

## Sam Lichtman in Law360: Earnings-Stripping Regs Test Limits Of Treasury's Authority

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The U.S. Department of the Treasury recently proposed wide-reaching rules to limit the tax benefits of a practice known as earnings stripping, and some experts say the administration may have gone beyond the bounds of its legal authority.

The proposed regulations, released April 4, were issued along with another set of rules clamping down on tax-motivated inversion deals. Treasury Secretary Jacob Lew on a press call the day of the release said the earnings-stripping regulations were needed to combat a commonly used technique to minimize taxes after an inversion.

The anti-inversion regs have already claimed a prominent casualty, with Pfizer and Allergan calling off their cross-border merger. But the proposed earnings-stripping rules, which would grant the Internal Revenue Service broad authority to recharacterize intercompany debt as equity for tax purposes, may ultimately be more significant if finalized in their current form, as they would encompass debt transactions commonly used by groups of related corporations for financing...

The Treasury's authority to interpret regulations is "pretty broad," said [Sam Lichtman](#), a partner at Haynes Boone LLP. "It's hard to say that a challenge would be successful," especially when Congress explicitly authorized the department to write regulations under Section 385, Lichtman said.

***Excerpted from Law360. To view the full article, [please click here.](#)***