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A PDF copy of the letter can be found [here](http://www.heller.senate.gov/public/_cache/files/85a81d20-87ae-4be1-9953-55eae470b4c7/OMB%20Section%20385%20Letter2.pdf).  **Full text of letter to Director Donovan:**  The Honorable Shaun Donovan  Director  Office of Management and Budget (OMB)  725 17th Street, N.W.  Washington, DC 20503    Re: Proposed Regulations under Internal Revenue Code Section 385 (REG-108060-15)    Dear Director Donovan:    It is our understanding that the Treasury Department submitted final debt-equity regulations under Internal Revenue Code section 385 to the Office of Management and Budget’s Office of Information and Regulatory Affairs (OIRA) for review on September 30, 2016. We are alarmed with the Treasury Department’s plan to “move swiftly to finalize” these complex rules, especially when economic growth remains anemic in the U.S. We urge you to delay approving the section 385 rules until the economic impact of these regulations can be fully assessed.  As members of Senate Committee on Finance, we have repeatedly contacted the Treasury Department expressing our deep concerns over the far-reaching impact of the proposed rules under section 385 on job growth, global competitiveness, and capital investment. Since April, we have met with stakeholders, business associations, and small businesses regarding the broad impact these rules would have on jobs and economic growth in our home states, nationally, and abroad. Despite providing ample time to address our concerns, we have yet to receive a substantial response from the Treasury Department on what significant reforms, if any, this agency will implement to fix the proposed rules. Due to the Treasury Department’s lack of transparency with respect to these proposed regulations, there remains a great deal of doubt whether Treasury will take into account our concerns.  Additionally, according to some estimates, over ten million intercompany debt-equity transactions would now be subject to documentation requirements, significantly increasing the cost of doing business in the U.S. Per our letter to the Treasury Department on July 1, 2016, as enclosed, we requested an extended comment period along with a thorough review of all stakeholders’ comments and concerns. Considering the thousands of pages that have been submitted, we remain concerned whether a thorough vetting has taken place in such a short period of time.  Further, under Executive Order 12866, the proposed regulations were deemed recently to be economically significant, meaning they would have an annual effect of $100 million or more on the economy. OMB previously estimated the proposed regulations would impose a cost of almost $1 billion annually. After extensive conversations with small businesses, multinational companies, and foreign businesses that support numerous jobs across the nation, we believe this number is grossly understated. Additionally, we believe these proposed rules are already creating obstacles to job creation, impeding economic growth and increasing the cost of doing business, given the retroactive nature of these proposed rules.  Should your agency decide to approve the section 385 rules, we urge your agency, at a minimum, to exempt cash pooling transactions, foreign-to-foreign transactions and domestic-to-domestic transactions. Additionally, we urge you to exempt industries that are subject to regulatory review. We also urge you to consider the increased cost of compliance to millions of small businesses, both nationally and internationally, who have intercompany loans and cannot meet the burdensome documentation requirements. We also detailed these concerns in the July 1, 2016, letter to the Treasury.  Thank you for your attention to this matter. We respectfully request a response to our concerns**, before you approve the rules or by October 25, 2016.**      Sincerely,  Dean Heller  U.S. Senator  Pat Roberts  U.S. Senator  John Cornyn  U.S. Senator  Johnny Isakson  U.S. Senator  Tim Scott  U.S. Senator  Mike Crapo  U.S. Senator  CC:  The Honorable Jacob Lew, Secretary of the Treasury, U.S. Department of the Treasury  The Honorable Mark J. Mazur, Assistant Secretary for Tax Policy, U.S. Department of the Treasury  Mr. Robert B. Stack, Deputy Assistant Secretary (International Tax Affairs), U.S. Department of the Treasury  Ms. Emily S. McMahon, Deputy Assistant Secretary (Tax Policy), U.S. Department of the Treasury  ###  [http://www.heller.senate.gov/public/vendor/_skins/heller/images/newsletter/icon_fb.png](http://www.facebook.com/pages/US-Senator-Dean-Heller/325751330177) [http://www.heller.senate.gov/public/vendor/_skins/heller/images/newsletter/icon_tw.png](http://twitter.com/SenDeanHeller) [http://www.heller.senate.gov/public/vendor/_skins/heller/images/newsletter/icon_yt.png](http://www.youtube.com/user/SenDeanHeller) |