

Review of Tax Regulations under Executive Order 12866

The Office of Information and Regulatory Affairs (OIRA) reviews tax regulatory actions under Executive Order 12866, pursuant to a Memorandum of Agreement (MOA) between the Department of Treasury and the Office of Management and Budget (OMB) signed on April 11, 2018. The MOA aims to improve regulatory analysis and reduce regulatory tax burdens while also accommodating the need for quick promulgation of regulations relating to historic reform under the Tax Cuts and Jobs Act (TCJA). Following President Trump's Executive Order 13789, *Identifying and Reducing Tax Regulatory Burdens*, OIRA review of tax regulations is part of reducing overall regulatory burdens and promoting a federal tax system that is simple, fair, efficient, and pro-growth.

In general, tax regulations follow the same process for review as other regulations under Executive Order 12866, subject to the possibility of expedited review. Given the public interest in regulations issued under the TCJA, the following outlines the basic process, including specific timing requests under the MOA.

Step 1 – Significance Determination

OIRA must first determine if a regulatory action is significant or economically significant, because OIRA reviews only regulatory actions that meet these criteria. For the significance determination, Treasury submits a summary of each rule to OIRA, which includes a description of the rule and its anticipated impacts. OIRA determines whether the rule is significant because it raises important legal or policy issues; or whether it is economically significant because it has an “annual non-revenue effect on the economy of \$100 million or more, measured against a no-action baseline.”

Step 2 –Submission of the Rule to OIRA

If OIRA designates the rule as significant, Treasury submits the rule to OIRA’s review system, RISC and OIRA Consolidated Information System (ROCIS). Pursuant to the MOA, OIRA will ordinarily have 45 days after submission to review the rule.

Before submission, the Treasury Secretary may request expedited review of a TCJA regulatory action for no more than 10 business days. The Secretary and the OIRA Administrator must concur on expedited review. An expedited review is subject to extensions mutually agreed upon by Treasury and OIRA.

At the discretion of the OIRA Administrator, review of a significant rule may be waived.

Step 3 – Interagency Review

Consistent with OIRA regulatory review under Executive Order 12866, the regulation is circulated to other agencies and components of the Executive Office of the President. OIRA coordinates comments from reviewers and also analyzes the regulation to ensure consistency with law and presidential priorities. Longstanding OIRA practice focuses on a rigorous analysis of the rule’s impacts—its costs and benefits—for the public. This deliberative process is comprehensive, collaborative, and iterative, involving a back and forth between OIRA and Treasury to produce a rule with the greatest benefits for the American public. During the review period, interested parties and stakeholders may request meetings with OIRA under the terms of [Executive Order 12866](#).

Step 4 – Conclusion of Review

Once OIRA concludes review, Treasury may publish in the Federal Register or otherwise publicly release the regulatory action.