

INTERNAL REVENUE SERVICE

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CONEX-113343-05

The Honorable Mike Rogers  
Member, U.S. House of Representatives  
1129 Noble Street  
104 Federal Building  
Anniston, AL 36201

Attention: Beverly Graben

Dear Congressman Rogers:

I am responding to your letter dated February 15, 2005, on behalf of your constituent, Ms. [REDACTED]. She received a Form 1099 for a mitigation grant used to construct a storm shelter under a program administered by the Federal Emergency Management Agency (FEMA). She believes that the grant should not be taxable income.

In a June 2004 memorandum, the Internal Revenue Service concluded that taxpayers who receive grants to improve property under the Flood Mitigation Assistance Program (FMA), the Pre-Disaster Mitigation Program (PDM), and the Hazard Mitigation Grant Program (HMGP), which FEMA administers, must include the grants in gross income.

The Administration, however, believes that the Congress should amend the Internal Revenue Code to achieve the policy objective of reducing damages from future disasters. The Department of the Treasury, as part of the Administration's revenue proposals for fiscal year 2006, recommended amending the Internal Revenue Code to exclude from gross income FEMA mitigation grants used to purchase or repair property, and to allow taxpayers to elect to defer gain realized on the sale of property under FEMA mitigation grant programs. Under this proposal, the Treasury Department would have administrative authority to provide retroactive relief. Department of the Treasury, *General Explanations of the Administration's Fiscal Year 2006 Revenue Proposals*, 51-52 (February 2005).

In response to the Treasury Department's revenue proposals, the House of Representatives passed H.R. 1134, which, if enacted, would generally provide that payments under FEMA mitigation grant programs are not subject to current taxation for amounts received, or with respect to sales or other dispositions after the date of enactment. During the debate on H.R. 1134, House Ways and Means Committee Chairman William Thomas urged the Treasury Department to exercise administrative authority to provide retroactive relief. 151 Cong. Rec. H1394 (daily ed. March 14, 2005). A bill identical to that passed by the House of Representatives, S. 586, has been introduced in the United States Senate.

In addition, Secretary of the Treasury Snow in his March 14, 2005 letters to Chairman Thomas and Senate Finance Committee Chairman Charles Grassley stated, “[I]t is our hope that Congress, consistent with the Administration’s budget proposal, will encourage the Treasury Department to provide retroactive relief to those individuals who have utilized FEMA mitigation grants in the past.”

I hope this information is helpful. If you have any questions, please contact me at (202) 622-4800.

Sincerely,

Robert M. Brown  
Associate Chief Counsel  
(Income Tax & Accounting)