

Congress of the United States
Washington, DC 20515

September 26, 2017

Assistant Secretary David Kautter
Office of Tax Policy
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220

Dear Assistant Secretary Kautter:

We are writing to follow up our meeting with you and Secretary Mnuchin on September 11, 2017 to ask for your help with a unique, devastating casualty loss in North Central and Eastern Connecticut that is eviscerating the homes of thousands of our constituents. We greatly appreciate your attention to this issue, and the precious time the Secretary and you have allotted to our request.

In a nutshell, we are asking the Department to agree to execute the recommendations of the National Taxpayer Advocate, IRS Commissioner Koskinen, and the U.S. House of Representatives to issue a tax guidance based on the precedent of Revenue Procedure 2010-36, to allow a deduction for the cost of repairs for pyrrhotite caused damage to the concrete foundations of taxpayers. As we discussed, the corrosive "spiderweb" cracking that occurs in homes with pyrrhotite is not normal "settling cracks" seen in aging homes, but rather an aggressive collapse triggered by exposure to moisture that causes the pyrrhotite to rust, swell and crumble.

During our conversation, we discussed the 2010 Revenue Procedure regarding corrosive drywall, which both the Taxpayer Advocate and the Commissioner have cited as an "on point" precedent. In both cases, the damage was specific to rapid corrosion of building material. During our exchange, you queried whether Hurricane Katrina was an additional causal factor in the Revenue Procedure. It is true that the 2005 Florida hurricane season caused extensive destruction and required increased imports of foreign drywall due to domestic shortages. However, we would note that this Procedure does not cite hurricane- or other natural disaster-related damage, but rather targets taxpayers with problems that "have occurred with certain imported drywall installed in homes between 2001 and 2008," many built significantly before the 2005 hurricane season. We feel strongly that this case meets the characterization of "unique circumstances" surrounding an "identifiable event" the Internal Revenue Service cited in the Procedure.

We have submitted to your Office an analysis conducted by the University of Connecticut which described the unique chemistry and causation of this problem and which we believe, with the support of the Advocate and Commissioner, confirms that this request is very limited in scope. Indeed, in the municipalities affected by this harmful trend, a special property tax process and formula has been developed to reduce the fair market value of affected properties as a safeguard to avoid non-pyrrhotite cracking. It is the Advocate's suggestion that this assessment tool, which operates pursuant to Connecticut Public Act 16-45, be incorporated by the IRS to ensure that a casualty loss deduction is limited to actual pyrrhotite cases and thus satisfies the "unique

circumstances" surrounding an "identifiable event" that the Internal Revenue Service cited in the drywall procedure.

As further evidence of the uniqueness and merit of this request, the House of Representatives voted unanimously on September 13 to adopt an amendment (No. 215) to the Department's appropriations bill supporting the development of the procedure we are requesting. This impressive bipartisan support for such a procedure underscores again the unique, dire circumstance that unsuspecting homeowners are trapped in.

Once again, thank you for your thoughtful consideration of our request. We stand ready to provide any information you may need as your office develops such a policy decision, including further scientific background on the causes of the foundation problem and data available on the scope of the issue.

Sincerely,


JOE COURTNEY
Member of Congress


JOHN B. LARSON
Member of Congress

Enclosure: Assessment Guidelines for homes with crumbling foundations based on Connecticut Public Act 16-45, Capitol Region Council of Governments

CC: John Koskinen, Commissioner, Internal Revenue Service
Nina Olson, National Taxpayer Advocate

CRCOG Ad-Hoc Working Committee on Crumbling Foundations

Guidelines Regarding Assessments Related to Crumbling Foundations

Numerous towns have experienced crumbling foundations. The passage of HB 5280 allows for homeowners to adjust their assessments who have experienced this problem. ***CRCOG's Ad-Hoc Working Committee on Crumbling Foundations is putting forth the following guidelines in an attempt to enable the impacted communities to act as consistently as possible.***

CRCOG's Ad-Hoc Working Committee along with assessors of many of the towns have agreed on the following as guidelines for towns for the following reasons:

- 1) There has not been enough home sales that have this problem to establish market data of the actual fluctuations in home values
- 2) The homeowner's change in assessment is valid for five years, but the homeowner may request a reassessment based on changes or advancement of the problem.

The following suggested depreciation schedule has been agreed upon by the majority of assessors in the affected towns:

Level A (documented to be "defective" - no sign of problems), 20% (requires a petrographic analysis to establish that the problem actually exists)

Level B (minor degradation- no repair required), 60%

Level C (minor to moderate degradation- repair suggested/recommended), 75%

Level D (moderate to severe degradation- significant repairs required), 90%

Level E (severe degradation- imminent threat of failure), 100%

This discount is recommended off of the building value. A minority of assessors feel that the devaluation value could be applied as a percentage off an estimate cost to cure (of about \$800 per linear foot), but the majority prefers the building value as that is more defensible and is a standardized measure, not subject to numerous variations.