

Congress of the United States
Washington, DC 20515

December 14, 2017

The Honorable David Kautter
Acting Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Commissioner Kautter,

We write to commend the Internal Revenue Service (IRS) for releasing Revenue Procedure 2017-60 on November 22, 2017 in recognition of the unique harm homeowners in the Northeast have suffered due to defective concrete in their home foundations and for providing a safe harbor to those residents seeking to take the casualty loss deduction for the necessary repairs.

As you are aware, Section 165 of the Internal Revenue Code, in which the casualty loss provisions are housed, may be repealed by Congress as a part of the *Tax Cuts and Jobs Act*. Our offices have received many inquiries from our constituents asking if this safe harbor that the Administration has granted will still be available to them in future tax years beginning in 2018, should tax legislation become law. Given that the pyrrhotite-laden, defective concrete was poured into home foundations decades ago, the issue that the revenue procedure seeks to address would predate any tax legislation that repeals the casualty loss provisions in the Code.

In order to better assist professional tax preparers and residents seeking the safe harbor exemption, we seek technical clarification on how the process outlined in Rev. Proc. 2017-60 would work in a future tax year should Section 165 be repealed or severely limited. Specifically:

1. For those who have identified their defective foundation, obtained the necessary written evaluation from a licensed engineer, and made repairs prior to January 1, 2018 – will they be able to file returns or amended returns under the safe harbor of Rev. Proc. 2017-60?
2. For those who are either in the process of or have yet to complete all three conditions identified in the revenue procedure (identifying the defective foundation, obtaining the necessary written evaluation, or completing the repairs) – will they be able to claim the deduction under the safe harbor by amending past years' returns?

Given the immense work this Administration has put into helping these suffering homeowners, the personal attention you have paid to this matter, and the grateful homeowners who had been granted meaningful relief, we hope you will be able to provide further clarification. Thank you.

Sincerely,



JOHN B. LARSON
Member of Congress



JOE COURTNEY
Member of Congress



RICHARD E. NEAL
Member of Congress