



COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

December 21, 2017

The Honorable Joe Courtney
U.S. House of Representatives
Washington, DC 20510

Dear Representative Courtney:

Thank you for your letter dated December 14, 2017, asking for clarification on the impact of potential legislative changes on the casualty loss deduction under section 165 of the Internal Revenue Code. The changes you asked about were included in the bill that Congress recently passed¹, but which has not yet been signed into law. Specifically, you asked how the Revenue Procedure 2017-60 safe harbor allowing for a casualty loss deduction will be affected if the section 165 casualty loss deduction is repealed or limited.

Revenue Procedure 2017-60, issued on November 22, 2017, provides a safe harbor allowing certain taxpayers to deduct amounts paid to repair damage (subject to certain limitations) to their personal residences resulting from deteriorating concrete foundations caused by the presence of the mineral pyrrhotite. Under the safe harbor, a taxpayer who pays to repair the damage may treat the amount paid as a casualty loss in the year of payment. The safe harbor is available to a taxpayer who has obtained a written evaluation from a licensed engineer indicating the foundation was made with defective concrete and received a reassessment report pursuant to Connecticut Public Act No. 16-45, or obtained a written evaluation from a licensed engineer indicating the foundation was made with defective concrete containing the mineral pyrrhotite. Revenue Procedure 2017-60 is effective for federal income tax returns, including amended federal income tax returns, filed after November 21, 2017.

Whether a taxpayer is allowed a casualty loss deduction under Revenue Procedure 2017-60 depends on when the taxpayer pays to repair the damage caused to the taxpayer's personal residence. The recently passed tax bill will not impact a taxpayer who paid or pays to repair damage to that taxpayer's personal residence in 2017 or in a prior open taxable year, provided the other requirements of the safe harbor are also met. If a taxpayer paid or pays to repair the damage in 2017 or a prior open year, but other requirements of the safe harbor are not met by the end of 2017, a taxpayer may claim the casualty loss deduction on an original or amended tax return once those other

¹ An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018.

requirements have been met. However, as a result of the repeal of the casualty loss deduction, a taxpayer who pays to repair damage to that taxpayer's personal residence in tax years after 2017 will not be able to take a casualty loss deduction under the safe harbor of Revenue Procedure 2017-60. We are currently considering additional transition relief to address the impact of this legislative change.

I hope this information is helpful. I am sending a similar letter to your colleagues. If you have additional questions, please contact me, or a member of your staff may contact Leonard Oursler, Director, Legislative Affairs, at 202-317-6985.

Sincerely,

A handwritten signature in cursive script, appearing to read "David J. Kautter".

David J. Kautter
Acting Commissioner