to begin this project in the coming months. With each passing day, businesses continue to expend their limited resources—resources that could go to more productive activities in support of innovation, growth, and job creation. If Treasury waits until later this year—or next—to rescind or alter the regulations, or delay the implementation of documentation, companies will be unable to recapture these resources.

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<sup>1</sup> Executive Order 17389 directed the Treasury Department to review and identify burdensome tax regulations promulgated by the prior Administration in 2016.

<sup>2</sup> IRS Notice 2017-38, accessed at: <https://www.irs.gov/pub/irs-drop/n-17-38.pdf>

As we have shared, we remain concerned the regulations create undue financial burdens and complexity on U.S. companies, hindering their ability to invest and create jobs in America. As the process outlined in the executive order continues to play out, we hope that Treasury will seriously consider complete rescission. We appreciate the steps that the Treasury Department has already taken to acknowledge the burdens these regulations impose by identifying them in the report. Thank you again for your leadership on this important issue. We look forward to continuing to support this Administration's efforts to improve the business regulatory environment and eagerly await the conclusion of this process.

Sincerely,

Advanced Medical Technology Association  
American Bankers Association  
American Chemistry Council  
American Council for Capital Formation  
American Council of Life Insurers  
American Insurance Association  
American Petroleum Institute  
Association of Global Automakers  
Beer Institute  
Biotechnology Innovation Organization  
Business Roundtable  
Information Technology Industry Council  
Motion Picture Association of America  
Motor & Equipment Manufacturers Association  
National Association of Beverage Importers  
National Association of Manufacturers  
National Foreign Trade Council  
Organization for International Investment  
Outdoor Power Equipment Institute, Inc.  
Plastics Industry Association  
Reinsurance Association of America  
Retail Industry Leaders Association  
Securities Industry and Financial Markets Association  
Semiconductor Industry Association