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The Honorable Bill Nelson  
United States Senate  
Washington, DC 20510

Dear Senator Nelson:

I am responding to your letter dated October 29, 2010, on behalf of your constituent, . He inquired about tax rates on dividends from stock and whether such rates would continue under President Obama's proposed tax plan.

Generally, a taxpayer includes dividend income in gross income, which the law taxes at the same rate as ordinary income (section 61(a)(7) of the Internal Revenue Code (the Code)). However, the law currently permits the taxation of "qualified dividend income" at the same rate as capital gain income (section 1(h)(11) of the Code). For 2010, the maximum tax rate for qualified dividend income is 15 percent (section 1(h)(1) of the Code). Under current law, the special treatment for qualified dividend income will expire on December 31, 2010, and dividend income will be taxed at ordinary income rates starting in 2011.

The Joint Committee on Taxation published a report on August 16, 2010, analyzing President Obama's proposed budget for fiscal year 2011. According to the report, the current tax treatment for qualified dividend income would become permanent under President Obama's proposed budget. Further, the maximum tax rate for qualified dividend income would remain at 15 percent for unmarried taxpayers whose adjusted gross income is not over \$200,000 (or not over \$250,000 for married taxpayers filing jointly). However, the Congress has not enacted President Obama's proposed budget for fiscal year 2011 into law.

Whether the taxation of qualified dividend income will be at capital gain tax rates and what tax rate will apply after 2010 depends on Congressional legislation. At this time, the Congress has not enacted legislation regarding qualified dividend income. Absent

legislation, the taxation of all dividend income will be at ordinary income tax rates rather than capital gain tax rates, starting in 2011.

I hope this information is helpful. Please contact me or \_\_\_\_\_ at \_\_\_\_\_ if you need further assistance.

Sincerely,

Thomas D. Moffitt  
Chief, Branch 2  
(Income Tax and Accounting)