

United States Congress

August 27, 2015

The Honorable Jacob Lew
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Lew:

The Treasury Department released its 2015-2016 Priority Guidance Plan (Plan) on July 31, 2015, identifying 277 projects that Treasury and the Internal Revenue Service (IRS) consider priorities and intends to work on actively during the period July 2015 – June 2016. One of the projects listed in the Plan is:

Regulations under §§6011 and 6038 relating to the country-by-country reporting of income, earnings, taxes paid, and certain economic activity for transfer pricing risk assessment.

Given our past correspondence to you on the Organisation for Economic Co-operation and Development (OECD) base erosion and profit shifting (BEPS) project in general, and country-by-country (CbC) reporting in particular, we are very concerned that this project was included in the Plan.

As described more fully in our June 9, 2015 letter to you, we are not convinced that Treasury has the authority to require CbC reporting by certain U.S. companies (including sharing the information with foreign governments). In addition, the benefits to the U.S. government, businesses, and workers from providing sensitive information in the CbC reports (and, just as importantly, the master file document) is unclear, at best. To that end, a request has been made of the Government Accountability Office (GAO) to analyze, among other things, tradeoffs surrounding BEPS recommendations, including CbC reporting and associated possible effects, including costs and risks for U.S. businesses and their workers and effects on the U.S. economy, including employment, investment, and federal revenue.

Rather than expend additional administrative resources on the CbC regulatory project, we encourage Treasury to focus in the near term on preparing and providing the legal memorandum and other documentation requested in our June 9 letter to you. In addition, we ask that Treasury officials consider the results of the GAO analysis of the BEPS project and recommendations before moving forward with any CbC-related guidance.

Thank you for your attention to this important matter. Please provide the legal memorandum and other documentation that we requested early in June to us no later than August 31, 2015.

Sincerely,



Orrin G. Hatch
Chairman
Senate Finance Committee



Paul D. Ryan
Chairman
House Ways and Means Committee