



OFFICE OF THE CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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The Honorable Mark Warner
United States Senate
Washington, DC 20510

Attention:

Dear Senator Warner:

I am responding to your letter dated February 23, 2010, to Commissioner Shulman requesting that we publish formal guidance under section 165 of the Internal Revenue Code on the availability of a casualty loss deduction for damage from imported drywall.

As you explain in your letter, the Consumer Product Safety Commission (CPSC) has issued preliminary guidance on this matter that suggests a "strong association" between the problem drywall, the hydrogen sulfide levels, and corrosion in the homes with this drywall. Since then, the CPSC has published interim guidance on the identification of homes with this problem drywall. This information is available on their website at <http://www.cpsc.gov/info/drywall/interimidguidance012810.pdf>.

We recognize that this issue affects a significant number of taxpayers, including many in Virginia. We continue to evaluate the interim guidance and other information we have received to determine if this damage qualifies as a casualty loss under section 165. We are doing so as quickly as possible and in consultation with the Treasury Department's Office of Tax Policy to determine if published guidance is appropriate.

I appreciate your continued attention to this issue. If you have any questions, please contact _____ or me at _____.

Sincerely,

Christopher F. Kane
Branch Chief, Branch 3
(Income Tax and Accounting)