

Trump Directive To Reduce Regulations Could Benefit Businesses

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President Trump has made several public statements regarding his intention to reduce the regulatory burden facing businesses, and he has taken a key step in putting his policy into action. On January 30, 2017, President Trump signed an Executive Order titled “Reducing Regulation and Controlling Regulatory Costs.” This executive order requires that any federal agency that proposes to issue a new regulation must identify at least two existing regulations to be repealed. In addition, the total incremental costs associated with any new regulations (including the costs from repealing any regulations) finalized in fiscal year 2017 must be no greater than zero. In other words, any regulatory changes cannot increase the number of regulations or the costs imposed by those regulations.

While this is a clear statement directing federal agencies to reduce the regulatory burden on businesses, there is unfortunately a lot of uncertainty associated with how the executive order will be implemented. One area of confusion is how incremental costs are to be determined. Another area of confusion stems from an exception contained in the executive order. The executive order states that these rules do not impair or otherwise affect any regulatory authority granted by law to an executive department or agency. In other words, if a statute authorizes an agency

to issue regulations, those regulations are not affected by the executive order. The question, though, is which regulations qualify for this exception. For example, are tax regulations covered by the executive order? On its face, the executive order would appear to apply to tax regulations. However, Section 7805 of the Internal Revenue Code grants the Treasury Department authority to issue regulations as needed to implement the tax code. So are tax regulations exempt? We will have to wait and see, although early indications are that the Internal Revenue Service is proceeding on the assumption that tax regulations are subject to the order.

While the application of this executive order is still up in the air, one thing is clear. President Trump intends to decrease both the number of regulations and the costs imposed as a result of those regulations, and that could be good news for businesses. This article is informational only. You should consult an attorney before acting or failing to act. The law may change rapidly and no warranty is given. LOWNDES DISCLAIMS ALL IMPLIED WARRANTIES AND WITHOUT LIMITATION, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. ALL ARTICLES ARE PROVIDED AS IS AND WITH ALL FAULTS. Consult a Lowndes attorney if you wish to establish an attorney/client relationship.