

First proposed regs. under § 385 (withdrawn)

- If “debt” = stock, it was preferred stock
- Tested debt only when issued; re-tested only if terms changed or debt not paid when due
- D:E “safe harbors”= 10:1 outside (total) and 3:1 inside
- Used *basis* of assets for D:E calculations

2016 final regs. under § 385

- Drafted and adopted quickly
- Designed to stop international tax avoidance by large and/or public corporations
- Stops “stripping” of U.S. earnings by paying interest to related corporations off shore
- Controversial - court challenges likely
- May not survive new administration