DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CHIEF COUNSEL

July 1, 2008

CC:ITA:B04:
CONEX-124027-08

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The Honorable Spencer Bachus
Member, U.S. House of Representatives
1900 International Park Drive, Suite 107
Birmingham, AL 95243

Attention:

Dear Congressman Bachus:

I am responding to your letter dated May 23, 2008, on behalf of your constituent, . He expressed several concerns about the federal income law, including the lack of inflation indexing for capital gains, the alternative minimum tax, the taxability of social security benefits, and the lack of a deduction for expenses senior citizens pay for help with certain activities.

As you requested, I responded directly to . We explained how Congress has addressed his concerns and the reasons for some of these provisions of law. I am enclosing a copy of my response.

I hope the enclosed letter is helpful to him. If you have any questions, please contact me or at ( ) .

Sincerely,

Michael J. Montemurro
Branch Chief, Branch 4
Office of Associate Chief Counsel
(Income Tax & Accounting)

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

July 1, 2008

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Index Number: 1.00-00

Dear :

I am responding to your May 19, 2008 letter to Congressman Spencer Bachus, who asked us to respond directly to you. You expressed concern about the federal tax laws, including the lack of inflation indexing for long-term capital gains and interest, the alternative minimum tax, the taxability of social security benefits, and the lack of a deduction for expenses senior citizens pay for help with certain activities.

This letter explains how Congress has addressed some of your concerns and the reasons for certain provisions of federal tax law. Congress would need to take legislative action to change the provisions of federal tax law about which you express concern.

Inflation Indexing. Congress has enacted several provisions of law to mitigate the effects of inflation on federal income taxes. For example, many provisions of tax law affecting individuals, including the individual rate brackets, the standard deduction, the personal exemption, and the overall limitation on itemized deductions are automatically adjusted to ease the burden of inflation on taxpayers. Rev. Proc. 2007-66, 2007-45 I.R.B. 970, which is enclosed, lists many of the 2008 inflation adjusted items.

Although the Internal Revenue Code (the Code) does not directly index capital gains to inflation, the lower, preferential tax rate for capital gains ameliorates the effects of inflation on capital gains taxation. Congress reduced capital gains rates in 1978 because the prior higher rates were seen as "inequitable" to the extent gains were taxed that only represented inflationary increases in value. S. Rep. No. 95-1263 at 15 (1978). Today, the maximum capital gains rate is 15 percent for gain from the sales of most stock. Moreover, in 2008, subject to certain limitations, adjusted net capital gain is not subject to income tax for individuals whose income would otherwise be taxed at a rate below 25 percent.

Alternative Minimum Tax (AMT). The AMT is a separately figured tax that eliminates many deductions and credits, thus increasing the tax liability for a taxpayer, including an individual, who would otherwise pay less tax. Congress enacted the AMT to "serve on overriding objective: to ensure that no taxpayer with substantial economic income can avoid significant tax liability by using exclusions, deductions, and credits." Congress believed that it was "inherently unfair for high-income taxpayers to pay little or no tax due to their ability to use tax preferences." *See* H. R. Rep. No. 99-426 at 305-306 (1985).

The AMT exemption amount is not indexed to inflation. Congress, however, has mitigated the effects of the AMT by raising the income level exemption to reflect inflation, most recently in the Tax Increase Prevention Act of 2007, Pub. L. No. 110-166 (2007).

Taxation of Social Security Benefits. Section 86 of the Code requires taxpayers to include in gross income a portion of their social security benefits if the sum of their modified adjusted gross income and one-half of their social security benefits exceeds a certain amount. Congress believed that social security benefits should be taxed similarly to private pensions and that taxing a portion of these benefits would improve tax equity by treating nearly equally all forms of retirement and other income designed to replace lost wages. Congress provided the income thresholds to limit the law's effect to taxpayers with a greater ability to pay taxes. *See* S. Rep. No. 98-23 at 25 (1983); and H. R. Rep. No. 103-111 at 654 (1993).

Nondeductibility of Personal Expenses Senior Citizens Incur. In general, taxpayers (including senior citizens) cannot deduct personal, living, or family expenses. However, section 213 of the Code allows a deduction for certain medical expenses, including maintenance and personal care services required by a chronically ill individual and provided under a plan of care that a licensed health care practitioner prescribes. Also, section 63(f) provides an additional standard deduction ($1,050 in 2008) for taxpayers age 65 and over. In addition, under section 22 of the Code married taxpayers age 65 and over filing jointly can claim a credit against tax of up to $1,125 if the sum of certain nontaxable pensions and benefits and one-half of adjusted gross income in excess of $10,000 does not exceed $7,500.

I hope this information is helpful. If you have any questions, please contact , Identification Number , at ( ) .

Sincerely,

Michael J. Montemurro
Chief, Branch 4
Office of Associate Chief Counsel
(Income Tax and Accounting)