

Tax Relief in Disaster Situations



Special Relief Provisions

This presentation provides information on tax relief that is generally available for casualty losses. It also addresses special rules that apply when losses occur in **Federally Declared Disaster Areas**. However, when a major disaster occurs, such as Hurricane Katrina, Congress may pass legislation specific only to that particular event.

Disaster Area Loss

A "**disaster area** loss" is a casualty loss that occurred in an area determined by the President of the United States to warrant Federal disaster assistance. These places are known as "**Federally Declared Disaster Areas**".

Affected Taxpayer

- Principal place of business or residence is located in the disaster area
- Relief workers affiliated with a government or philanthropic organization assisting victims
- Tax records are located in the disaster area

Objectives

To Discuss:

- Federal Tax Relief Available to Taxpayers in a **Disaster Area**
- Calculating & Reporting Casualty Losses/Gains
- Information About **Federally Declared Disaster Areas**

Possible Tax Relief for Disaster Area Situations

Special provisions may help relieve taxpayers from the impact of a disaster. The IRS *may*:

- Grant additional time to file, pay, and perform certain other acts during the “postponement period”
- Waive or abate interest and late filing or late payment penalties
- Establish “waiver period” for employment and excise tax

Washington Deadlines (beginning on or after Jan. 6, 2009)

- “Postponement” period for filing returns and making payments ends on March 9, 2009
- “Waiver” period for depositing employment and excise taxes ended January 21, 2009

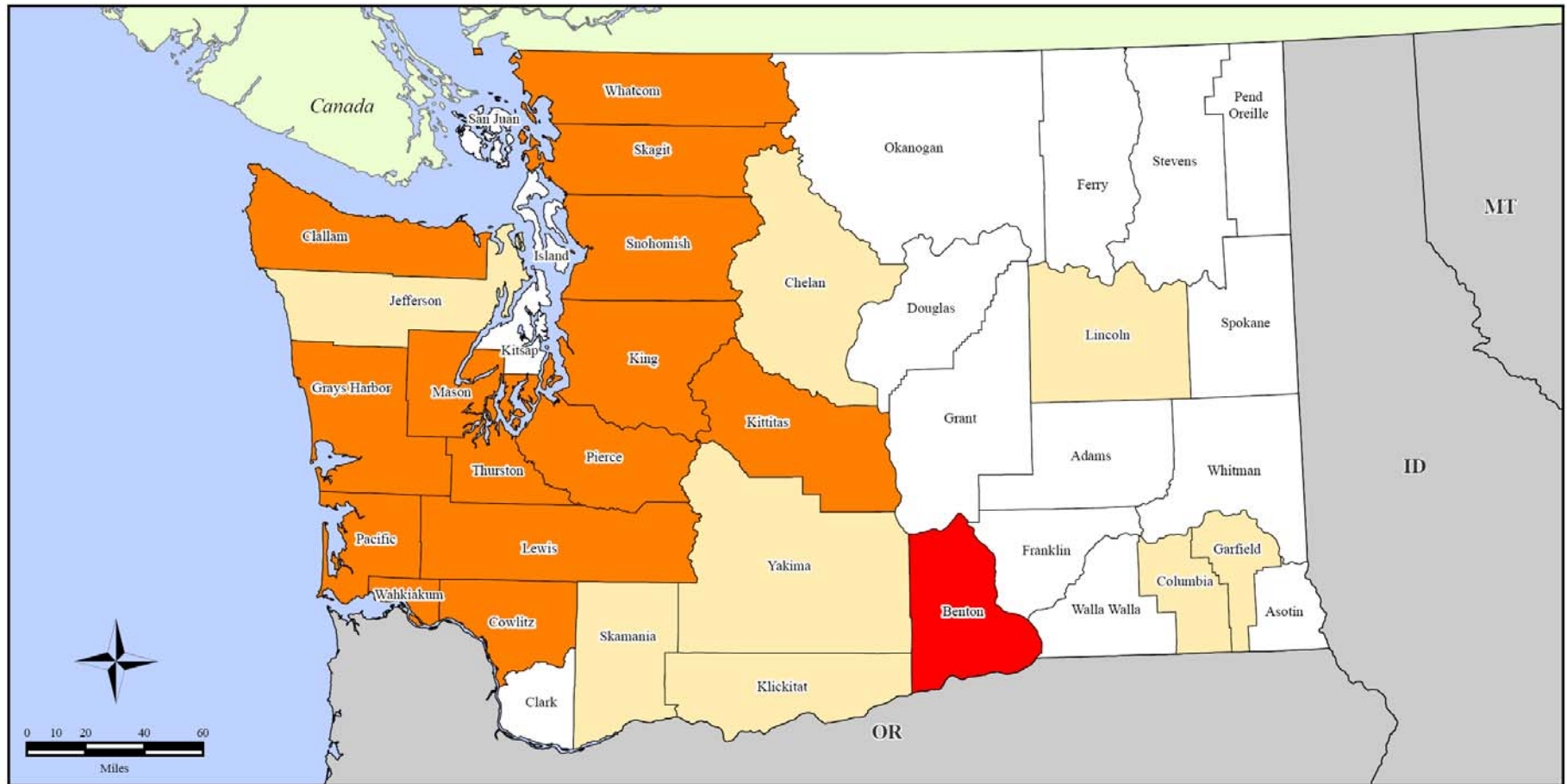
Prior Year Tax Returns

- File Form 4506 to secure photocopies of prior year of income tax returns.
- The fee is waived if your loss is in a **Federally Declared Disaster Area**.
- Write in the applicable disaster title information in **red** at the top of F4506 to expedite processing and waiver the fees.

Prior Year Tax Return Transcripts

- Transcripts of tax returns processed during the three prior processing years can be obtained by filing Form 4506-T or by visiting a Taxpayer Assistance Center.
- Transcripts are free.





FEMA-1817-DR, Washington Disaster Declaration as of 02/11/2009



Location Map



Legend

Designated Counties	
	No Designation
	Public Assistance
	Individual Assistance
	Individual Assistance and Public Assistance

All counties are eligible for Hazard Mitigation



ITS Mapping & Analysis Center
Washington, DC
02/11/09 -- 02:13 PM EST

Source: Disaster Federal Registry Notice
Amendment No. 2 - 02/11/2009

Casualty Determination

A casualty is the damage, destruction, or loss of property resulting from an identifiable event that is sudden, unexpected, or unusual.

Casualty Determination (cont'd)

- A sudden event is one that is swift, not gradual or progressive.
- An unexpected event is one that is ordinarily unanticipated and unintended.
- An unusual event is one that is not a day-to-day occurrence and that is not typical of the activity in which you were engaged.

Casualty Loss Proof

Information needed to support the loss:

- The type of casualty (car accident, fire, storm, etc.) and when it occurred
- The loss was a direct result of the casualty
- You were the owner of the property, or if a lessee, you were contractually liable for the damage

Casualty Loss Proof (cont'd)

- Whether a claim for reimbursement exists for which there is a reasonable expectation of recovery.
- Documented evidence to support the claimed allowable loss.

To Prove a Loss

Records may have to be reconstructed.

- The information gathered will be used for tax purposes, as well as insurance reimbursement.
- Information about reconstructing records is available at www.irs.gov. Type “reconstructing your records” in the search box

Casualty Loss Publications

IRS publications that are helpful in reporting casualty losses:

Pub 547, *Casualties, Disasters and Thefts*

Pub 584, *Loss Workbook for Individuals*

Pub 584-B, *Loss Workbook for Businesses*

Loss Calculations

To calculate loss:

1. Determine:
 - a. adjusted basis before disaster
 - b. decrease in fair market value (FMV) as a result of disaster
2. Subtract any insurance or other reimbursement received from the smaller of (a) or (b) above

Loss Calculations

Federally Declared Disaster Areas:

- Disaster relief payments do not reduce casualty loss unless used to replace lost or destroyed property.
- Cancelled federal disaster loans do reduce casualty loss.
- Disaster relief grants do reduce casualty loss to the extent the loss is specifically reimbursed by these grants.

Loss Limits

Casualty losses of personal-use property and employee property are reduced by:

- \$500 “deductible” per event for personal use property (2009)
- 10% of AGI for personal use property
- 2% of AGI if used for business by employee

Losses Limits (cont'd)

Personal-use and employee rules in
Federally Declared Disaster Areas (2009)

- \$500 “deductible” per event for personal use property
- *No AGI limit for personal use property*
- 2% of AGI if used for business by employee

Loss Treatments

Casualty Losses - Adjustments to Basis

- Decrease basis in property by
 - any insurance/other reimbursement
 - any deductible loss
- Increase basis in property by
 - Amount you spend on repairs that prolong life of property, increase value, or adapt it to different use.

Taxability of Payments – Disaster Areas

When used to meet reasonable and necessary daily living expenses:

- Federal disaster relief grants are not taxable unless they are unemployment payments.
- Qualified disaster relief payments are not taxable to the extent any expenses paid by these payments are not otherwise paid for by insurance or other reimbursement.

FEMA Mitigation Programs

FEMA Mitigation Payments are not includable in income:

- Flood Mitigation Assistance Program (FMA)
- Pre-Disaster Mitigation Program (PDM)
- Hazard Mitigation Grant Program (HMGP)

** No increase in basis for payments received under these programs

Gains on Casualty

If you receive an insurance payment or other reimbursement in excess of the adjusted basis of destroyed property you will have a gain.

$$\begin{array}{r} \text{Amount received} \\ - \text{(Adjusted basis)} \\ \hline = \text{Gain} \end{array}$$

Gains on Casualty (cont'd)

If your main home is destroyed and the insurance proceeds result in a gain:

- You can treat this as a sale of residence subject to the same rules.
- The maximum gain exclusion will apply if, as of the date the home was destroyed, the taxpayer, during the 5 year period before the home was destroyed:
 - Owned and occupied the home for at least 2 years;
 - Had not, within 2 previous years, sold another principal residence upon which gain was excluded.

Gains on Casualty (cont'd)

- A reduced maximum gain exclusion will apply if, as of the date the home was destroyed, the taxpayer
 - Had not owned the home for 2 years;
 - Had not occupied the home as a principal residence for 2 years; or
 - Had, within 2 previous years, sold or exchanged another principal residence.

Gains on Casualty (cont'd)

You do not have to recognize gain on destroyed property if it is replaced within two years of the end of the tax year in which gain is realized.

Example: If you receive payment in 2009 resulting in a gain, you must replace the property by 12/31/2011 to defer gain.

Gains on Casualty (cont'd)

If a casualty to your main home is in a **Federally Declared Disaster Area...**

- you can postpone any gain on your main home if you buy a new home within 4 years after the end of the first tax year in which any gain is realized.

Gains on Casualty (cont'd)

Federally Declared Disaster Areas:

- No gain is recognized on any insurance proceeds received for “unscheduled” personal property that was part of the contents of a main home.

Gains on Casualty (cont'd)

Federally Declared Disaster Areas:

- Insurance proceeds received for the home and any “scheduled” property are treated as received for a single item of property.
- Gain is recognized to the extent that insurance proceeds for the home and “scheduled” property exceed the replacement cost of the home and any of its contents, scheduled and/or unscheduled.

Gains on Casualty (cont'd)

Federally Declared Disaster Areas:

- Any tangible replacement property acquired for use in business is treated as similar or related in use to the destroyed property.

Gains on Casualty (cont'd)

Generally, you cannot postpone gain if you buy replacement property from a related party.

Applies to:

- C Corps
- Partnerships in which more than 50% of the capital or profits is owned by a C Corp
- All others if the total realized gain for the year is over \$100,000.

Gains on Casualty (cont'd)

Basis of replacement property:

Cost of replacement property

(Postponed casualty gain)

Adjusted basis of replacement property

Reporting Casualty Gains/Losses

Personal-use property: Form 4684
Casualties and Thefts, Section A

- Losses carry to Form 1040 Schedule A, *Itemized Deductions* or, for **Disaster Areas**, Form 1040 Line 40 Standard Deductions
- Gains carry to Form 1040 Schedule D, *Capital Gains/Losses*

Reporting Casualty Gains/Losses

Business, employee, or income producing property:

- Form 4684, *Casualties and Thefts, Section B*, and gains or losses are then carried to various other forms. See the Instructions for Form 4684.

Reporting Casualty Gains/Losses (cont'd)

Insurance reimbursement after deducting loss:

- If less than expected, include difference as loss on return for year when you can reasonably say you're not getting any more money.

Reporting Casualty Gains/Losses (cont'd)

Insurance reimbursement after deducting loss:

- If greater than expected, include difference as income in the year received.

Net Operating Losses

- Individual or Business casualty losses can generate Net Operating Losses (NOLs)
- Generally, NOLs generated by casualty losses can be carried back 2 years or forward 20 years; **Disaster Area**, the carryback can be 5 years.

Filing Options for Disaster Area Losses

- General rule: claim the casualty loss in the year the casualty occurred
- In a **disaster area**: follow the general rule or claim the loss in the immediately preceding year, perhaps by filing an amended return

Filing Options for Disaster Area Losses (cont.)

- Claiming the loss on an original or amended return for preceding year may result an earlier refund, but waiting to claim the loss on the return for the year of loss could result in a greater tax saving, depending on other income factors.

Disaster Area Filing Procedures

Election to take casualty loss in preceding tax year must be made by the later of the following dates:

- Due date (without extensions) for filing tax return for the tax year in which the disaster occurred.
- Due date (with extensions) for filing tax return for the preceding tax year.

Example: A calendar year taxpayer ordinarily has until April 15, 2008 to amend a 2006 tax return to claim a casualty loss that occurred during 2007.

Disaster Filing Procedures (cont'd)

How to deduct a loss in the preceding year:

- Include a statement electing the choice with the following information:
 - Date or dates of disaster
 - City, Town, County and State of disaster
- Statement can be either on the return or included with the return

Disaster Filing Procedures (cont'd)

Once election is made, it can be revoked within 90 days of making the election.

- Must return any refund or credit received from making the choice.
- If revoked prior to getting refund, must return refund within 30 days of receiving it for revocation to be effective.

IRS Disaster Assistance and Emergency Relief Program

- Administered by the National Disaster Assistance Coordinator
- Coordinated locally by the State Disaster Assistance Coordinator
- IRS works closely with FEMA and other government agencies

FEMA Disaster Recovery Centers

- IRS provides staffing at major centers
 - Hand out disaster publications
 - Provide information on casualty loss determinations
 - Assist with questions on tax laws and procedures
 - Assist with record reconstruction

Disaster Area Relief Options

- Filing extensions
- Payment extensions
- Time sensitive act extensions
- Penalty abatements
- Waiver of photocopying fees
- Expediting of photocopy requests
- Suspension of compliance activities

Disaster Area Tax Treatments

- Special Tax Treatment Rules Apply
 - Treatment of relief payments/grants
 - Calculation of gain on destroyed home
 - 4 years to replace destroyed home
 - Casualty loss can be claimed on “preceding year” return
 - Personal property losses not subject to 10% AGI limit and may be added to Standard Deduction

Affected Taxpayer

- Zip coded identification by IRS
- Self-identification by affected taxpayer if filing from a Zip code outside the Disaster Area

Helpful Tips

- Stay current with return filings
- Safeguard financial and tax records
- Document the fair market of assets
- Adjust your W-4 withholding, if appropriate
- Contact IRS with questions

Federally Declared Disaster Areas

Information about **Federally Declared Disaster Areas** can be found at:

www.irs.gov

In the Search box on the upper right, type in “disaster”. On the results page, click the first link “Tax Relief in Disaster Situations”.



SEARCH

Advanced Search Search Tips

- Individuals
- Businesses
- Charities & Non-Profits
- Government Entities
- Tax Professionals**
- Retirement Plans Community
- Tax Exempt Bond Community

- Corporations
- International Businesses
- Partnerships
- Small Business/Self-Employed

Disaster Assistance and Emergency Relief for Individuals and Businesses

Small Business/Self-Employed

- Industries/Professions
- International Taxpayers
- Self-Employed

Small Business/Self-Employed Topics

- A-Z Index for Business
- Small Business Events
- Stakeholder Headliners
- Small Business Videos
- Partners & Stakeholders
- Employment Taxes
- State Links
- Subscribe to e-News
- More Topics ...

IRS Resources

- Compliance & Enforcement
- Contact My Local Office
- e-file

Overview

Special tax law provisions may help taxpayers and businesses recover financially from the impact of a disaster, especially when the federal government declares their location to be a major disaster area. Depending on the circumstances, the IRS may grant additional time to file returns and pay taxes. Both individuals and businesses in a federally declared disaster area can get a faster refund by claiming losses related to the disaster on the tax return for the previous year, usually by filing an amended return.

The IRS also offers audio presentations on Planning for Disaster. These presentations discuss business continuity planning, insurance coverage, recording keeping and other tips to stay in business after a major disaster.

Preparing for Disasters

Are your home and/or business ready if a disaster strikes? Get information and suggestions on paperless recordkeeping, documenting assets and valuables, and emergency planning.

Help During Disasters

We know that major disasters and emergencies in your area will affect many families and businesses. While we hope you are spared any loss, we realize this may not be true for everyone, and we want to let you know how the IRS can help.

Tax Relief in Disaster Situations

Special tax law provisions may help taxpayers recover financially from the impact of a disaster, especially when the president declares their location to be a major disaster area.

Around the Nation

This section of our Web site provides IRS news specific to local areas, primarily disaster relief or tax provisions that affect certain states.

Tax Topic 515 - Casualty, Disaster, and Theft Losses

Additional Sources of Information

- IRS disaster hotline – 1-866-562-5227
- Local IRS Taxpayer Assistance Center
Bellevue, Bellingham, Everett, Richland, Olympia, Seattle, Silverdale, Spokane, Tacoma, Vancouver, Yakima
- Publication 2194, *Disaster Loss Kit for Individuals*
- Publication 2194-B, *Disaster Loss Kit for Businesses*

Questions & Answers

- Type your question into the chat box in the lower left corner of your screen.
- If we don't get to your question, we will email you after the presentation with the answer.
- You may also email questions to us after the presentation at:
SL.Northwest@irs.gov