

Congress of the United States
Washington, DC 20515

March 2, 2023

Mr. Douglas O'Donnell
Acting Commissioner
Internal Revenue Service
77 K St NE
Washington, D.C. 20002

Dear Mr. O'Donnell:

We write to express our deep concern that the Internal Revenue Service (IRS) may tax emergency assistance provided to individuals in response to the Red Hill Bulk Fuel Storage Facility (Red Hill) drinking water crisis. We ask that the IRS use its administrative authority to exempt any assistance provided by the Department of Defense to ensure the equitable administration of the tax code.

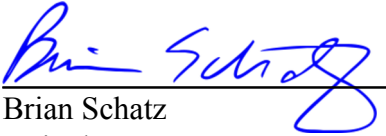
In late 2021, fuel from the World War II-era Red Hill facility contaminated the Navy's water system that services Joint Base Pearl Harbor-Hickam, Ewa Beach and Aliamanu. It also affected individuals not connected to the military, including homes, schools and businesses in the civilian community that use the Navy's water. This fuel leak affected almost 100,000 residents; forcibly displaced more than 3,500 families into temporary lodging; and sickened many with rashes, sore throats, stomach pain, headaches, diarrhea, vomiting and oral chemical burns.

In the early days of the crisis, the military responded by providing emergency assistance to individuals so they could temporarily live in hotels and have access to safe drinking water. Many lived in hotel rooms for months as the military slowly worked to remove the fuel from its drinking water system. This assistance was a necessary emergency response to a crisis caused by the Department of Defense.


We understand that you are working with the Department of Defense to understand what happened to determine the tax implications of this assistance. Just as assistance provided to individuals by the Federal Emergency Management Agency under the Stafford Act is exempted under Section 139 of the Internal Revenue Code, we believe the Red Hill emergency assistance should also be exempted. Individuals dislocated by Red Hill should not have to take on additional tax burdens because of the emergency assistance provided to them in a time of great need due to a crisis caused by the federal government. We urge you to quickly make a determination so that the Department of Defense can issue corrected 1099s or so that new guidance and reporting instructions can reach affected taxpayers looking for relief.

We appreciate your timely action on this matter and request a prompt response so we can help those who received help during a crisis avoid an unjustified tax liability.

Sincerely,


Brian Schatz
United States Senator


Mazie K. Hirono
United States Senator


Ed Case
Member of Congress


JM Tokuda
Member of Congress

CC: The Honorable Michael McCord, Under Secretary of Defense (Comptroller)/Chief
Financial Officer
Ms. Audrey Davis, Director of the Defense Finance and Accounting Service (DFAS)