



TaxNewsFlash

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Treasury, OMB agreement on review of future tax regulations

The U.S. Treasury Department today announced a “memorandum of agreement” with the Office of Management and Budget (OMB) concerning tax regulations.

The [memorandum of agreement \(MOA\)](#) [PDF 615 KB] establishes a framework for the review of tax regulations by the Office of Information and Regulatory Affairs (OIRA) within OMB.

According to the MOA:

- Tax regulations generally will be subject to review by OIRA if the regulations would: (1) create a “serious inconsistency” with another agency; (2) raise “novel legal or policy issues, such as by prescribing a rule of conduct backed by an assessable payment;” or (3) have an annual non-revenue effect of \$100 million or more, measured against a no-action baseline.
- Tax regulations (described above) will be subject to certain analytical requirements of previous executive orders.
- Treasury will notify OIRA of upcoming planned tax regulatory actions in a quarterly report.
- OIRA generally will complete its review of relevant regulatory actions 45 days after submission of certain information to it, but expedited review may be allowed for regulations to implement provisions of the recently enacted, new tax law (Pub. L. No. 115-97, enacted December 22, 2017).

According to a related [Treasury Department release](#), today’s MOA replaces one from 1983 to provide a new review process tailored to tax regulations and that focuses on “reducing regulatory burdens while providing timely guidance to taxpayers.”

Read the [1983 MOA](#) [PDF 646 KB]

Background

Treasury's regulatory review process in general and the role of OIRA in reviewing certain regulations prior to the MOA announced today was addressed in a September 2016 report from the U.S. Government Accountability Office. Read [TaxNewsFlash](#)

President Trump in January 2017 signed an executive order with a goal of reducing regulations and controlling regulatory costs. Read [TaxNewsFlash](#)

Subsequently, in April 2017, the president signed a second executive order directing the U.S. Treasury to examine recent tax regulations to determine whether any of the regulatory projects: (1) imposed an undue financial burden on U.S. taxpayers; (2) added undue complexity to the federal tax laws; or (3) exceeded the statutory authority of the IRS. Treasury was directed to review "significant tax regulations" issued on or after January 1, 2016, and to issue a report. The final report was issued in October 2017, and listed eight regulatory projects—including documentation regulations under section 385—that were being withdrawn, partially revoked or substantially revised. Read [TaxNewsFlash](#)

These executive orders in 2017 reference [Executive Order 12866](#) [PDF 36 KB] released in September 1993.

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