

# United States Senate

WASHINGTON, DC 20510

October 17, 2018

The Honorable Steven T. Mnuchin  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, D.C. 20220

Dear Secretary Mnuchin:

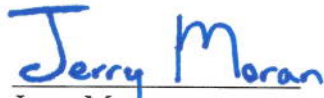
We write to ask you to revisit Treasury's proposed regulation under Section 199A, particularly as it relates to community banks that have elected Subchapter S. We are hearing from many such banks in our states that the proposed rule does not reflect the intent of Congress to provide them with tax relief in the Tax Cuts and Jobs Act and is working at odds with the positive community bank reforms incorporated in the Economic Growth, Regulatory Relief, and Consumer Protection Act. We strongly believe the final regulation under Section 199A should fulfil the promise of these laws to promote growth and job creation in our communities.


Approximately 1,900 banks nationwide, or a third of all banks, have elected Subchapter S tax status. Over 75% of these Subchapter S community banks have assets under \$300 million. They specialize in small business and agricultural lending and disproportionately serve rural markets. Subchapter S community banks offer a variety of services in their communities to complement their core lending services. These typically include trust and fiduciary services, insurance and securities brokerage, and wealth management. These are all services in demand in their communities and all are aspects of an integrated business model – community banking. The rule under Section 199A should recognize a business model important to so many American communities. In particular, we believe that all of the income that community banks earn as federally insured depository institutions should be eligible for the deduction created by Section 199A. Treasury's proposed rule would unreasonably force Subchapter S banks to choose between providing the full range of banking services needed in their communities and taking full advantage of the 199A deduction. This tax relief is critical to their continued independence.

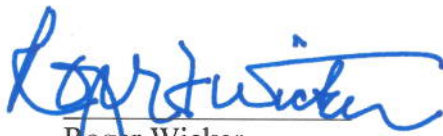
Community banks across the country have voiced their concerns that the de minimis thresholds of the proposed rule for revenues derived from specified service trades or businesses (SSTBs) are unreasonably low. Further, the definition of SSTBs should be more narrowly drawn and should exclude critical community bank services such as trust or fiduciary services, securities brokerage, and the origination and sale of mortgages and loans guaranteed by the Small Business Administration and U.S. Department of Agriculture. Loan sales allow community banks to increase lending in their communities while preserving their capital. This too is a critical part of the community bank business model. Finally, it is unclear what the consequence is for a Subchapter S bank that exceeds the de minimis thresholds. In our view, community banks should be allowed to segregate income rather than lose the deduction entirely.


Thank you in advance for taking a careful look at the 199A rule to ensure that it serves the purpose of strengthening Subchapter S community banks so that they can remain competitive, independent, and help strengthen American prosperity.


Sincerely,


  
Jerry Moran  
United States Senator

  
James M. Inhofe  
United States Senator

  
Roger Wicker  
United States Senator

  
Roy Blunt  
United States Senator

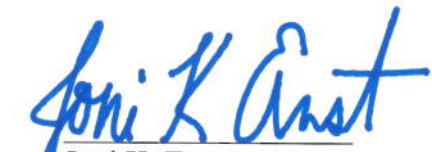
  
John Boozman  
United States Senator

  
Ron Johnson  
United States Senator

  
Deb Fischer  
United States Senator

  
Shelley Moore Capito  
United States Senator

  
M. Michael Rounds  
United States Senator

  
Joni K. Ernst  
United States Senator

  
John Kennedy  
United States Senator

  
Cindy Hyde-Smith  
United States Senator