



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

OFFICE OF
CHIEF COUNSEL

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The Honorable John Breaux
United States Senate
Washington, DC 20510

Attention: Mr. Patrick McConnell

Dear Senator Breaux:

This letter is in response to your letter dated November 4, 2004, requesting information on a letter the Office of Chief Counsel issued on June 28, 2004. The letter indicated that a recipient of a grant used to fund improvements to property under Federal Emergency Management Agency (FEMA) mitigation programs must include the grant in gross income.

The Office of Chief Counsel and the Department of the Treasury thoroughly considered the position taken in the June 28, 2004 letter. We continue to believe this position is consistent with current law, and that the mitigation grants do not qualify for existing statutory or administrative exceptions.

The Department of the Treasury, however, believes legislation to exclude the grants from income is consistent with federal policy to reduce damages from disasters. The United States Senate and the House of Representatives are considering legislation that would specifically exempt FEMA mitigation grants from inclusion in taxable income (108th Congress, S. 2886 and H.R. 5206). However, the legislation has not yet been enacted.

I hope this information is helpful. If you have further questions, please call _____, Identification Number _____, or me at _____.

Sincerely,

Robert A. Berkovsky
Branch Chief
Office of Associate Chief Counsel
(Income Tax & Accounting)