

ROBERT P. CASEY, JR.
PENNSYLVANIA

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SPECIAL COMMITTEE ON AGING

United States Senate

WASHINGTON, DC 20510

April 19, 2024

The Honorable Janet Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Ave, NW
Washington, DC 20220

The Honorable Danny Werfel
Commissioner
Internal Revenue Service
1111 Constitution Ave, NW
Washington, DC 20224

Dear Secretary Yellen and Commissioner Werfel:

On February 3, 2023, a Norfolk Southern train carrying hazardous materials derailed in East Palestine, Ohio, less than 1,000 feet from the border with Darlington Township, Beaver County, Pennsylvania. The train caught fire and burned through the weekend. On Monday, February 6, following a mandatory evacuation of Ohio and Pennsylvania residents, Norfolk Southern conducted a vent-and-burn of five tanker cars carrying vinyl chloride on the grounds that doing so would mitigate concerns of a more serious explosion. The vent-and-burn decision by Norfolk Southern—the scientific support for which NTSB Chair Homendy has called into question—had a tremendous impact on communities in Pennsylvania, with at least 135 households in Beaver County, PA forced to evacuate their homes for a prolonged period to avoid further toxic exposure.

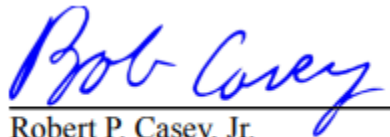
Impacted individuals and families faced great hardships and disruption during this period and were forced to deal with sudden unexpected evacuations and school closures with little access to their belongings or homes. In response to the frightening and chaotic disarray Norfolk Southern caused, and public pressure, the company opened a Family Assistance Center in New Waterford, Ohio, a neighboring town requiring almost 20 minutes travel time from Darlington Township. Families needed to transport themselves to the Center to show proof that they were evacuated so they could qualify for a \$1,000 inconvenience payment. In addition, the company started to allow individuals to present evidence of receipts for shelter, food, and clothing to qualify for reimbursements.

Norfolk Southern made payments to many of the affected families and also reimbursed those who had expenses due to needing to flee their homes to escape the health hazards caused by the derailment and the subsequent burning of the spilled chemicals. These payments were subsequently reported to the IRS by Norfolk Southern and sent to the affected individuals using Form 1099. Unfortunately, the affected Pennsylvanians will now have to pay taxes on these reimbursements as if they were income, rather than a reimbursement for the reasonable and necessary costs incurred by families due to this catastrophic disaster.

Therefore, I call on the Department of the Treasury and the Internal Revenue Service to invoke your authority under Section §139 of the Internal Revenue Code and recognize that the Norfolk Southern accident was “of a catastrophic nature” and that therefore the reasonable and necessary payments made to these families are exempt from tax. Congress gave this authority to you for a situation such as what occurred following the Norfolk Southern derailment disaster. The Pennsylvania victims of this disaster should not be forced to pay tax on reimbursements for the hardship they endured and the losses they suffered. These payments were not income, and the Treasury and IRS should use their authority and not recognize them as such.

Thank you for your consideration. I appreciate your efforts to serve the American people and to implement a fair and just tax system.

Sincerely,


Robert P. Casey, Jr.
United States Senator