



**INDEPENDENT BANKERS
ASSOCIATION OF TEXAS**

1700 RIO GRANDE STREET
SUITE 100
AUSTIN, TEXAS 78701
P: 512.474.6889
F: 512.322.9004
WWW.IBAT.ORG

**J. DAVID WILLIAMS
IBAT CHAIRMAN**

JD.WILLIAMS@HCSB.COM
HCSB, A STATE BANKING
ASSOCIATION, KERRVILLE

**THOMAS C. SELLERS
IBAT CHAIRMAN-ELECT**

TSSELLERS@ALLIANCEBANK.COM
ALLIANCE BANK,
SULPHUR SPRINGS

**SCOTT HEITKAMP
IBAT VICE CHAIRMAN**

SCOTTH@VBTEX.COM
VALUEBANK TEXAS,
CORPUS CHRISTI

**TROY M. ROBINSON
IBAT SECRETARY-TREASURER**

TROBINSON@BANKTEXAS.ORG
BANKTEXAS, QUITMAN

GARY L. WELLS

LEADERSHIP DIVISION PRESIDENT
GWELLS@HAPPYBANK.COM
HAPPY STATE BANK, AMARILLO

**JIMMY RASMUSSEN
IMMEDIATE PAST CHAIRMAN**

JRASMUSSEN@HTBNA.COM
HOMETOWN BANK, N.A.,
GALVESTON

**CHRISTOPHER L. WILLISTON, CAE
PRESIDENT AND CEO**

CWILLISTON@IBAT.ORG

**STEPHEN Y. SCURLOCK
EXECUTIVE VICE PRESIDENT**

SSCURLOCK@IBAT.ORG

RAMONA JONES

IBAT SERVICES VICE CHAIRMAN
RJONES@IBAT.ORG

CURT NELSON

IBAT SERVICES PRESIDENT
CNELSON@IBAT.ORG

MARY E. LANGE, CAE

**IBAT EDUCATION FOUNDATION
PRESIDENT**
MLANGE@IBAT.ORG

JANE HOLSTIEN

SENIOR VICE PRESIDENT
JHOLSTIEN@IBAT.ORG

URSULA L. JIMENEZ, CAE

SENIOR VICE PRESIDENT
UJIMENEZ@IBAT.ORG

April 4, 2011

Delivery via eRulemaking Portal

Mr. Douglas H. Shulman
Commissioner
Internal Revenue Service

Re: Internal Revenue Service proposed regulation—
Guidance on Reporting Interest Paid to Nonresident Aliens
(REG-146097-09) RIN 1545-BJ01

Dear Commissioner Shulman:

As President of Independent Bankers of Texas (“IBAT”), a trade association representing more than 2,000 Texas community banks and branches domiciled in Texas, I appreciate the opportunity to comment on the Internal Revenue Service (the “IRS”) proposed regulation—Guidance on Reporting Interest Paid to Nonresident Aliens (REG-14097-09) RIN 1545-BJ01. IBAT was organized in 1974 to promote the interests of independent banking in areas vital to independent banks. Our organization serves independent banks in the largest state on the border with Mexico, and accordingly IBAT and its members have firsthand knowledge of the negative impact this proposed regulation would have on our state and national economy, on nonresident foreign depositors, and on the U.S. financial institutions.

The United States of America does not tax the interest that is paid on U.S. bank deposits held by nonresident foreign depositors. For many decades Congress has intentionally chosen not to tax this kind of interest with the specific goal of attracting foreign capital investment. Due to the fact that this interest is not taxed, U.S. banks are not required to report it to the IRS, with the lone exception of interest paid to nonresident Canadian depositors.

The proposed regulation referenced above would require U.S. banks to report annually to the IRS regarding the interest paid to the accounts of all foreign depositors. This is not a new idea. In fact, this proposed regulation, or some variation, has been unsuccessfully attempted at least twice before by the IRS. Both times the proposal received overwhelming opposition. This time is no different, and in addition to the opposition by the financial community, there is again strong bi-partisan opposition in the Congress. Moreover, there is a sound basis for this continued opposition.

In 2004, in response to the attempt by the IRS to adopt a rule that would have required reporting on nonresident accounts of foreigners from fifteen countries, an analysis was conducted and published by George Mason University professor Jay Cochran which estimated that \$88.1 billion in nonresident foreign deposits would likely be withdrawn from U.S. banks if the rule was adopted. That amount was based on the deposits from only fifteen countries. The current proposal seeks information regarding all

foreign countries, which would by comparison seem to indicate the loss of sums so large it would likely send our fragile economy into a tailspin. Our nation's economy is in the midst of a fight to recover from the worst recession since the Great Depression. It is simply nonsensical that the IRS would cavalierly risk losing such a vital source of capital at a time when funds for lending and investment purposes are so desperately needed. Indeed, as there is clearly no intent to tax nonresident foreign depositors, it is ludicrous to gamble with our nation's economic future by proposing such an unnecessary and inappropriate rule. IRS arguments that the rule will be used to share information with foreign governments or to prevent U.S. citizens from gaming the system strained credulity in past efforts, just as they do today.

One need only read about the unrest and upheaval in countries around the world today in order to have some understanding of the reasons nonresident foreign depositors choose to place their funds in U.S. banks. Concerns regarding unstable governments and political environments are reason enough to utilize a system that is by comparison a model of stability and trust. Add to those concerns the fact that personal security is commonly a reason for moving funds to the United States. Foreign citizens fear that their personal bank account information will be leaked by unauthorized persons in their home governments to criminal or terrorist elements. Such unauthorized leaking of information leads to kidnappings and other heinous crimes committed against nonresident foreign depositors and their family members. As we know on the Texas border with Mexico, these concerns and fears are real and as bankers we take very seriously our role in providing a stable, safe, and secure environment for nonresident foreign depositors. The IRS provides no mechanism to protect such depositors, and turns a blind eye toward their fears and concerns about human safety in the rush to obtain unnecessary information.

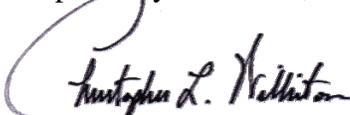
It is ironic that during a time in which the U.S. Government is looking to community banks to be the driving force in increasing lending to small businesses, that same government is willing to place unnecessary, burdensome, and unfair regulations and expense on the very institutions in which they place the hopes of the nation. This proposed rule will negatively impact the balance sheets of our financial institutions and cause the transfer of hundreds of billions of dollars in capital to financial institutions in other countries that maintain privacy protections.

In addition to the potential outflow of deposits and capital, community banks will also be faced with additional regulatory burden as they are required to prepare additional information reports on foreign customers. There is an absolute out of pocket cost as data processors increase their fees to cover the additional volume of reports. There will be additional cost for mailing or otherwise transmitting the reports. In short, this new duty is not without real costs to third party vendors and to bank staff and other overhead costs.

In sum, we request that this ill-conceived proposal be withdrawn, and that the United States continue its current policies of encouraging economic growth by attracting nonresident foreign depositors to place their funds in U.S. banks, of protecting the privacy of nonresident foreign depositors, and of refusing to place on our banks the unnecessary burden of reporting interest on these accounts.

Thank you for this opportunity to comment.

Respectfully submitted,



Christopher L. Williston, CAE
President and CEO