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Deregulatory Actions Hit the Tax World in Real Time

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The Priority Guidance Plan's refraction of the Trump administration's deregulatory agenda presents both opportunities and risks for taxpayers, say KPMG practitioners.

Deregulation is a top priority for the Trump administration, as evidenced by [President Trump's day-one memorandum](#) calling for a regulatory freeze and a continuous series of Presidential actions. Notably, on January 31, 2025, President Trump issued [Executive Order 14192](#), requiring the repeal of at least 10 regulations for each new regulation issued by an agency. Shortly thereafter, on February 19, 2025, President Trump issued [Executive Order 14219](#), requiring agencies to identify by April 20, 2025, regulations that (i) are unconstitutional; (ii) are based on unlawful delegations of legislative power; (iii) are not based on the best reading of the underlying statutory authority or prohibition; (iv) implicate matters of social, political, or economic significance that are not authorized by clear statutory authority; (v) impose significant costs upon private parties that are not outweighed by public benefits; (vi) are harmful to the national interest; and (vii) impose undue burdens on small business and impede private enterprise and entrepreneurship.

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Subsequently, on April 9, 2025, President Trump released a [Presidential Memorandum](#) “directing the repeal of unlawful regulations,” including regulations that may not meet the regulatory standard set forth in the US Supreme Court’s decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) , or other enumerated decisions, and therefore may be unlawful. The memorandum directs agencies to finalize regulations **without notice-and-comment** proceedings if the “good cause” exception in the Administrative Procedure Act is satisfied. The memorandum suggests that the exception may be satisfied in a wide variety of scenarios.

The deadlines in the deregulatory proclamations are noteworthy. Regulations that exceed statutory authority or are otherwise unlawful were to be identified by April 20, 2025. Thereafter, agencies must promptly repeal such regulations. By May 20, 2025, agencies must submit to the Office of Information and Regulatory Affairs a summary of each regulation identified but not repealed, explaining the reasoning for retention.

Deregulatory Actions Impacting Tax

While the executive orders addressing deregulation are not specifically tax-focused, tax regulations (and other tax rules) have been and will be impacted. Most of the directives impact all agencies and Treasury appears to be both complying with and supporting the Trump administration’s deregulatory efforts. For example, Treasury Secretary Scott Bessent stated in an [April 9, 2025, press release](#) that “Treasury’s planned actions are a part of President Trump’s bold agenda to unleash American prosperity by reining in burdensome regulations, in particular for small businesses that are the backbone of the American economy.” On April 15, 2025, Treasury issued a [direct final rule](#) eliminating non-tax regulations it deemed unnecessary.

Commencing the administration’s deregulatory efforts in the tax space, on April 4, 2025, Treasury and the IRS issued Notice 2025-19 requesting recommendations from taxpayers and practitioners by May 30, 2025, for items to be included in on the 2025-2026 Priority Guidance Plan. If a recommendation involves existing guidance, Notice 2025-19 instructs the commentor to explain how changing it would reduce taxpayer costs or burdens. In addition, Notice 2025-19 requests that taxpayers identify regulations potentially described in Executive Order 14219, discussed above, for repeal.

Treasury has established an electronic submission [portal](#) for Priority Guidance Plan recommendations, which are, as previously noted, due by May 30th (traditional comment letters can be submitted via this portal as well). There is also a portal welcoming any type of [deregulation suggestion](#), and such suggestions can be made anonymously.

Treasury has already repealed tax regulations and sub-regulatory guidance, sometimes with surprising consequences for taxpayers. On April 14, 2025, Treasury released [Notice 2025-22](#), obsoleting nine “extraneous and unnecessary” items of sub-regulatory guidance. The sub-regulatory guidance obsoleted includes Revenue Ruling 91-32, which was perceived as deadwood because a [statutory change](#) had rendered it inapplicable in determining whether income of a foreign partner was effectively connected. However, some US taxpayers had continued to rely on Revenue Ruling 91-32 for sourcing foreign activities, raising the question of whether the guidance was truly deadwood. Furthermore, it highlights the importance of reacting quickly to deregulatory actions with unintended consequences and providing advance recommendations to avoid similar situations (i.e., the unintentional removal of taxpayer-favorable guidance).

Most recently, on April 17, 2025, Treasury announced in [Notice 2025-23](#) their intent to publish a notice of proposed rulemaking to remove the [partnership basis shifting transactions of interest regulations](#). Immediate relief from penalties for taxpayers and material advisors who would have been required to comply with final regulations this year was also provided. This suggests that Treasury may move quickly in identifying regulations for repeal while also providing immediate relief.

What Should Taxpayers Do?

As noted above, the deadline to make recommendations for the Priority Guidance Plan is May 30th, requiring taxpayers and advisors to work quickly. Taxpayers should quickly identify regulations (or portions thereof) that meet the criteria for repeal, particularly if the repeal is in line with the *Loper Bright* decision, reduces taxpayers’ costs or burdens, or is within another category identified in Executive Order 14219. Taxpayers should then work with industry groups or outside advisors to submit comments by the May 30th deadline.

Taxpayers may also want to submit comments noting that the sudden repeal of certain regulations could be detrimental to business, including situations where it might be beneficial for Treasury to issue notices describing an intention to propose the repeal of a regulation and specifically request that such notices permit continued reliance on such regulation (which may provide certainty or benefits) until potential repeal, rather than repealing guidance immediately with a direct to final regulation.

Taxpayers should also have a plan for the situation where guidance, mistaken as deadwood but necessary in some situations, is obsoleted. In such a situation, taxpayers may wish to work expeditiously to request that Treasury quickly mitigate any “unintended consequences” and may be well-served by working with advisors and similarly situated taxpayers.

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