Hawaii Wildfires Disaster Tax Matters

Now what? Recovery Relief!

HSCPA
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Resources

Filing Deadlines

- **Code Section 7508A (https://www.law.cornell.edu/uscode/text/26/7508A)**
- **Regulation § 301.7508A-1. Postponement of certain tax-related deadlines by reason of Presidentially declared disaster**
- **Revenue Procedure 2018-58 (rp-18-58.pdf (irs.gov))**
- **Internal Revenue Manual(https://www.irs.gov/irm)**
- **AICPA Tax Section (https://www.aicpa-cima.com/resources/landing/disaster-relief-resource-center)**
- **Code Section 139**
- ***Local CPA/MAP Roundtable Groups***

Casualty Loss

- **Code Section 165 and Regulations**
- **Form 4684 and Instructions**
- **Revenue Procedure 2018-08**
- **Publication 547**
- **Publication 584 Workbook**
- **Code Section 1033 and Regulations**

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Topics for Today

Filing Deadlines

- Code Section and Regulations
- Revenue Procedure 2018-58
- Taxpayer acts covered
- Government acts covered
- Individual Master File and Business Master File actions
- Account freezes as indicated in the Internal Revenue Manual
- Fiscal year ends
- Self identify process
- Code Section 139 Payments

Casualty Loss

- Qualified Disaster Loss
- Individual Casualty Loss
- 165(i) Election
- 121 Exclusion
- Business Casualty Loss
- Involuntary Conversions
- Personal Belongings

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§ 7508A Authority to postpone certain deadlines by reason of federally declared disaster, significant fire, or terroristic or military actions.

(a) In general.

In the case of a taxpayer determined by the Secretary to be affected by a federally declared disaster (as defined by section 165(i)(5)(A)), a significant fire, or a terroristic or military action (as defined in section 692(c)(2)), the Secretary may specify a period of up to one year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer-

(b) Special rules regarding pensions, etc.

(c) Special rules for overpayments.

(d) Mandatory 60-day extension

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“(d) MANDATORY 60-DAY EXTENSION.—

“(1) IN GENERAL.—In the case of any qualified taxpayer, the period—

“(A) beginning on the earliest incident date specified in the declaration to which the disaster area referred to

in paragraph (2) relates, and

“(B) ending on the date which is 60 days after the latest incident date so specified, shall be disregarded in the same manner as a period specified under subsection (a).

“(2) QUALIFIED TAXPAYER.—For purposes of this subsection, the term ‘qualified taxpayer’ means—

“(A) any individual whose principal residence (for purposes of section 1033(h)(4)) is located in a disaster area,

“(B) any taxpayer if the taxpayer’s principal place of business (other than the business of performing services as an employee) is located in a disaster area,

“(C) any individual who is a relief worker affiliated with a recognized government or philanthropic organization and who is assisting in a disaster area,

“(D) any taxpayer whose records necessary to meet a deadline for an act described in section 7508(a)(1) are maintained in a disaster area,

“(E) any individual visiting a disaster area who was killed or injured as a result of the disaster, and

“(F) solely with respect to a joint return, any spouse of an individual described in any preceding subparagraph of this paragraph.

“(3) DISASTER AREA.—For purposes of this subsection, the term ‘disaster area’ has the meaning given such term under subparagraph (B) of section 165(i)(5) with respect to a Federally declared disaster (as defined in subparagraph (A) of such section).

“(4) APPLICATION TO RULES REGARDING PENSIONS.—In the case of any person described in subsection (b), a rule similar to the rule of paragraph (1) shall apply for purposes of subsection (b) with respect to—

“(A) making contributions to a qualified retirement plan (within the meaning of section 4974(c)) under section 219(f)(3), 404(a)(6), 404(h)(1)(B), or 404(m)(2),

“(B) making distributions under section 408(d)(4),

“(C) recharacterizing contributions under section 408A(d)(6), and

“(D) making a rollover under section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3).

COORDINATION WITH PERIODS SPECIFIED BY THE SECRETARY.—

period described in paragraph (1) with respect to any person (including by reason of the application of paragraph (4)) shall be ldition to (or concurrent with, as the case may be) any period specified under subsection (a) or (b) with respect to such on.”

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“(d) MANDATORY 60-DAY EXTENSION.—

“(1) IN GENERAL.—In the case of any qualified taxpayer, the period—

“(A) beginning on the earliest incident date specified in the declaration to which the disaster area referred to

in paragraph (2) relates, and

“(B) ending on the date which is 60 days after the latest incident date so specified, shall be disregarded in the same manner as a period specified under subsection (a).

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7508A(d)-Refer to the four examples in the Regulations.

Practice Issue

Language in 7508A

Postponement v. Extension

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Practice Issue

Montana Flooding (DR-4726-MT)

Incident Period: April 10, 2023 - April 26, 2023

Major Disaster Declaration declared on August 12, 2023

What relief does IRS grant with these "after the event" Major Disaster Declarations? Remember mandatory 60 day extension per 7508A(d). What issues arose from Broward County flooding mentioned below?

Florida Severe Storms, Tornadoes, and Flooding (DR-4709-FL)

(Broward County)

Incident Period: April 12, 2023 - April 14, 2023

Major Disaster Declaration declared on April 27, 2023

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Regulations-Definitions

- “Affected” taxpayers
- Postponed deadlines v. extended deadlines
- Taxpayer “Acts”
- Government “Acts”
- Original due date
- Extended due date
- Postponed original due date
- Postponed extended due date
- ***See examples in Regs***

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Affected Taxpayers

Any individual, any business entity or sole proprietor:

- **whose principal residence or principal place of business, is located in the covered disaster area**
- **who is a relief worker affiliated with a recognized government or philanthropic organization and who is assisting in the covered disaster area**
- ***whose principal residence or principal place of business, is not located in the covered disaster area, but whose records necessary to meet a filing or paying deadline are maintained in the covered disaster area***
- **Any estate or trust that has tax records necessary to meet a filing or paying deadline in a covered disaster area**
- **The spouse of an affected taxpayer, solely with regard to a joint return of the husband and wife**
- **Any individual visiting the covered disaster area who was killed or injured as a result of the disaster**
- **Any other person determined by the IRS to be affected by a federally declared disaster**

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Practice Issue

Inconsistency between Code Sections, Regulations, and IRS website

Regulation:

(vii) Any individual, business entity, or sole proprietorship not located in a covered disaster area, but whose records necessary to meet a deadline for an act specified in paragraph (c) of this section are located in the covered disaster area;

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U.S. Federal Tax Law Hierarchy

U. S. Constitution

Internal Revenue Code (IRC)

Regulations (Regs.)

Tax Treaties

IRS Pronouncements

- Rev Rules
- Rev Procedures
- Treasury Decisions (TDs)
- Private Letter Rulings (PLRs) and Technical Advice Memoranda (TAM)

Tax Journal Articles

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Practice Issue

IRS FAQs:

Affected Taxpayers and Records

Definition of an Affected Taxpayer

An affected taxpayer includes:

- An individual
- Any business entity or sole proprietor
- Any shareholder in an S Corporation

A taxpayer does not have to be located in a federally declared disaster area to be an "affected taxpayer." ***Taxpayers are considered "affected" if records necessary to meet a filing or payment deadline postponed during the relief period are located in a covered disaster area.*** See 26 CFR § 301.7508A-1(d)(1) for more information.

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Practice Issue

IRS FAQs:
Q1: Does disaster relief apply to me if my tax preparer is in a disaster area, but I am not?

A: Disaster relief applies to the clients of tax preparers who are unable to file returns or make payments on behalf of the client because of a federally declared disaster. Therefore, if you are a taxpayer outside of the disaster area, you may qualify for relief if:

- ***your preparer is in the federally declared disaster area, and***
- ***the preparer is unable to file or pay on your behalf.***

To get the postponement for filing or payment, you must:

- **Call the Disaster Hotline at 866-562-5227**
- **Explain your necessary records are located in a covered disaster area**
- **Provide the FEMA Disaster Number of the area where your tax preparer is located.**

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Government Acts Eligible for Relief

- **Assessing tax**
- **Giving or making *any notice* or demand for payment of tax, or… *to any liability* to the US in respect of *any tax***
- **Collecting, by levy or otherwise, of *any liability***
- **Bringing suit ……**
- **Allowing a credit or refund**
- ***Any other acts specified in a revenue ruling, revenue procedure, notice, or other guidance***

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Key Terms

- ***Federally*** declared disaster area
- **Relief from interest, penalties, additional amounts, or additions to tax during *postponement period***
- **Acts eligible for relief**
- **Affected taxpayers**

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Terminology

- ***<u>The later of the extended due date or the end of the postponement period</u>***
- **Original due date**
- **Postponed original due date per 7508A**
- **Extended due date**
- **Postponed extended due date per 7508A**
- ***<u>Example-April 15th (original due date) or XXXXX (postponed original due date)</u>***
- ***<u>Example-October 15th(extended due date) or January 31st(end of postponement period)</u>***

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7508A Regs-Example (4)-continued

(iii) Because H and W's principal residence is in County M, H and W are affected taxpayers. April 15, 2009, the due date for the filing of H and W's 2008 Form 1040 and Schedule H, falls within the postponement period described in the IRS published guidance. *Thus, H and W's return will be timely if filed on or before June 2, 2009. If H and W request an extension of time to file under section 6081 on or before June 2, 2009, the extension is deemed to have been filed by April 15, 2009.* Thus, H and W's return will be timely if filed on or before October 15, 2009.

(iv) April 15, 2009, is also the due date for the payment due on the return. This date falls within the postponement period described in the IRS published guidance. *Thus, the payment of tax due with the return will be timely if paid on or before June 2, 2009 the last day of the postponement period. If H and W fail to pay the tax due on the 2008 Form 1040 by June 2, 2009, and do not receive an extension of time to pay under section 6161, H and W will be subject to failure to pay penalties and accrual of interest beginning on June 3, 2009*.

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Tax Relief in Disaster Situations |

https://www.irs.gov/newsroom/tax-relief-in-disaster-situations

IRS File Pay Refunds Credits & Deductions Forms & Instructions Search

- Tax Reform
- Taxpayer First Act
- Tax Scams/Consumer Alerts
- The Tax Gap
- Fact Sheets
- IRS Tax Tips
- e-News Subscriptions
- IRS Guidance
- Media Contacts
- IRS Statements and Announcements

Check the list below for all disaster relief guidance issued by the IRS by date.

2023

- IR-2023-128, IRS reminder to storm victims in 4 states: File and pay by July 31; parts of Arkansas, Indiana, Mississippi and Tennessee affected
- VT-2023-01, IRS announces tax relief for victims of Vermont flooding
- IR-2023-125, IRS: Vermont flooding victims now eligible for tax relief; Oct. 16 deadline, other dates extended to Nov. 15
- GU-2023-01, IRS announces tax relief for victims of Typhoon Mawar in Guam
- NMI-2023-01, IRS announces tax relief for victims of Typhoon Mawar in the Commonwealth of the Northern Mariana Islands
- CA-2023-04, IRS announces tax relief for victims of severe winter storms, straight-line winds, flooding, landslides, and mudslides in California
- IR-2023-94, IRS: Florida storm victims qualify for tax relief; April 18 deadline, other dates extended to Aug. 15
- FL-2023-04, IRS announces tax relief for victims of severe storms, tornadoes and flooding in Florida
- OK-2023-01, IRS announces tax relief for victims of severe storms, straight-line winds and tornadoes in Oklahoma
- IR-2023-88, IRS: Indiana storm victims qualify for tax relief; April 18 deadline, other dates extended to July 31
- IN-2023-02, IRS announces tax relief for victims of severe storms, straight-line winds and tornadoes in Indiana
- TN-2023-02, IRS announces tax relief for victims of severe storms, straight-line winds and tornadoes in Tennessee
- IR-2023-75, IRS: Tennessee storm victims qualify for tax relief; April 18 deadline, other dates extended to July 31
- IR-2023-68, IRS: Arkansas storm victims qualify for tax relief; April 18 deadline, other dates extended to July 31
- AR-2023-01, IRS announces tax relief for victims of severe storms and tornadoes in Arkansas

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7508A Regs-Example (6)

(i) A is an unmarried, calendar year taxpayer whose principal residence is located in County W in State Q. A intends to file a Form 1040 for the 2008 taxable year.

The return is due on April 15, 2009. A timely files Form 4868, "Application for Automatic Extension of Time to File U.S. Individual Income Tax Return.“

Due to A's timely filing of Form 4868, the extended filing deadline for A's 2008 tax return is October 15, 2009.

Because A timely requested an extension of time to file, A will not be subject to the failure to file penalty under section 6651(a)(1), if A files the 2008 Form 1040 on or before October 15, 2009. *However, A failed to pay the tax due on the return by April 15, 2009, and did not receive an extension of time to pay under section 6161. Absent reasonable cause, A is subject to the failure to pay penalty under section 6651(a)(2) and accrual of interest.*

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Example 6-*There was a balance due on the original due date of April 15th.*

Important Terms:

- ***Extension of time to file-Yes***
- ***Extension of time to pay-No(tax was due on 4/15)***
- ***Interest accruing-Yes(balance due on 4/15-due date for payment and filing)***

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Individual Master File and Business Master File Actions

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IRM 21.5.6.4.30 (10-01-2016)
-O Freeze

- The -O (Disaster Indicator) freeze will only be input systemically by Information Technology Services (IT) at the request of the Disaster Program Office or on a case-by-case basis by Compliance personnel. Employees outside of Compliance will no longer input the -O freeze.
- Reminder:
- Taxpayers will no longer self-identify for disaster relief by writing a disaster designation in red at the top of their tax return.
- The -O freeze allows for special penalty and interest calculations
- The -O freeze suppresses some Master File and IDRS notices
- The -O freeze does not freeze the module from refunding
- The -O freeze may be systemically set on identified taxpayer accounts in presidentially declared disaster areas
- The -O freeze is released when the current date is beyond the secondary date (disaster ending date) of the TC 971 AC 087
- When performing account research the -O freeze is seen on CC ENMOD, CC IMFOLE or CC BMFOLE.
- If a Practitioner calls, is located in a covered disaster area and maintains records for several taxpayers located outside the disaster area, inform the Practitioner to:
- Call the Special Service line 1-866-562-5227

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IRM 21.5.6.4.30 (10-01-2016)
-O Freeze

- **Prepare an excel spreadsheet for 10 or more taxpayers and mail it to:**
  Internal Revenue Service
  Special Services Section
  1 Independent Drive Suite 500
  Stop 6000
  Jacksonville, FL 32202
  Refer the practitioner to the IRS website for Tax-Professionals/Bulk-Requests-from-Practitioners-for-Disaster-Relief, for additional information on completing the spreadsheet.
- **For additional disaster related information refer to:**
- **IRM 25.16.1.1, *Overview*, for disaster and emergency relief information on administrative guidance and cross-functional operating procedures**
- **IRM 20.1.2.1.2.2, *Federal Disaster Area - IRC 7508A* and IRM 20.2.7.11, *IRC 7508A, Presidentially Declared Disaster or Terroristic or Military Actions***
- **IRM 21.5.3.4, *General Claims Procedures*, for expedited processing of disaster claims**
- ***A new -S freeze has been added to IMF and BMF Master File processing for Presidentially declared disaster areas. Refer to IRM 21.5.6.4.37, -S Freeze, for additional information.***

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O Freeze and S Freeze

The -O (Disaster Indicator) freeze is only input systemically by Information Technology Services (IT) at the request of the Disaster Program Office or on a case-by-case basis by Compliance personnel.

- The -O freeze allows for special penalty and interest calculations.
- The -O freeze suppresses some Master File and IDRS notices.
- The -O freeze does not freeze the module from refunding.
- The -O freeze may be systemically set on identified taxpayer accounts in Federally declared disaster areas.
- The -O freeze is released when the current date is beyond the secondary date (disaster ending date) of the TC 971 AC 087.

"The -S freeze [was] added to IMF and Business Master File (BMF) processing for taxpayer accounts in [federally] declared disaster areas. The -S freeze performs the same functions as the -O freeze for systemic penalty and interest relief. However, it does not provide compliance relief." The IRM further explains, "The -S freeze is released when the current date is beyond the secondary date (disaster ending date) of the TC 971 AC 688."

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Fiscal Year Extensions

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Fiscal Year Extensions
Returns due the 15th day of the third month following the year end(1065 and 1120S)

Year End	Extension Due Date	Extension Granted to	Return/Extension would be due
1/31/2018	4/15/2018	10/15/2018	***2/28/2019***
2/28/2018	5/15/2018	11/15/2018	***2/28/2019***
3/31/2018	6/15/2018	12/15/2018	***2/28/2019***
4/31/2018	7/15/2018	1/15/2019	***Extension and return would be due 2/28/2019***
5/31/2018	8/15/2018	2/15/2019	***Return due on 2/28/2019***
6/30/2018	9/15/2018	3/15/2019	***Return due on 3/15/2019***
7/31/2018	10/15/2018	4/15/2019	***Extension would be due 2/28/2019***
8/31/2018	11/15/2018	5/15/2019	***Extension would be due 2/28/2019***
9/30/2018	12/15/2018	6/15/2019	***Extension would be due 2/28/2019***
10/31/2018	1/15/2019	7/15/2019	***Extension would be due 2/28/2019***
11/30/2018	2/15/2019	8/15/2019	***Extension would be due 2/28/2019***

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Fiscal Year Extensions
Returns due the 15th day of the fourth month following the year end(1120 and 1041)

Year End	Extension Due Date	Extension Granted to	Return/Extension would be due
1/31/2018	5/15/2018	11/15/2018	***2/28/2019***
2/28/2018	6/15/2018	12/15/2018	***2/28/2019***
3/31/2018	7/15/2018	1/15/2019	***2/28/2019***
4/31/2018	8/15/2018	2/15/2019	***Return due 2/28/2019***
5/31/2018	9/15/2018	3/15/2019	***Extension would be due 1/31/2019***
6/30/2018	10/15/2018	4/15/2019	***Extension would be due 2/28/2019***
7/31/2018	11/15/2018	5/15/2019	***Extension would be duse 2/28/2019***
8/31/2018	12/15/2018	6/15/2019	***Extension would be due 2/28/2019***
9/30/2018	1/15/2019	7/15/2019	***Extension would be due 2/28/2019***
10/31/2018	2/15/2019	8/15/2019	***Extension would be due 2/28/2019***

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Returns due the 15th day of the fourth month following the year end(1041)
(Extension is for 5 ½ months)

Year End	Extension Due Date	Extension Granted to	Return/Extension would be due
1/31/2018	5/15/2018	10/31/2018	***2/28/2019***
2/28/2018	6/15/2018	11/30/2018	***2/28/2019***
3/31/2018	7/15/2018	12/31/2018	***2/28/2019***
4/31/2018	8/15/2018	1/31/2019	***Return due 2/28/2019***
5/31/2018	9/15/2018	2/28/2019	***No Effect***
6/30/2018	10/15/2018	3/31/2019	***Extension would be due 2/28/2019***
7/31/2018	11/15/2018	4/30/2019	***Extension would be duse 2/28/2019***
8/31/2018	12/15/2018	5/31/2019	***Extension would be due 2/28/2019***
9/30/2018	1/15/2019	6/30/2019	***Extension would be due 2/28/2019***
10/31/2018	2/15/2019	7/31/2019	***Extension would be due 2/28/2019***

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Self Identify Process

From IRS:

The IRS automatically identifies taxpayers located in the covered disaster area and applies automatic filing and payment relief. But affected taxpayers who reside or have a business located outside the covered disaster area must call the IRS disaster hotline at 1-866-562-5227 to request this tax relief.

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IRS Phone Calls

- Disaster Hotline for Individuals
- PPS for Businesses
- Date and Time
- Badge Number
- News release(be specific)(For Hurricane XXXX-FL-2023-XX) and FEMA Declaration Number(FEMA-DR-XXXX-FL)
- Affected taxpayer
- Affected area
- Covered by 7508A
- Relief from penalty and interest

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IRS Notices

- **List in correspondence:**
  News release(be specific)(For Hurricane XXXX-FL-2023-XX)
- **FEMA Declaration Number(FEMA-DR-XXXX-FL)**
  Affected taxpayer
  Affected area
  Covered by 7508A
  Relief from penalty and interest
  OR
  Contact Disaster Hot Line of Practitioner Hot Line

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IRS Notices

Internal Revenue Manual

- http://www.irs.gov/irm/part20/irm_20-001-001r.html
- **20.1.1.3.2 (12-11-2009)**
  Reasonable Cause
- **20.1.1.3.2.2.2 (12-11-2009) Fire, Casualty, Natural Disaster, or Other Disturbance**

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Sample Penalty Abatement And Taxpayer Advocate Letters

February 12, 2021

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HURRICANE MICHAEL
PENALTY ABATEMENT REQUEST SAMPLE LETTER
(Revised as of Sunday, December 02, 2018 7:11 PM)

This sample letter template is designed to assist CPAs thru the penalty abatement process in answering IRS notices on Hurricane Florence returns.

Date

Internal Revenue Service
Mailing Address
City, State Zip Code

Gentlemen:

Re: Name of Taxpayer(s)
Tax ID No.
Form XXXX-Tax Period
IRS Letter XXXX

My above referenced client(s) has/have requested I reply to your notice of (insert date of IRS Notice), a copy of which is enclosed herewith for your convenience.

An executed Form 2848(Power of Attorney and Declaration of Representative) authorizing me to correspond with you. Please reply directly to me.

I have reviewed your notice and my client's records.

Taxpayer lives within affected area and receives IRS Notice with penalty and interest

Taxpayer(s) resides in XXXXXXXXXXXXXX County. This County is listed in IRS Notice .

Accordingly, Taxpayer is covered under this notice and should not be assessed penalty and interest until January 21, 2018.

Mr. and Mrs. ___________ are residents of ___________ County, _________ and as such are covered by the interruption under Code Section 7508(A) for Hurricane Florence (FEMA DR 4393). The interrupted period as described in IRS News Release 2018-187 is from September 7, 2018 to January 31, 2019. A copy of this notice is also enclosed herewith for your convenience.

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Qualified Disaster Payments

Qualified Disaster Payments

- **A qualified disaster relief payment includes an amount (to the extent not compensated by insurance or otherwise) paid to or for the benefit of *an individual*:**
- ***To reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster (which includes a federal disaster),***
- ***To reimburse or pay reasonable and necessary expenses incurred to repair or rehabilitate a personal residence (including a rented residence) or repair or replace its contents to the extent that the need for the work results from a qualified disaster,* and**
- **If the amount is paid by a federal, state, or local government, or an agency or instrumentality of those governments, in connection with a qualified disaster in order to promote the general welfare (but not if payments are made to businesses or for income replacement or unemployment compensation).**

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Temporary Living Expenses

IRC Code Section 123 limits the exclusion for insurance reimbursement due to damage or denial of access to the amount by which actual expenses exceed normal living expenses.

Casualty Losses

Unique Issues

- High deductibles on insurance
- Repairs will be made over multiple years (Cash basis taxpayer-deduct when paid)
- Legal fees

Department of the Treasury
Internal Revenue Service

Publication 547
Cat. No. 15090K

Casualties, Disasters, and Thefts

For use in preparing
2021 Returns

Contents

What's New

Mandatory 60-day extension. Certain taxpayers affected by a federally declared disaster that occurs after December 20, 2019, may be eligible for a mandatory 60-day extension for certain tax deadlines such as filing or paying income, excise, and employment taxes; and making contributions to a traditional IRA or Roth IRA. See *Mandatory 60-day extension*, for more information.

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Definitions
IRS Publication 547

Three specific types of casualty losses are described in this publication.

1. **Federal casualty losses,**
2. **Disaster losses, and**
3. **Qualified disaster losses.**

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Federal Casualty Loss

A federal casualty loss is an individual's casualty or theft loss of personal-use property that is attributable to a federally declared disaster. The casualty loss must occur in a state receiving a federal disaster declaration. If you suffered a federal casualty loss, you are eligible to claim a casualty loss deduction. If you suffered a casualty or theft loss of personal-use property that wasn't attributable to a federally declared disaster, it isn't a federal casualty loss, and you may not claim a casualty loss deduction unless the exception applies.

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Disaster Loss

A disaster loss is a loss that is attributable to a federally declared disaster and that occurs in an area eligible for assistance pursuant to the Presidential declaration. The disaster loss must occur in a county eligible for public or individual assistance (or both). Disaster losses aren't limited to individual personal-use property and may be claimed for individual business or income-producing property and by corporations, S corporations, and partnerships. If you suffered a disaster loss, you are eligible to claim a casualty loss deduction and to elect to claim the loss in the preceding tax year.

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Qualified Disaster Loss

A qualified disaster loss also includes an individual's casualty and theft loss of personal-use property that is attributable to:

- A major disaster declared by the President under section 401 of the Stafford Act in 2016;
- Hurricane Harvey;
- Tropical Storm Harvey;
- Hurricane Irma;
- Hurricane Maria;
- The California wildfires in 2017 and January 2018; and
- A major disaster that was declared by the President under section 401 of the Stafford Act and that occurred in 2018 and before December 21, 2019, and continued no later than January 19, 2020 (except those attributable to the California wildfires in January 2018 that received prior relief).

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Casualty

- "***Casualty" = "the damage, destruction, or loss of property resulting from an identifiable event that is sudden, unexpected, or unusual,"***

- **Such as an "accident, a mishap, [or] some sudden invasion by a hostile agency."**

- **For example, property that is lost or misplaced does not give rise to a casualty loss unless it results from an event that is: (1) identifiable; (2) damaging to property; and (3) sudden, unexpected, or unusual in nature.**

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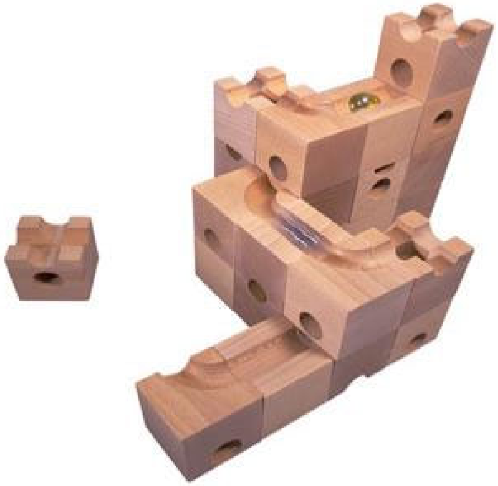
Basis, Basis, Basis



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Start with the Adjuster's Report

Claim Summary

Claim # 5114271900-1

Allstate Insurance-National Catastrophe Team

Adjuster
Rebekah L Emeigh
Phone
Fax

PO Box 94054
PALATINE, IL 60094
Phone (800) 547-8676 Fax (888) 859-3946

February 6, 2006

Insured Name [redacted]
Loss Address [redacted]
Phone Number [redacted]
Other Phone [redacted]
Ins Company Allstate Indemnity Company

Policy # [redacted]
Ins Claim # [redacted]

Catastrophe # K082505
Date of Loss 8/29/2005

AA - Dwelling

	Repl. Cost	Depr.	ACV
Estimate Totals	$8,103.64	$0.00	$8,103.64
Less Amount Not Subject To Overhead & Profit	($5,302.00)	$0.00	($5,302.00)
Amount Subject To Overhead & Profit	$2,801.64	$0.00	$2,801.64
Contractor's Overhead & Profit (31%)	$868.51	$0.00	$868.51
Sub-Total	$3,670.15	$0.00	$3,670.15
Amount Not Subject To Overhead & Profit	$5,302.00	$0.00	$5,302.00
Total With Overhead & Profit	$8,972.15	$0.00	$8,972.15
Sales Tax 9.00%	$122.04	$0.00	$122.04
Total With Tax	$9,094.19	$0.00	$9,094.19
Less Deductible Applied	($500.00)		($500.00)
AA - Dwelling Claim	$8,594.19	$0.00	$8,594.19

Appurt Structures or Mobile Home

Adjuster Rebekah L Emeigh

Allstate Insurance-National Catastrophe Team

PO Box 94054
PALATINE, IL 60094
Phone (800) 547-8676 Fax (888) 859-3946

February 6, 2006
AA - Dwelling

Insured [redacted]
Loss Address [redacted]
Phone Number [redacted]
Other Phone [redacted]
Ins Company Allstate Indemnity Company

Policy # [redacted]
Ins Cla[redacted]

[redacted] **#** K082505
Date of Loss 8/29/2005

Living / Dining Room (22' 9" x 14' 4" x 8')

326 sf Floor | 593 sf Wall | 326 sf Ceiling | 74 lf Floor | 74 lf Ceiling | 2,609 cf Volume

		Repl. Cost	Depr.	ACV	OP	RD
Rem/Reset Furniture, Per Room	1 EA @ $47.31 a	$47.31	$0.00	$47.31		
Rem/Reset Fixture, Light, Interior	3 EA @ $10.70 a	$32.10	$0.00	$32.10		
Special Dust Protection	593 SF @ $0.11 b	$65.23	$0.00	$65.23		
Special Prep & Mask For Painting (SF)	725 SF @ $0.07 a	$50.75	$0.00	$50.75		
Remove Insulation, Ceiling, Batt, 9"	97.8 SF @ $0.07 a	$6.85	$0.00	$6.85		
Replace Insulation, Ceiling, Batt, 9"	97.8 SF @ $0.90 c	$88.02	$0.00	$88.02		
Remove Drywall, Ceiling, 1/2", Taped	97.8 SF @ $0.08 a	$7.82	$0.00	$7.82		
Replace Drywall, Ceiling, 1/2", Taped	102.69 SF @ $0.28 c	$28.75	Material			
	97.8 SF @ $0.40	$39.12	Labor			
		$67.87	$0.00	$67.87		
Paint Prime Ceiling, Roller	326 SF @ $0.15 b	$48.90	$0.00	$48.90		
Replace Blown Acoustical Ceiling, Medium	326 SF @ $0.56 d	$182.56	$0.00	$182.56		
Rem/Reset Outlet Cover	8 EA @ $1.22 a	$9.76	$0.00	$9.76		
Rem/Reset Switch Plate	3 EA @ $1.03 a	$3.09	$0.00	$3.09		
Remove Insulation, Wall, Batt,, 3 1/2"	148.25 SF @ $0.07 a	$10.38	$0.00	$10.38		
Replace Insulation, Wall, Batt,, 3 1/2"	148.25 SF @ $0.52 a	$77.09	$0.00	$77.09		
Remove Drywall, Wall, 1/2", Taped	148.25 SF @ $0.12 a	$17.79	$0.00	$17.79		
Replace Drywall, Wall, 1/2", Taped	157.15 SF @ $0.29 c	$45.57	Material			
	148.25 SF @ $0.34	$50.41	Labor			
		$95.98	$0.00	$95.98		
Replace Texture, Walls Orange Peel						

General Rules

- **IRC Code Section 165(a):**

  "There shall be allowed as a deduction any loss sustained during the taxable year and not compensated for by insurance or otherwise."

- **IRS Regulation Section 1.165-7(b).**

  The loss is the lesser of

  The decrease in FMV (before and after)

  The adjusted basis

- **General rule-Unless a total loss of business use property, then basis – salvage value – insurance**

CPA

Personal Casualty Losses

- Loss is smaller of adjusted basis in property or decrease in FMV of property as a result of casualty

- Loss must be reduced by insurance and other proceeds (including FEMA payments) which may convert the loss into a gain in some instances

- Example would be insurance paying replacement cost instead of depreciated value of FMV

CPA

Insurance Recovery (Reimbursement)

- **Loss must be reduced by the amount of insurance taxpayer *expects* to receive.**
-
- **Insurance claim *must* be filed for loss of personal use property (except for the deductible)**
- **Property insurance can result in a *gain*.**
- **Effect of recovery for an amount other than expected *is taken in the year of the recovery (Section 111 Tax Benefit)***

CPA

Amount of Loss

IRS Regulation 1.165-7(a)(2).

Change in Fair Market Value **is determined by** ***competent appraisal*** **that recognizes the effects of any** ***general market decline*** **which may occur** ***simultaneously*** **with the casualty, in order to limit the deduction to the actual loss resulting from damage to the property.**

Query: what is competent appraisal?

CPA

Competent Appraisal

- Robin Gail Torassa and Michael Sintef v. Commissioner., U.S. Tax Court, T.C. Summary Opinion 2010-174, (Dec. 20, 2010)-SBA Appraisal
- Howard Bruce Coates and Tandi A. Coates v. Commissioner., U.S. Tax Court, CCH Dec. 60,723(M), T.C. Memo. 2016-197, T.C. Memo. 112TCM470, (Oct. 31, 2016)-Taxpayer's testimony of decline in value
- W. F. Harmon v. Commissioner, U.S. Tax Court, CCH Dec. 17,196, 13 T.C. No. 373, 13 T.C. No. 53, (Sept. 27, 1949)

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165(i)(4)Use of Disaster Loan Appraisals to Establish Amount of Loss

- **Nothing in this title shall be construed to prohibit the Secretary from prescribing regulations or other guidance under which an *appraisal for the purpose of obtaining a loan of Federal funds or a loan guarantee from the Federal Government as a result of a federally declared disaster may be used to establish the amount of any loss described in paragraph (1) or (2).***

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Definitions

- **Regulation 1.165-7(b)(1)(i) indicates the decrease in FMV is the difference between the property's value *immediately before* *and* *immediately after* the casualty**

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What is Immediately Before and Immediately After?

- **FAQs for Disaster Victims - Casualty Loss (Valuations and Sections 165 (i)**
- **http://www.irs.gov/businesses/small/article/0,,id=171138,00.html**

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Aggregation of Property

IRS Regulation1.165-7(b)(2)(i):

Loss of business use property is determined by reference to the single, identifiable property damaged or destroyed

- **(ii) For loss involving personal-use real property the improvements …*shall* be considered an integral part of the property, … *and no separate basis need be apportioned to such improvements***
- **See examples in IRS FAQs and AICPA Practice Guide**
- **Reporting on Form 4684 (pages 1 and 2)**

CPA

Cost of Repairs as Evidence of Loss

- **If, repairs are necessary to restore the property to its condition immediately before the casualty,**
- **the amount spent is not excessive,**
- **the repairs do not care for more than the damage suffered, and**
- ***the value of the property after the repairs does not as a result of the repairs exceed the value of the property immediately before the casualty***

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Regulation §1.165-1(d) *Year of deduction*

- (1) ***A loss shall be allowed as a deduction under section 165(a) only for the taxable year in which the loss is sustained. For this purpose, a loss shall be treated as sustained during the taxable year in which the loss occurs as evidenced by closed and completed transactions and as fixed by identifiable events occurring in such taxable year.*** **For provisions relating to situations where a loss attributable to a disaster will be treated as sustained in the taxable year immediately preceding the taxable year in which the disaster actually occurred, see section 165(h) and § 1.165-11.**
- **IRS FAQ**
- **(12/15/09) Q. According to Treas. Reg. 1.165-7(a)(2)(ii), the cost of making repairs to restore property to its original condition can be used as a measure of the decrease in the FMV of the property.** ***If the repairs have not yet been made but the taxpayer received an estimated cost of the repairs, can the taxpayer report the estimated cost on the taxpayer's return.***
- **A:** ***No. To be able to use the cost of repairs method to determine the decrease in FMV of a property, the repairs must have been made by the due date of the tax return. If the repairs have not been made, the taxpayer should file the return without reporting the casualty loss information. After the repairs have been made, the taxpayer may file an amended return.***

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Revenue Procedure 2018-08

(Effective December 13,2017)

Purpose

- Provides safe harbor methods that individual taxpayers may use in determining the amount of their casualty and theft losses pursuant to § 165 of the Internal Revenue Code for their personal-use residential real property
- Provides additional safe harbor methods that may be used in the case of casualty and theft losses occurring as a result of any Federally declared disaster
- IRS will not challenge an individual's determination of the decrease in fair market value of personal-use residential real property if the individual qualifies for and uses one of the safe harbor methods described in section 4 of the revenue procedure.

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Purpose-Continued

- **If an individual uses a safe harbor method described in this revenue procedure, the individual also must take into account the value of any no-cost repairs**
- **Use of a safe harbor method described in this revenue procedure is not mandatory.**
- **The safe harbor methods provided in this revenue procedure apply only to the circumstances within the scope of this revenue procedure and may not be used in any other circumstances**

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Scope

- An individual who suffered a casualty loss to the individual's personal-use residential real property may use the safe harbor methods
- An individual who suffered a casualty loss to the individual's personal-use residential real property due to a Federally declared disaster may use any of the safe harbor methods
- An individual who suffered a casualty or theft loss to the individual's personal belongings may use the safe harbor method
- An individual who suffered a casualty or theft loss to the individual's personal belongings due to a Federally declared disaster may use either of the safe harbor methods provided in section 5.

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Definition of Personal Use Residential Real Property

- Personal-use residential real property is real property, including improvements (such as buildings and ornamental trees and shrubbery), that is owned by the individual who suffered a casualty loss and that contains at least one personal residence. *Personal-use residential real property does not include a personal residence if any part of the personal residence is used as rental property or contains a home office used in a trade or business or transaction entered into for profit*.

Definition of Personal Use Residential Real Property-Continued

A personal residence is a single family residence, or a single unit within a contiguous group of attached residential units (for example, a townhouse or duplex), owned by the individual who suffered a casualty loss, and includes any structures attached to the residence or single unit. A personal residence does not include a condominium or cooperative unit, or any other property for which the individual who suffered the casualty loss does not own the structural components of the building (such as the foundation, walls, and roof), or owns only a fractional interest in all of the structural components of the building, or a mobile home or trailer.

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Definition of Personal Belongings

- A personal belonging is an item of tangible personal property that is owned by the individual who suffered a casualty or theft loss and that is not used in a trade or business or in a transaction entered into for profit.
- Personal belongings do not include a boat, aircraft, mobile home, trailer, or vehicle (as defined in section 5.02(2)), or an antique or other asset that maintains or increases its value over time.

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No Cost Repairs

- ***An individual using a safe harbor method described in this revenue procedure must take into account the value of any no-cost repairs as described in section 6 of this revenue procedure.***

Personal Use Residential Real Property Safe Harbor Methods

- **An individual within the scope of this revenue procedure may use one of the safe harbor methods described in this section 4.** ***If an individual owns two or more parcels of personal-use residential real property, the use of a safe harbor method for one parcel does not require the individual to use the same safe harbor method, or any safe harbor method, for any other parcel.***

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Safe Harbor Methods

- Estimated Repair Cost Safe Harbor Method
- De Minimis Safe Harbor Method
- Insurance Safe Harbor Method
- Safe harbor methods for Federally declared disasters
  - Contractor Safe Harbor Methods
  - Disaster Loan Appraisal Safe Harbor Method

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Estimated Repair Cost Safe Harbor Method

- **To determine the decrease in the fair market value of the individual's personal-use residential real property, an individual may use the lesser of two repair estimates prepared by two separate and independent contractors, licensed or registered in accordance with State or local regulations. The two repair estimates must set forth the itemized costs to restore the individual's personal-use residential real property to the condition existing immediately prior to the casualty.**
- ***However, the costs of any improvements or additions that increase the value of the personal-use residential real property above its pre-casualty value, such as the cost to elevate the personal residence to meet new construction requirements, must be excluded from the estimate for purposes of this safe harbor. The Estimated Repair Cost Safe Harbor Method is available for casualty losses of $20,000 or less, prior to application of the limitations under § 165(h).***

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De Minimis Safe Harbor Method

- To determine the decrease in the fair market value of the individual's personal-use residential real property, an individual may estimate the cost of repairs required to restore the individual's personal-use residential real property to the condition existing immediately prior to the casualty.
- However, the costs of any improvements or additions that increase the value of the personal-use residential real property above its pre-casualty value, such as the cost to elevate the personal residence to meet new construction requirements, must be excluded from the estimate for purposes of this safe harbor. An individual's estimate must be a good-faith estimate, and the individual must maintain records detailing the methodology used for estimating the loss. The De Minimis Safe Harbor Method is available for casualty losses of $5,000 or less, prior to application of the limitations under § 165(h).

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Safe Harbor Methods for Federally Declared Disasters

- An individual who suffered a casualty loss to ***personal-use residential real property*** in a disaster area and due to a Federally declared disaster may use one of the following safe harbor methods in determining the amount of the individual's casualty loss under § 165:
- Contractor Safe Harbor Method
- Disaster Loan Appraisal Safe Harbor Method

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Contractor Safe Harbor Method

- An individual may use the contract price for the repairs specified in a contract prepared by an independent contractor, licensed or registered in accordance with State or local regulations, setting forth the itemized costs to restore the individual's personal-use residential real property to the condition existing immediately prior to the Federally declared disaster. ***However, the costs of any improvements or additions that increase the value of the personal-use residential real property above its pre-disaster value, such as the cost to elevate the personal residence to meet new construction requirements, must be excluded from the contract price for purposes of this safe harbor. To use the Contractor Safe Harbor Method, the contract must be a binding contract signed by the individual and the contractor.***

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Insurance Safe Harbor Method

- **To determine the decrease in the fair market value of the individual's personal-use residential real property, an individual may use the estimated loss determined in *reports prepared by the individual's homeowners' or flood insurance company setting forth the estimated loss the individual sustained as a result of the damage to or destruction of the individual's personal-use residential real property.***

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Disaster Loan Appraisal Safe Harbor Method

- **An individual may use an appraisal prepared for the purpose of obtaining a loan of Federal funds or a loan guarantee from the Federal Government setting forth the estimated loss the individual sustained as a result of the damage to or destruction of the individual's personal-use residential real property from a Federally declared disaster.**

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2022 Form 4684

Form **4684**
Department of the Treasury
Internal Revenue Service

Casualties and Thefts
Go to *www.irs.gov/Form4684* for instructions and the latest information.
Attach to your tax return.
Use a separate Form 4684 for each casualty or theft.

OMB No. 1545-0177
2022
Attachment Sequence No. **26**

Name(s) shown on tax return | **Identifying number**

SECTION A—Personal Use Property (Use this section to report casualties and thefts of property **not** used in a trade or business or for income-producing purposes. For tax years 2018 through 2025, if you are an individual, casualty or theft losses of personal-use property are deductible only if the loss is attributable to a federally declared disaster. You must use a separate Form 4684 (through line 12) for each casualty or theft event involving personal-use property. **If reporting a qualified disaster loss, see the instructions for special rules that apply before completing this section.**)

If the casualty or theft loss is attributable to a federally declared disaster, check here ☐ and enter the DR-________ or EM-________ declaration number assigned by FEMA. (See instructions.)

1 Description of properties (show type, location (city, state, and ZIP code), and date acquired for each property). Use a separate line for each property lost or damaged from the same casualty or theft. If you checked the box and entered the FEMA disaster declaration number above, enter the ZIP code for the property most affected on the line for Property **A**.

	Type of Property	City and State	ZIP Code	Date Acquired
Property **A**				
Property **B**				
Property **C**				
Property **D**				

		Properties A	Properties B	Properties C	Properties D
2 Cost or other basis of each property	2				
3 Insurance or other reimbursement (whether or not you filed a claim) (see instructions)	3				
Note: If line 2 is **more** than line 3, skip line 4.					
4 Gain from casualty or theft. If line 3 is **more** than line 2, enter the difference here and skip lines 5 through 9 for that column. See instructions if line 3 includes insurance or other reimbursement you did not claim, or you received payment for your loss in a later tax year	4				
5 Fair market value **before** casualty or theft	5				
6 Fair market value **after** casualty or theft	6				
7 Subtract line 6 from line 5	7				
8 Enter the **smaller** of line 2 or line 7	8				
9 Subtract line 3 from line 8. If zero or less, enter -0-	9				

10 Casualty or theft loss. Add the amounts on line 9 in columns A through D	10	
11 Enter $100 ($500 if qualified disaster loss rules apply; see instructions)	11	
12 Subtract line 11 from line 10. If zero or less, enter -0-	12	
Caution: Use only one Form 4684 for lines 13 through 18.		
13 Add the amounts on line 4 of all Forms 4684	13	
14 Add the amounts on line 12 of all Forms 4684. If you have losses not attributable to a federally declared disaster, see the instructions	14	
Caution: See instructions before completing line 15.		
15 • If line 13 is **more** than line 14, enter the difference here and on Schedule D. **Do not** complete the rest of this section. • If line 13 is **equal** to line 14, enter -0- here. **Do not** complete the rest of this section. • If line 13 is **less** than line 14, and you have no qualified disaster losses subject to the $500 reduction on line 11 on any Form(s) 4684, enter -0- here and go to line 16. If you have qualified disaster losses subject to the $500 reduction, subtract line 13 from line 14 and enter the smaller of this difference or the amount on line 12 of the Form(s) 4684 reporting those losses. Enter that result here and on Schedule A (Form 1040), line 16; or Schedule A (Form 1040-NR), line 7. If you claim the standard deduction, also include on Schedule A (Form 1040), line 16, the amount of your standard deduction (see the Instructions for Form 1040). Do not complete the rest of this section if all of your casualty or theft losses are subject to the $500 reduction.	15	
16 Add lines 13 and 15. Subtract the result from line 14	16	
17 Enter 10% of your adjusted gross income from Form 1040, 1040-SR, or 1040-NR, line 11. Estates and trusts, see instructions	17	
18 Subtract line 17 from line 16. If zero or less, enter -0-. Also, enter the result on Schedule A (Form 1040), line 15; or Schedule A (Form 1040-NR), line 6. Estates and trusts, enter the result on the "Other deductions" line of your tax return	18	

For Paperwork Reduction Act Notice, see instructions. Cat. No. 12997O Form **4684** (2022)

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Insurance Unknown

- The ***expected*** reimbursement must be taken into consideration in computing gain or loss for involuntary conversion
- Taxpayer should make his best estimate and file return

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Insurance Unknown

- **If less is received than estimated, the difference is claimed as a loss in the year when received. The original return is not amended. Where a gain is realized, basis is adjusted for the replacement property. *(Cash basis taxpayer).***
- **See example in IRS FAQs**
- **If the taxpayer deducted a loss and in a subsequent year receives reimbursement, *do not re-compute the tax for the year when deduction taken but include in gross income for the year received* subject to Code Section 111**

CPA

Vacation Home

Can you deduct casualty loss on second home?

- **If a second home is solely for personal use, you can deduct casualty losses, such as damage from hurricanes, tornadoes or earthquakes. You'll have to fill out a Form 4684 with your 1040 income tax return and deduct any payments from insurance for the loss.**

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Damaged Trees

(6/1/07) Q: How does a taxpayer determine a casualty loss from damaged trees and other landscaping on personal-use residential property when that loss is attributable to a disaster?

- **https://www.irs.gov/businesses/small-businesses-self-employed/faqs-for-disaster-victims-casualty-loss-valuations-and-sections-165-i**

CPA

Condo Association

(6/1/07) Q: A homeowners/condo association sustained a loss from a disaster and made a special assessment on owners to replace uninsured property. May the homeowners claim the special assessment as a casualty loss?

- https://www.irs.gov/businesses/small-businesses-self-employed/faqs-for-disaster-victims-casualty-loss-valuations-and-sections-165-i

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Tax Benefit Worksheet

- **Publication 525, Worksheet 2, Recoveries of Itemized Deductions(see next slide)**
- **Line 10-*<u>"taxable income for prior year"</u>***
- **Prior year's taxable income (negative) *<u>plus</u>* NOL Carryforward**
- **Footnote 3-*<u>"Taxable income will have to be adjusted for any net operating loss carryover"</u>***

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Department of the Treasury
Internal Revenue Service

Publication 525
Cat. No. 15047D

Taxable and Nontaxable Income

For use in preparing

2021 Returns

Contents

Future Developments

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Worksheet 2. **Recoveries of Itemized Deductions**

Keep for Your Records

To determine whether you should complete this worksheet to figure the part of a recovery amount to include in income on your 2021 tax return, see *Itemized Deduction Recoveries*. If you recovered amounts from more than 1 year, such as a state income tax refund from 2020 and a casualty loss reimbursement from 2019, complete a separate worksheet for each year. Use information from your tax return for the year the expense was deducted.

A recovery is included in income only to the extent of the deduction amount that reduced your tax in the prior year (year of the deduction). If you were subject to the AMT or your tax credits reduced your tax to zero, see *Unused tax credits* and *Subject to AMT* under *Itemized Deduction Recoveries*. If your recovery was for an itemized deduction that was limited, you should read *Itemized deductions limited* under *Itemized Deduction Recoveries*.

NOTE: Before completing lines 1a and 1b, see Worksheet 2a, Computations for Worksheet 2, lines 1a and 1b.

1a. State/local income tax refund or credit[1a] . . . . . 1a. ______

1b. State/local real estate and personal property taxes[1a] . . . . . 1b. ______

2. Enter the total of all other Schedule A refunds or reimbursements (excluding the amounts you entered on lines 1a and 1b)[2] . . . . . 2. ______

3. Add lines 1a, 1b, and 2 . . . . . 3. ______

4. Itemized deductions for the prior year. For 2020:
   - Form 1040, Schedule A, line 17 . . . . .
   - Form 1040-NR, Schedule A, line 15 . . . . . 4. ______

5. Enter any amount previously refunded to you (don't enter an amount from lines 1a or 1b or line 2) . . . . . 5. ______

6. Subtract line 5 from line 4 . . . . . 6. ______

7. Standard deduction for the prior year.[3] If you filed Form 1040-NR, enter -0- . . . . . 7. ______

8. Subtract line 7 from line 6. If the result is zero or less, stop here. The amounts on lines 1a, 1b, and 2 aren't taxable . . . . . 8. ______

9. Enter the smaller of line 3 or line 8 . . . . . 9. ______

10. Taxable income for prior year[4] (2020 Form 1040, line 15; or 2020 Form 1040-NR, line 15) . . . . . 10. ______

11. **Amount to include in income for 2021:**
    - If line 10 is zero or more, enter the amount from line 9.
    - If line 10 is a negative amount, add lines 9 and 10 and enter the result (but not less than zero)[5] . . . . . 11. ______

If line 11 equals line 3—
Enter the amount from line 1a on Schedule 1 (Form 1040), line 1.
Enter the amounts from lines 1b and 2 on Schedule 1 (Form 1040), line 8z.

If line 11 is less than line 3 and either lines 1a or 1b or line 2 is zero—
If there is an amount on line 1a, enter the amount from line 11 on Schedule 1 (Form 1040), line 1.
If there is an amount on lines 1b and/or 2, enter the amount from line 11 on Schedule 1 (Form 1040), line 8z.

If line 11 is less than line 3, and there are amounts on line 1a and on line 1b or 2, complete the following worksheet.

A. Divide the amount on line 1a by the amount on line 3. Enter the percentage . . . . . A. ______

B. Multiply the amount on line 11 by the percentage on line A. Enter the result here and on Schedule 1 (Form 1040), line 1 . . . . . B. ______

C. Subtract the amount on line B from the amount on line 11. Enter the result here and on Schedule 1 (Form 1040), line 8z . . . . . C. ______

[1a] Don't enter more than the amount deducted for the prior year. Don't enter more than the excess of your state and local income tax deduction over your state and local general sales taxes you could have deducted.

[2] Don't enter more than the amount deducted for the prior year. If you deducted state and local general sales taxes and received a refund of those taxes,

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Business Losses

Form 4684 (2020) Attachment Sequence No. **26** Page **2**

Name(s) shown on tax return. Do not enter name and identifying number if shown on other side. | **Identifying number**

SECTION B—Business and Income-Producing Property

Part I Casualty or Theft Gain or Loss (Use a separate Part I for each casualty or theft.)

19 Description of properties (show type, location, and date acquired for each property). Use a separate line for each property lost or damaged from the same casualty or theft. **See instructions if claiming a loss due to a Ponzi-type investment scheme and Section C is not completed.**

Property **A** ____________________

Property **B** ____________________

Property **C** ____________________

Property **D** ____________________

		Properties A	B	C	D
20 Cost or adjusted basis of each property	**20**				
21 Insurance or other reimbursement (whether or not you filed a claim). See the instructions for line 3	**21**				
Note: If line 20 is **more** than line 21, skip line 22.					
22 Gain from casualty or theft. If line 21 is **more** than line 20, enter the difference here and on line 29 or line 34, column (c), except as provided in the instructions for line 33. Also, skip lines 23 through 27 for that column. See the instructions for line 4 if line 21 includes insurance or other reimbursement you did not claim, or you received payment for your loss in a later tax year	**22**				
23 Fair market value **before** casualty or theft	**23**				
24 Fair market value **after** casualty or theft	**24**				
25 Subtract line 24 from line 23	**25**				
26 Enter the **smaller** of line 20 or line 25	**26**				
Note: If the property was totally destroyed by casualty or lost from theft, enter on line 26 the amount from line 20.					
27 Subtract line 21 from line 26. If zero or less, enter -0-	**27**				

28 Casualty or theft loss. Add the amounts on line 27. Enter the total here and on line 29 **or** line 34 (see instructions) **28** ______

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Business Losses

- Limited to Basis for total destruction
- Partial losses are calculated in the same manner as they are for personal casualties
- The loss is the decline in the value of the property, limited to the adjusted basis as reduced by salvage value, insurance and other recoveries.

Issues for Business Property

- Can have gain from insurance
- Gain may be deferred
- Depreciation recapture
- Section 179 recapture
- Code Section 1033 provisions

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Tangible Property Regulations - Frequently Asked Questions

https://www.irs.gov/businesses/small-businesses-self-employed/tangible-property-final-regulations

- **Restoration after casualty loss or event - A taxpayer owns an office building. The building is damaged by a hurricane. The taxpayer either deducts a casualty loss under section 165 as a result of the damage or receives insurance proceeds after the accident to compensate for the loss. The taxpayer properly reduces the basis of the building by the amount of the loss or by the amount of the insurance proceeds. Assuming that the reduction in basis is less than or equal to the taxpayer's adjusted basis in the building, amounts paid to restore the damage to the building must be treated as an improvement and must be capitalized. Note: If the amounts paid to restore the property exceed the adjusted basis of the property prior to the loss, the amount required to be capitalized may be limited. See § 1.263(a)-3(k)(4)(i) for application of this limitation.**

- (4)*Restoration of damage from casualty*
- (i)*Limitation*.—
- For purposes of paragraph (k)(1)(iii) of this section, the amount paid for restoration of damage to the unit of property that must be capitalized under this paragraph (k) is limited to the excess (if any) of—
- (A)
- The amount prescribed by §1.1011-1 as the adjusted basis of the single, identifiable property (under §1.167-7(b)(2)(i)) for determining the loss allowable on account of the casualty, over
- (B)
- The amount paid for restoration of damage to the unit of property under paragraph (k)(1)(iii) of this section that also constitutes an improvement under any other provision of paragraph (k)(1) of this section.
- (ii)*Amounts in excess of limitation*.—
- The amounts paid for restoration of damage to a unit of property as described in paragraph (k)(1)(iii) of this section, but that exceed the limitation provided in paragraph (k)(4)(i) of this section, must be treated in accordance with the provisions of the Internal Revenue Code and regulations that are otherwise applicable. See, for example, §1.162-4 (repairs and maintenance); §1.263(a)-2 (costs to acquire and produce units of property); and §1.263(a)-3 (costs to improve units of property

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Internal Revenue Service

Capitalization of Tangible Property

Treas. Reg. § 1.263(a) and related regulations

Large Business and International

9/14/2016

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RESTORATION OF DAMAGE FROM A CASUALTY LOSS

If a taxpayer restores damage to a UOP for which it is required to take a basis adjustment as a result of a casualty loss, or relating to a casualty event as described in § 165, the final regulations require the taxpayer to treat these amounts as restoration costs that improve the UOP, subject to the limitation in § 1.263(a)-3(k)(4).

Section 1016(a) states that "proper adjustment in respect of property shall in all cases be made, for…losses, or other items, properly chargeable to capital account…" Therefore, § 1016 requires an adjustment to the basis of property because a loss sustained as a result of a casualty event can properly be claimed under § 165.

Under § 1.168(i)-8, taxpayers are required to apply the partial disposition rule to dispositions of a portion of an asset resulting from a casualty event described in § 165. In other words, taxpayers cannot forego treating this transaction as a disposition for tax purposes. Furthermore, a taxpayer cannot electively avoid the basis adjustment required for casualty losses to its property. For example, assume a taxpayer owns a building that is subject to MACRS and is a UOP under § 1.263(a)-3(e). A storm damages the roof of the building and the taxpayer properly reduces the depreciable basis of the building by the amount of the loss under §§ 1.168(i)-8(d) and 1016(a). The amount paid for the restoration to the roof must be capitalized under § 1.263(a)-3(k)(iii), but only amounts up to the limitation discussed below. The partial disposition rule for MACRS property is discussed in detail in Chapter 14.

The amount paid for the restoration of damage caused by a casualty to a UOP that must be capitalized is limited to the excess, if any of the adjusted basis of the single identifiable property (SIP) for determining the loss allowable on account of a casualty over the amount paid for restoration damage to the UOP that also constitutes an improvement under any other provision of § 1.263(a)-3(k)(1) (the other restoration "tests").[57] In other words, casualty-related restoration costs are required to be capitalized up to the amount of basis reduction of the SIP taken as a result of the casualty loss or casualty event. The purpose of this provision is to help taxpayers that may have property impacted by a casualty where the property has a low adjusted basis and the taxpayer incurs high restoration expenditures. If there are casualty related restoration costs paid in excess of the adjusted basis of the SIP

[57] § 1.263(a)-3(k)(4)(i)

(after reducing this amount for other capitalized restoration costs), the excess amount must then be analyzed under the other improvement criteria to determine if these amounts should be treated as repairs under § 1.162-4 or treated as capital improvements to the UOP. If any part of the excess represents amounts that would otherwise be considered an improvement under other provisions of the regulations, this part would still be capitalized, regardless of the adjusted basis of the SIP. If any part of the excess represents amounts that would otherwise be treated as repairs, this part should be deducted. If the adjusted basis of the SIP is more than the total restoration expenses, then all restoration costs are capitalized under the casualty loss restoration rule.

For example, in 2014, a fire damages a building with an adjusted basis of $5 million that is used in the taxpayer's business. The taxpayer deducts a casualty loss of $1.4 million on its 2014 tax return. The amount of the loss is based on the cost to restore the damage caused by the casualty. The restoration expenses consist of $1 million to completely replace the roof, and an additional $400,000 for debris clean up, patching drywall, painting, and replacing 3 broken window panes. The adjusted basis of the impacted property is properly reduced by $1.4 million. Under the regulations, the taxpayer is required to capitalize all of the restoration expenditures. Since the amount required to be capitalized is less than the adjusted basis of the property impacted, the limitation does not come into play. The taxpayer is required to capitalize the entire $1.4 million even though $400,000 of expenditures is considered to be in the nature of repairs.

On the other hand, if the adjusted basis in the building were $1 million, the § 165 loss is limited to $1 million. In this case, the taxpayer is required to capitalize $1 million to replace the roof (as a restoration under other restoration rules, *e.g.*, major component). The remaining costs exceed the adjusted basis in the building and must be characterized in accordance with otherwise applicable provisions of the improvement rules. Assuming the $400,000 paid for debris clean-up, patching drywall, painting, and replacing the 3 broken window panes are not treated as capital expenditures under the other tests for improvements, these amounts likely qualify as a deductible expense under § 1.162-4.

Section 165(i) Elections

165(i) Disaster Losses

- 165(i)(1)Election to Take Deduction for Preceding Year
- Notwithstanding the provisions of subsection (a), any loss occurring in a disaster area and attributable to a federally declared disaster may, at the election of the taxpayer, be taken into account for the taxable year immediately preceding the taxable year in which the disaster occurred.
- 165(i)(2)Year of Loss
- If an election is made under this subsection, the casualty resulting in the loss shall be treated for purposes of this title as having occurred in the taxable year for which the deduction is claimed.

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Revenue Procedure 2016-53

- **Section 165(i) election**
- **A taxpayer must make the § 165(i) election on an original federal tax return or an amended federal tax return for the preceding year.**
- ***<u>The original federal tax return or amended federal tax return must be filed on or before the date that is six months after the original due date for the taxpayer's federal tax return for the disaster year (determined without regard to any extension of time to file). See § 1.165-11T(f).</u>***

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Sec. 165(i) Election

- **Can elect to deduct loss in the year when disaster occurs <u>or</u> to deduct in the tax year immediately preceding the disaster**
- **A taxpayer must make the § 165(i) election on an original federal tax return or an amended federal tax return for the preceding year.**
- ***<u>The original federal tax return or amended federal tax return must be filed on or before the date that is six months after the original due date for the taxpayer's federal tax return for the disaster year (determined without regard to any extension of time to file). See § 1.165-11T(f).</u>***
- **If refund received from the election during that 90-day period, repayment must be made for the revocation to be effective**
- **If refund from the election received after the 90-day period, repay the refund within 30 days of the refund for the revocation to be effective**

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Name(s) shown on tax return | **Identifying number**

SECTION D—Election To Deduct Federally Declared Disaster Loss in Preceding Tax Year (See instructions.)

Part I Election Statement

By providing all of the information below, the taxpayer elects, under section 165(i) of the Internal Revenue Code, to deduct a loss attributable to a federally declared disaster and that occurred in a federally declared disaster area in the tax year immediately preceding the tax year the loss was sustained.

Attach this Section D to your return or amended return for the tax year immediately preceding the tax year the loss was sustained to claim the disaster loss deduction.

52 Provide the name or a description of the federally declared disaster. ______

53 Provide the date or dates (mm/dd/yyyy) of the loss or losses attributable to the federally declared disaster. ______

54 Specify the address, including the city or town, county or parish, state and ZIP code where the damaged or destroyed property was located at the time of the disaster. ______

Part II Revocation of Prior Election

By providing all of the information below, the taxpayer revokes the prior election under section 165(i) of the Internal Revenue Code to deduct a loss attributable to a federally declared disaster and that occurred in a federally declared disaster area in the tax year immediately preceding the tax year the loss was sustained.

Attach this Section D to your amended return for the tax year immediately preceding the tax year the loss was sustained to remove the previous disaster loss deduction.

55 Provide the name or a description of the federally declared disaster and the address of the property that was damaged or destroyed and for which the election was claimed. ______

56 Specify the date (mm/dd/yyyy) you filed the prior election, which you are now revoking. (See instructions and note that new rules went into effect on October 13, 2016.) ______

57 Enclose your payment or otherwise provide evidence for, or explanation of, your arrangements for the repayment of the amount of any credit or refund which you received and which resulted from the prior election (which you are now revoking). ______

Involuntary Conversions

Involuntary Conversions

Federally declared disaster areas:

- **The period in which a taxpayer may replace involuntarily converted property is two years.**
- **Four years in the case of personal residence Code Section 1033(h)(1)(B).**

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Involuntary Conversions

- The involuntary conversion deferral is elected by including only the gain from the conversion that may ***not*** be deferred on the taxpayer's income tax return for the year in which the gain is realized. Regs. §1.1033(a)-2(c)(2).

- All of the details in connection with an involuntary conversion of property at a gain must be provided on that return, and those details should include what replacement property was acquired, the date it was acquired, and the cost of the property to the taxpayer. Regs. §1.1033(a)-2(c)(2).

- However, if the taxpayer does not include with the relevant return any gain that would, without the benefit of the involuntary conversion rule, be included in income, that taxpayer will be considered to have made an election even though the details concerning the conversion are not reported. Regs. §1.1033(a)-2(c)(2).

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- **Once involuntary conversion treatment is elected, all tax years in which any conversion gain is realized remain open for assessment until three years after the taxpayer notifies the IRS of replacement or nonreplacement. However, if the taxpayer does not notify the IRS, the tax year remains open indefinitely**

- **The IRS has the power to extend the replacement period upon a request by the taxpayer,1033(a)(2)(B)(ii)**

- **The request should be made before the expiration of the replacement period, and should be sent to the district director in which the return is filed for the first taxable year in which gain from the conversion is realized. Regs. §1.1033(a)-2(c)(3).**

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121 Exclusion

- *May be applicable is gain due to insurance or other reimbursement or taxpayer's cost to cure is less than amount paid by insurance.*

- *If 121 residency requirements are met, taxpayer may use 121 exclusion for gain.*

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Schreiber & Schreiber
Certified Public Accountants

Personal Property

Department of the Treasury
Internal Revenue Service

Publication 584
(Rev. June 2012)

Cat. No. 15151M

Casualty, Disaster, and Theft Loss Workbook

(Personal-Use Property)

What's New

Future developments. The IRS has created a page on IRS.gov for information about Publication 584, at www.irs.gov/pub584. Information about any future developments affecting Publication 584 (such as legislation enacted after we release it) will be posted on that page.

Introduction

This workbook is designed to help you figure your loss on personal-use property in the event of a disaster, casualty, or theft. It contains schedules to help you figure the loss to your main home, its contents, and your motor vehicles. However, these schedules are for your information only. You must complete Form 4684, Casualties and Thefts, to report your loss.

How To Use This Workbook

You can use this workbook by following these five steps.

1. Read Publication 547 to learn about the tax rules for casualties, disasters, and thefts.

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	A	B	C	D	E	F	G	H	I	J
1										
2–6	-1 Item	-2 No. of items	-3 Date acquired	-4 Cost or other basis	-5 Insurance or other reimbursement	-6 Fair market value before casualty	-7 Fair market value after casualty	-8 Decrease in fair market value	-9 Smaller of column (4) or column -8	-10 Casualty/Theft Loss (column (9) minus column (5))
7	Chairs									
8	Clock									
9	Curtains									
10	Draperies									
11	Lamps									
12	Mirrors									
13	Pictures									
14	Rugs									
15	Tables									
16	Umbrella stands									
17	Wall fixtures									
18										
19										
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27										
28										

Entrance Hall / Living Room / Dining Room / Kitchen / Den / Bedrooms / Bathrooms / Recreation Room / Laundry an

Ready

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Revenue Procedure 2018-08

(Effective December 13,2017)

Definition of Personal Belongings

- ***For purposes of this revenue procedure, a personal belonging is an item of tangible personal property that is owned by the individual who suffered a casualty or theft loss and that is not used in a trade or business or in a transaction entered into for profit. For purposes of this revenue procedure, personal belongings do not include a boat, aircraft, mobile home, trailer, or vehicle (as defined in section 5.02(2) of this revenue procedure), or an antique or other asset that maintains or increases its value over time.***

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Personal Belongings

- To use this safe harbor method, an individual must first determine the current cost to replace the personal belonging with a new one and reduce that amount by 10% for each year the individual owned the personal belonging using the percentages in the Personal Belongings Valuation Table below. If the personal belonging was owned by the individual for nine or more years, the pre-disaster fair market value is 10% of the current replacement cost under this safe harbor method.

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Personal Belongings Valuation Table	
Year	**Percentage of Replacement Cost to Use**
1	90%
2	80%
3	70%
4	60%
5	50%
6	40%
7	30%
8	20%
9+	10%

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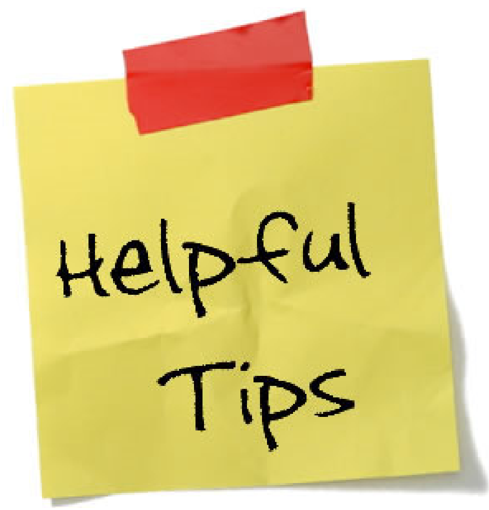
Practice Tips

- Get a copy of insurance adjuster's report
- Clients are unable to reconstruct basis
- Do you take into consideration a factor for forgotten/not listed items?
- E Bay
- www.pinventory.com



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Thank You!

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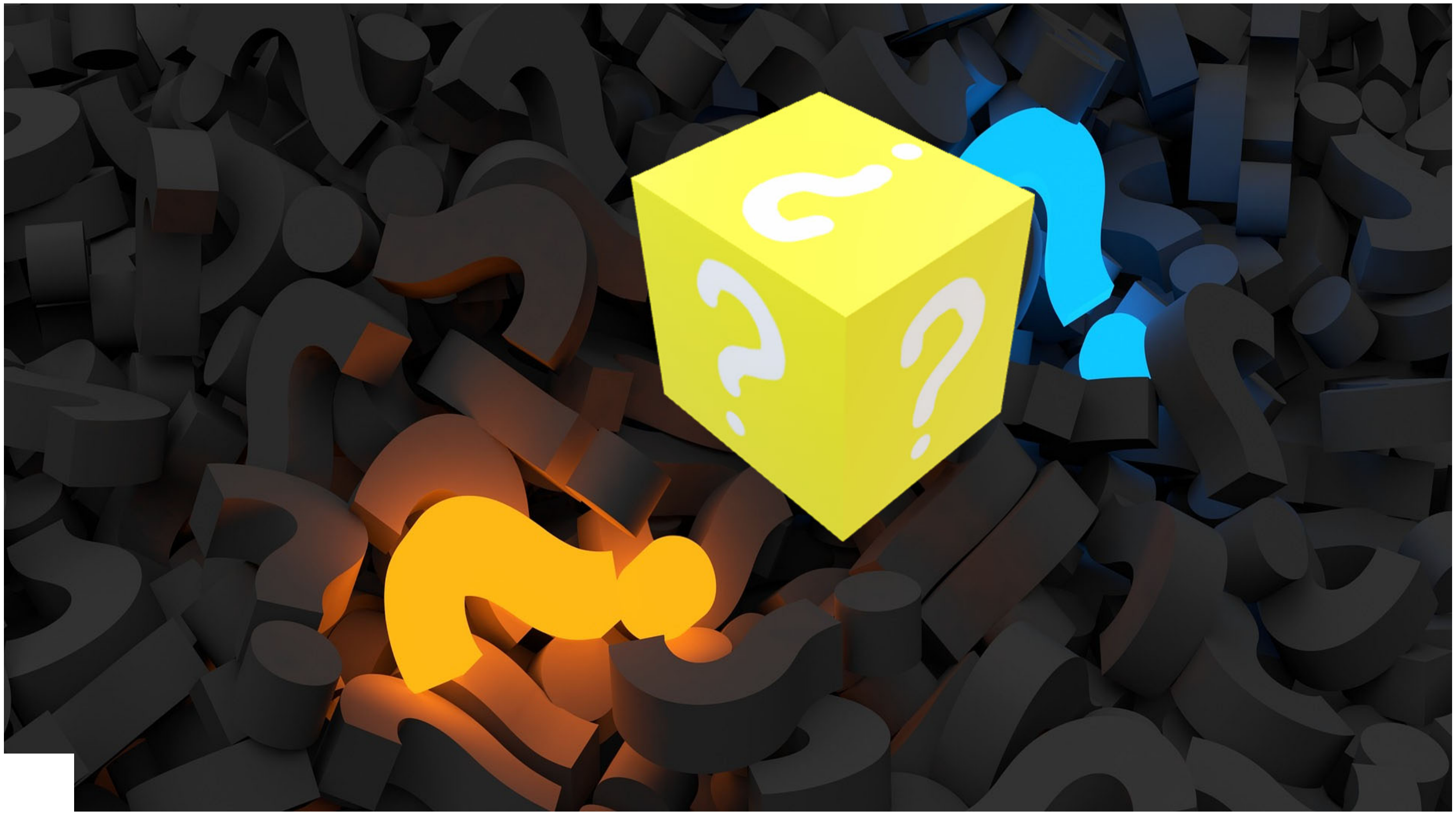
Questions



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