United States Senate
WASHINGTON, DC 20510

April 7, 2011

The Honorable Timothy Geithner
Secretary
The Department of the Treasury
1500 Pennsylvania Ave., NW
Washington, DC 20220

Dear Secretary Geithner,

On January 17, 2011, the Internal Revenue Service ("IRS") and Department of the Treasury proposed REG-146097-09, a rule which would require banks in the United States to report to the IRS all deposit interest paid to certain nonresident investors. We are very concerned that this proposed regulation will bring serious harm to the Texas economy, should it go into effect. Out of this concern, we respectfully request that you withdraw the proposed regulation.

According to the Department of Commerce, investors outside the United States hold nearly $3.6 trillion in passive investments in U.S. banks and securities brokers. This capital is multiplied through the U.S. economy, supporting loans to American families and small businesses that help create jobs and spur economic growth in local communities across our state and nation.

Forgoing the taxation of deposit interest paid to certain global investors is a long-standing tax policy that helps attract capital investment to the United States. For generations, these investors have placed their funds in institutions in Texas and across the United States because of the safety of our banks. Another reason that many of these investors deposit funds in American institutions is the instability in their home countries.

Unfortunately, the IRS's proposed regulation flies in the face of our nation's longstanding efforts to attract capital. According to a 2004 study from the Mercatus Center at George Mason University, a scaled-back version of REG-146097-09 would result in an outflow of at least $88 billion in deposits from American financial institutions. Some have reasoned that these investors would withdraw their capital out of concerns that their personal information could end up in the wrong hands, increasing the potential for threats and violence against them and their families.

The proposed regulation also sends mixed signals to community banks and small businesses across Texas. Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203), as well as the Basel III agreement, U.S. financial institutions are subject to enhanced capital requirements in order to help restore stability in our nation's banking system. We are concerned that REG-146097-09 will drive capital from U.S. financial institutions just as they are taking steps to comply with stricter capital requirements.

With less capital, community banks will be able to extend less credit to working families and small businesses. Ultimately, working families and small businesses will bear the brunt of this ill-advised rule. Given the ongoing fragility of our nation's economy, we must not pursue policies that will send away job-creating capital.

We ask you to withdraw the IRS's proposed REG-14609-09. The United States should continue to encourage deposits from global investors, as our nation and our economy are best served by this policy.

Sincerely,

Kay Bailey Hutchison
United States Senator

John Cornyn
United States Senator

CC: Douglas H. Shulman
Commissioner of Internal Revenue
Internal Revenue Service