American Institute of CPAs
1455 Pennsylvania Avenue, NW
Washington, DC 20004-1081

June 7, 2016

The Honorable Jacob J. Lew
United States Treasury Secretary
United States Department of the Treasury
1500 Pennsylvania Avenue N.W.
Washington, DC 20220

RE: Request for additional time to comment on Proposed Regulations REG-108060-15, Treatment of Certain Interests in Corporations as Stock or Indebtedness

Dear Secretary Lew:

The American Institute of CPAs (AICPA) appreciates the time and effort which the United States Department of the Treasury ("Treasury") devoted to the development of the proposed regulations (REG-108060-15) under Internal Revenue Code (IRC) section 385[1] released April 4, 2016. According to Treasury's press release on April 4, 2016, the proposed regulations are intended "to further reduce the benefits of and limit the number of corporate tax inversions." However, the AICPA believes the proposed regulations will have a much broader application and will have a significant and possibly disruptive impact on normal and critical operations of a large number of United States (U.S.) business entities. In addition, the changes proposed by the regulations are extensive, make changes to existing case law and will require a substantial amount of study and review in order to provide comprehensive and meaningful comments.

According to the proposed regulations, comments are currently due on July 7, 2016. The AICPA requests that Treasury extend the comment period on the proposed regulations a minimum of 90 days to October 5, 2016.

Over the past few years, Treasury has indicated that it was considering issuing regulations to address "earnings stripping" strategies designed to minimize or avoid U.S. tax on U.S. operations. The proposed regulations are much broader in scope, potentially affecting all aspects of a company's capital structure, fundamentally altering U.S. tax rules on intercompany debt and impacting certain basic business operations, such as cash-pooling arrangements. In addition, the 2015-2016 Priority Guidance Plan released on February 5, 2016[2] did not contain any reference to possible regulations under section 385, making both the release and extensive reach of these regulations unexpected.

The AICPA staff as well as its members have begun to review the proposed regulations to consider how they can best be fairly and easily administered. The AICPA also believes that the proposed

[1] All section references in this letter are to the Internal Revenue Code of 1986, as amended, or the Treasury regulations promulgated thereunder.
[2] Department of the Treasury 2015- 2016 Priority Guidance Plan.

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regulations may result in significant unintended consequences that will impact non-abusive activities. For example, the AICPA is concerned about the possible effect of the regulations on a broad range of business transactions, including, but not limited to, standard cash-management techniques. As we further analyze the proposed regulations, we expect that we will uncover additional ordinary business transactions that are potentially impacted by them.

The AICPA is working to diligently consider items raised by Treasury in the preamble to the proposed regulations, along with providing recommendations and comments on other aspects of the regulations. In light of the vast reach of these proposed changes, we do not believe we are able to perform a thorough and complete review of the proposed regulations prior to the original July 7, 2016 deadline.

Due to the significant changes proposed by the regulations and the significant impact to businesses, the AICPA recommends that Treasury extend the comment period on the proposed regulations a minimum of an additional 90 days to October 5, 2016.

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The AICPA is the world's largest member association representing the accounting profession, with more than 412,000 members in 144 countries and a history of serving the public interest since 1887. Our members advise clients on federal, state and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America's largest businesses.

We appreciate your consideration of these comments and welcome the opportunity to discuss these issues further. Please feel free to contact me at (801) 523-1051 or tlewis@sisna.com; or Kristin Esposito, AICPA Senior Technical Manager – Tax Policy & Advocacy, at (202) 434-9241 or kesposito@aicpa.org.

Respectfully submitted,

Troy K. Lewis, CPA, CGMA
Chair, AICPA Tax Executive Committee

cc: The Honorable Mark Mazur, Assistant Secretary for Tax Policy, U.S. Department of the Treasury
Mr. Robert Stack, Deputy Secretary for International Tax Affairs, U.S. Department of the Treasury
The Honorable William J. Wilkins, Chief Counsel, Internal Revenue Service