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July 15, 2010

Timothy F. Geithner
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Ave, NW
Washington, DC 20220

Dear Secretary Geithner:

In a July 7, 2010 interview on CNBC's "Kudlow Report" with Larry Kudlow, you stated, "We're going to make sure that we keep at 20 percent the existing rates on dividends and capital gains." This statement has caused a great deal of confusion, both on Capitol Hill and in the capital markets. I am seeking clarification on the following:

1. Will you insist that Congress limit the top rates on capital gains and dividends to 20 percent, even if that means not offsetting the foregone revenue with tax increases elsewhere? Under current law, in 2011 the top rate on capital gains is scheduled to increase to 20 percent from 15 percent. The top rate on dividends, however, will increase to 39.6 percent from 15 percent. The statutory pay-as-you-go law enacted earlier this year (P.L. 111-139) does not provide an exemption for the top rates on capital gains and dividends.

2. Alternatively, if you believe maintaining a 20-percent dividends rate must be offset, which tax increases or spending cuts do you support to offset the effect of limiting the statutory rate on dividends to 20 percent?

3. Does your proposed 20-percent rate account for the new 3.8-percent tax on investment income (which includes capital gains and dividends) enacted in section 1402 of the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152)?

4. In light of this 3.8-percent tax on investment income, will you urge Congress either to limit the "regular" capital gains and dividends rates to 16.2 percent, or to repeal the 3.8-percent tax, so that the total rate on capital gains and dividends does not exceed 20 percent?

5. Does your proposed 20-percent rate account for the hidden rates embedded in President Obama's budget proposal to reinstate the personal exemption phase-out (PEP) and the Pease limitation on itemized deductions? Taken together, these two phase-outs create an additional, hidden marginal rate of approximately two percentage points on high-income taxpayers, including income from capital gains and dividends. They also add a great deal of complexity to the tax code.

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Taking into consideration both statutory rates and hidden rates, in 2011 the top rate on capital gains is scheduled to increase to 22 percent and the top rate on dividends is scheduled to increase to 41.6 percent. Absent further action from Congress, when the 3.8-percent tax on investment income becomes effective in 2013, the top rate on capital gains will exceed 25 percent (roughly 70 percent higher than the 2010 rate) and the top rate on dividends will exceed 45 percent (triple the 2010 rate). Given that altering this requires an act of Congress, I would like to know your strategy for ensuring that Congress enacts legislation preventing the top rates on capital gains and dividends from exceeding 20 percent, taking into account not only the statutory income tax rates of section 1 of the Internal Revenue Code, but additional marginal rates that Congress has cleverly hidden in other parts of the tax code as well.

Sincerely,

Dave Camp

DAVE CAMP
Ranking Member
Committee on Ways and Means