

Coalition for Tax Competition

April 7, 2011

Hon. Timothy F. Geithner
Secretary of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretary Geithner:

We are writing to express our deep concern with an onerous regulation (REG-146097-09), proposed by the Internal Revenue Service, that would undermine American banks and the U.S. financial system by requiring the reporting of deposit interest paid to nonresident aliens.

This regulation is both contrary to existing law and is not needed to enforce tax law. This proposed rule, which is a retread of a rejected Clinton-era proposal, should be withdrawn.

There are many reasons why this proposed regulation faces strong opposition from Congress, private industry and public policy organizations. This initiative is an abuse of the regulatory process that seeks to overturn the law rather than to enforce it. Moreover, it will undermine our economy's performance by causing capital to flee the American banking system. This will have a negative impact on homeowners, consumers, and businesses.

The proposed regulation flouts statutory language and congressional intent. On several occasions, lawmakers have visited the issue of how to treat the interest income earned by nonresident aliens. In every case, the desire to attract capital to the American economy led legislators to decide not to tax the income and not to require that the income be reported to foreign tax authorities.

- **The proposed regulation is not required to administer U.S. law.** Interest income paid to nonresident aliens is not subject to tax. Other regulations and forms already ensure that citizens and/or resident aliens are not able to falsely claim nonresident alien status to benefit from this preferential tax status.
- **The proposed regulation is not required by tax treaties.** The IRS has openly admitted in the past that it wants to collect this data in order to provide the information to nations that have signed tax treaties with America. Tax treaties, however, only require the exchanging of information that is collected for purposes of domestic law enforcement. There is no obligation to impose additional regulatory burdens solely for the purpose of enforcing other nation's laws.

- **The proposed regulation would impose significant damage on the U.S. economy.** The IRS failed to perform an economic analysis or conduct any cost/benefit analysis. Nonresident aliens are estimated to have deposited over \$3 trillion in U.S. financial institution, yet if this regulation is approved, a substantial portion of this money will flee to competing institutions in other jurisdictions.
- **The proposed regulation endangers human rights.** Innocent people seeking to protect themselves and their assets from tyrannical, corrupt, and venal governments will be thwarted by this regulation. The unfortunate reality is that most of the world still lives in countries where there is persecution based on ethnic, racial, religious, economic and political characteristics. Sharing private financial information about U.S. bank deposits with thugs such as Venezuela's Hugo Chavez should not be the objective of the U.S. government.

The likely withdrawal of several hundred billion dollars from the U.S. economy would have a deleterious impact on many financial institutions. Borrowers also would suffer. Families seeking mortgages, consumers seeking car loans, and businesses seeking money to create jobs and expand operations all would be adversely affected. This means less economic growth at a time when policymakers are overwhelmingly focused on promoting economic recovery.

Because the proposed rule is irreparably flawed, we urge its immediate withdrawal.

Sincerely,

Andrew F. Quinlan ~ President, Center for Freedom and Prosperity Foundation

Grover Norquist ~ President, Americans for Tax Reform

Duane Parde ~ President, National Taxpayers Union

Thomas A. Schatz ~ President, Citizens Against Government Waste

James L. Martin ~ President, 60 Plus Association

Karen Kerrigan ~ President and CEO, Small Business & Entrepreneurship Council

John Berlau ~ Director, Ctr. for Investors and Entrepreneurs, Competitive Enterprise Institute

Carrie Lukas ~ Executive Director, Independent Women's Forum

Phil Kerpen ~ Vice President-Policy, Americans For Prosperity

J. Bradley Jansen ~ Director, Center for Financial Privacy and Human Rights

Tom Giovanetti ~ President, Institute for Policy Innovation

Dick Patten ~ President, American Family Business Institute

Stephen J. Entin ~ President, Institute for Research on the Economics of Taxation

Lew Uhler ~ President, The National Tax Limitation Committee

Chuck Muth ~ President, Citizen Outreach