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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Sherrod Brown
United States Senator
1301 East 9th Street, Suite 1710
Cleveland, OH 44114

Attention:

Dear Senator Brown:

I am responding to your inquiry dated February 28, 2011, on behalf of your constituent, . She asked why she must pay capital gains taxes on the stock and cash that she received in exchange for the stock she owned before acquired .

The Internal Revenue Code imposes income tax on a taxpayer's gross income (section 1 of the Internal Revenue Code). Gross income includes gains from dealings in property (section 61 of the Code). Property held for investment is a capital asset. When the taxpayer sells a capital asset, such as stock, the taxpayer pays capital gains tax on the amount by which the sales proceeds (money plus the fair market value of property received) exceed the adjusted basis (generally cost) in the asset. The sale of stock in one corporation to another corporation is taxable to the selling shareholder unless the transaction qualifies as a tax-free reorganization (section 368 of the Code).

has indicated on its website, and informed its stockholders, that its acquisition of was not a tax-free reorganization. Rather, it was a taxable sale or exchange. Consequently, must pay capital gains tax on any gain from the sale. Her gain is the difference between the adjusted basis in her stock and the sum of the cash and fair market value of the stock she received.

I hope this information is helpful. If you have any questions, please contact me or at .

Sincerely,

George J. Blaine
Associate Chief Counsel
(Income Tax & Accounting)