



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

OFFICE OF THE CHIEF COUNSEL

December 01, 2011

Number: **2011-0089**  
Release Date: 12/30/2011

CC:ITA:4  
CONEX-145079-11

UIL: 61.40-00; 6041.00-00

The Honorable Harry Reid  
United States Senate  
Washington, DC 20510

Attention:

Dear Senator Reid:

This letter responds to your inquiry dated October 24, 2011, on behalf of your constituent, \_\_\_\_\_ of the \_\_\_\_\_ (the Authority). \_\_\_\_\_ asked whether homeowners must include in gross income payments the Authority makes to assist them with structural home elevation. The facts do not indicate that the Authority provides this assistance to homeowners based on their economic need.

Gross income includes all income from whatever source derived, except as otherwise provided by law (section 61 of the Internal Revenue Code (the Code)). Under section 61, Congress intends to tax all gains or undeniable accessions to wealth, clearly realized, over which the taxpayers have complete dominion (*Commissioner v. Glenshaw Glass Co.*, 348 U.S. 426 (1955), 1955-1 C.B. 207). Consequently, taxpayers must include governmental grants in gross income absent a specific exclusion (see Revenue Ruling 79-356, 1979-2 C.B. 28).

Taxpayers, however, exclude from gross income qualified disaster mitigation payments (section 139(g)(1) of the Code). The term "qualified disaster mitigation payment" means any amount paid under the Robert T. Stafford Disaster and Emergency Assistance Act (Stafford Act) or the National Flood Insurance Act (NFIA) to a property owner for hazard mitigation for the property (section 139(g)(2) of the Code). Thus, if the Authority makes payments to assist homeowners with structural home elevation under the Stafford Act or the NFIA, the homeowners exclude them from gross income. If, however, the Authority does not make those payments under the Stafford Act or the NFIA, they would appear not to qualify for any other exclusion from gross income. For example, the payments would not appear to qualify under a limited general welfare exclusion because the Authority does not appear to base the payments on the homeowners' need (see Notice 2011-94, 2011-49 Internal Revenue Bulletin (December 5, 2011)).

If the payments do not qualify for exclusion from the homeowners' gross income, and the payments equal or exceed \$600 in any calendar year, the Authority must file with the Internal Revenue Service and provide to homeowners Forms 1099-G, Certain Governmental Payments (section 6041 of the Code).

If the Authority would like to request a private letter ruling from the Internal Revenue Service on whether it must issue Forms 1099-G for payments to homeowners under its structural home elevation program, it can do so by following the procedures in Revenue Procedure 2011-1, 2011-1 Internal Revenue Bulletin 1, which is available on our website, [www.irs.gov](http://www.irs.gov), and at <http://irs.gov/pub/irs-irbs/irb11-01.pdf>

I hope this information is helpful. If you have any questions, please contact  
or me at .

Sincerely,

Michael J. Montemurro  
Chief, Branch 4  
Office of Associate Chief Counsel  
(Income Tax & Accounting)