

Congress of the United States

Washington, DC 20515

September 16, 2008

President George W. Bush
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Treasury Secretary Henry Paulson
U.S. Department of the Treasury
1500 Pennsylvania Avenue
Washington, DC 20220

Dear President Bush and Secretary Paulson,

We have introduced a bill, the Capital Gains Inflation Relief Act (H.R. 1261), which would index for inflation the cost basis a taxpayer uses when calculating capital gains taxes. The net effect of this indexing would be allowing taxpayers to keep more of their own money, while stimulating long-term capital investment.

Since it appears that the Democrat Majority will not act on this legislation prior to the *sine die* adjournment of the 110th Congress, we respectfully request that the Treasury Department provide for such inflation indexing administratively before the end of 2008.

The Internal Revenue Code defines a capital gain as the value of an asset at the time of sale minus the "cost." The Treasury Department, since the inception of the Code, has interpreted "cost" to mean the original price at the time of purchase. "Cost" is not explicitly defined in this context.

As a result of this economically unwise interpretation, many people who pay the capital gains tax are, at least in part, paying a tax on inflation. For example, if someone bought an asset in 1980 for \$1,000 and sold it in 2008 for \$2,616, he or she would pay a tax on a \$1,616 "gain." But \$1,000 in 1980 is worth about \$2,616 today. That is, this citizen could buy about as much in 1980 with \$1,000 as he or she can today with \$2,616.

We believe that citizens should not be taxed on a "gain" that brings them no increased (and possibly decreased) economic value. Hence, indexing for inflation the cost basis used in calculating the capital gains tax would have the effect of reducing taxes for millions of Americans because it would eliminate this unfair tax on inflation.

The National Chamber Foundation commissioned a legal memorandum to determine if the Treasury Department could index capital gains for inflation by regulation, without an act of Congress, by merely reinterpreting how "cost" is applied. Such legal analysis concluded, based on court and regulatory precedents and on the lack of a specific definition for "cost" in the Code, that indeed the Administration could take such action by regulation.

Since it appears that capital gains indexing will not be accomplished legislatively this year, we ask that you implement capital gains indexing administratively in 2008, on the grounds that the current interpretation of "cost" often results in a capital *gains* tax on a real capital *loss*.

Thank you for your consideration of this important and timely matter.

Most sincerely,



Mike Pence
Member of Congress



Eric Cantor
Member of Congress