

**CAPITAL GAINS TAX INCENTIVE FOR TECHNOLOGY ASSURANCE
A GAME CHANGING APPROACH TO ASSURE THE TECHNOLOGY THAT WE DEPEND ON AND
PROMOTE SUSTAINABLE ECONOMIC GROWTH**

While it is in our common interest to pursue technology assurance, the social costs of cyber events are currently externalized by business. As a society we are caught in a seemingly intractable situation. Spending on technology assurance and cyber security increases costs, may result in product delays and may not be perceived as providing sufficient return on investment. All too often, corporations postpone patching systems and fail to take sufficient action to assure the technology they depend on. Furthering the problem, organizations that do take steps to improve their technology assurance may be placed at a disadvantage. There is no certainty that their actions will prevent a cyber attack; and despite their efforts, they may be negatively impacted by the lack of cyber security and technology assurance in others.

Although cyber events may significantly impact an organization, there is limited understanding and support to increase expenditures on cyber security. Investment in cyber security is limited by perceived cyber risks to the corporation which may not reflect the actual threat level and ignores the greater impact to society. Flaws in both the design and implementation of software and hardware and the potential for malicious code insertion may disrupt operations and enable unauthorized access to systems placing our information assets and critical infrastructure at risk. As a lack of technology assurance erodes our trust in technology, diminishes our economic productivity and represents a national security risk, a new approach is needed to inspire a Y2K-level of response to achieve technology assurance.

Creating “Patient Capital“

The key is to empower shareholders to make technology assurance a top priority. With the current capital gains tax rate set to expire in 2010, there is an opportunity to significantly increase both the awareness of and action on technology assurance by maintaining the current capital gains tax rate on the sale of assets (stocks and bonds) of corporations that commit to and achieve an appropriate level of technology assurance. This unconventional tax incentive will motivate shareholders to support technology assurance efforts and creates *patient capital* to endure increased costs and potential product delays.

This game-changing incentive will create a broad base of support for technology assurance by rewarding shareholders. By initiating a sustained effort to achieve technology assurance, this effort will stimulate demand for security products and services and assured software and hardware. For corporations that fail to meet their assurance objectives or elect not to participate, investor’s capital gains would be subject to the higher capital gains tax rate. It is anticipated that shareholder pressure will motivate significant support for this effort.

A Powerful Incentive

The strategy is to motivate the private sector to embrace technology assurance and act in the national interest while at the same time delivering value to their shareholders. The intent is to ease the transition to assured technology without resorting to mandates or regulation. The private sector would determine the level of technology assurance required by their business model, contractual commitments, the current threat environment and any *existing* regulatory requirements and would also be free to select the technologies and processes best suited for their environment. Instead of mandates or prescriptive solutions, this incentive would give the private sector maximum flexibility to respond to emerging threats and changing technologies.

Visibility without Disclosure of Confidential or Private Information

The goal is to enable greater visibility into the private sector's level of cyber preparedness without requiring the disclosure of confidential or private information to the Federal Government. Under consideration is the use of independent auditors and/or self-certification to achieve visibility while preserving confidentiality and privacy.

Much like a Certified Public Accountant audits financial records and reports their findings to the Securities and Exchange Commission (SEC), an independent auditor would issue an *assurance opinion* on the actions taken by a corporation to achieve technology assurance without disclosing the specifics of implementation, areas of action or any potential vulnerabilities.

Regardless of whether independent auditors or self-certification is used, the state of technology assurance would be assessed and validated allowing time for further remediation and reassessment. The final assurance opinion of the auditor or the self-certification statement of the corporation would be reported to the SEC to determine the effective capital gains tax rate.

Provisions for Liability Limitation

By combining the capital gains tax incentive with provisions for liability limits, resources may be more effectively used for Research and Development and new technology deployment instead of for punitive damages. Visibility into technology assurance efforts will enable the support of liability limitations for cyber events. In addition, this enhanced visibility would encourage and facilitate cyber insurance underwriting.

Sustainable Economic Growth

By linking the capital gains tax rate with technology assurance, we promote both our national and economic security. During these uncertain economic times, corporations are conserving cash and reducing capital investment in technology which is contributing to the economic slowdown and increasing unemployment. In turn, technology companies are hesitant to undertake a significant R&D effort uncertain of the demand for new assured products and services.

By facilitating a *coordinated economic action* of the same scale as the Y2K effort, this incentive will spur the economy, drive innovation and achieve sustainable economic growth by reducing uncertainty. The Capital Gains Tax Incentive combines both supply-side and demand-side economics to spur economic growth and create jobs.