

Schreiber & Schreiber
Certified Public Accountants



After the Flood: Getting Started with Recovery

University of Louisiana-Lafayette
B. I. Moody III College of Business Administration
September 16-17, 2016

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CPA America Counts on CPAs®

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Jerry Schreiber



- Partner with Schreiber & Schreiber
- Author, "Documenting a Casualty Loss", Journal of Accountancy, November 2008
<http://www.journalofaccountancy.com/Issues/2008/Nov/Documenting+a+Casualty+Loss.htm>
- Presentations include Hurricanes Katrina, Rita, Wilma, Gustav, Ike, Isaac, Irene, and Sandy, Nashville TN flooding, Colorado Springs Fires, Oklahoma Tornadoes, South Carolina Flooding, and Spring Louisiana Flooding
- Chair, AICPA SSTS Guidance Task Force
- Member, AICPA IRS Advocacy and Relations Committee
- Author, "An Overview of AICPA and IRS Rules of Practice", The Tax Adviser, February 2014
- Author, "Tax Practice Quality Control", The Tax Adviser, November 2012
- Author, "Circular 230 Best Practices", The Tax Adviser, April 2010
- Author, "Strengthening Tax Services' Foundation", Journal of Accountancy, May 2009
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Today's Topics

**General Overview and
Resources**

IRS Filing Dates

Personal Casualty Losses

Business Casualty Losses

Involuntary Conversions

Personal Belongings

**Business Interruption
Claims**

**Louisiana Sales Tax
Refunds**

IRS Examples

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The Most Important Thing About A Disaster: Your Comfort Zone Disappears

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Resources

- **IRS FAQ's Disaster Victims**
<http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/FAQs-for-Disaster-Victims>
- **CPA Disaster Yahoo Group**
http://finance.groups.yahoo.com/group/CPA_Disaster/
- **Local Network Groups**
- **DisasterAssistance.gov**
- **FEMA**
- **Social Media**
- **Insurance Company List**
<http://www.iii.org/articles/insurance-company-claims-filing-telephone-numbers.html>
- **United Policyholders** www.uphelp.org

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IRS

Subscriptions Language Information For...

Search Advanced

Filing Payments Refunds Credits & Deductions News & Events Forms & Pubs Help & Resources for Tax Pros

Corporations Partnerships International Businesses Small Businesses & Self Employed

FAQs for Disaster Victims

Explanation of Technical Correction to Treas. Reg. 301.7508A-1

Guidance for Those Affected by Disasters

- Amended Returns (updated 4/13/09)
- Calculating a Casualty Loss Under the National Disaster Relief Act of 2008 (updated 4/13/09)
- Casualty Loss (Valuations and Section 165 (i)) (updated 4/13/09)
- Change of Address (updated 4/13/09)
- Copies of Tax Returns (updated 4/13/09)
- Expensing of Qualified Disaster Expenses (updated 4/13/09)
- Filing of Extensions (updated 7/2/09)
- Information on Major Disasters (updated 3/11/09)
- Mitigation Payments (updated 4/13/09)
- Penalty and Interest (updated 4/13/09)
- Realized Gains on Main Home (updated 4/13/09)
- Records Necessary to Meet a Deadline (updated 10/26/11)
- Sale of Home (updated 4/13/09)
- Taxable State Recovery Fund Payments (updated 4/13/09)
- Travel Expenses (updated 4/13/09)

Rate the Small Business and Self-Employed Web Site

Page Last Reviewed or Updated: 23-Oct-2012

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FEMA

Louisiana Severe Storms and Flooding (DR-4277)

Navigation

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Languages

Louisiana Severe Storms and Flooding (DR-4277) (/disaster/4277)

Designated Areas (/disaster/4277/designated-areas)

Disaster Federal Register Notices (/disaster/4277/notices)

FOIA Statistics (/disaster/4277/foia)

News (/disaster/4277/updates-blog-and-news)

Incident period: August 11, 2016 to August 31, 2016

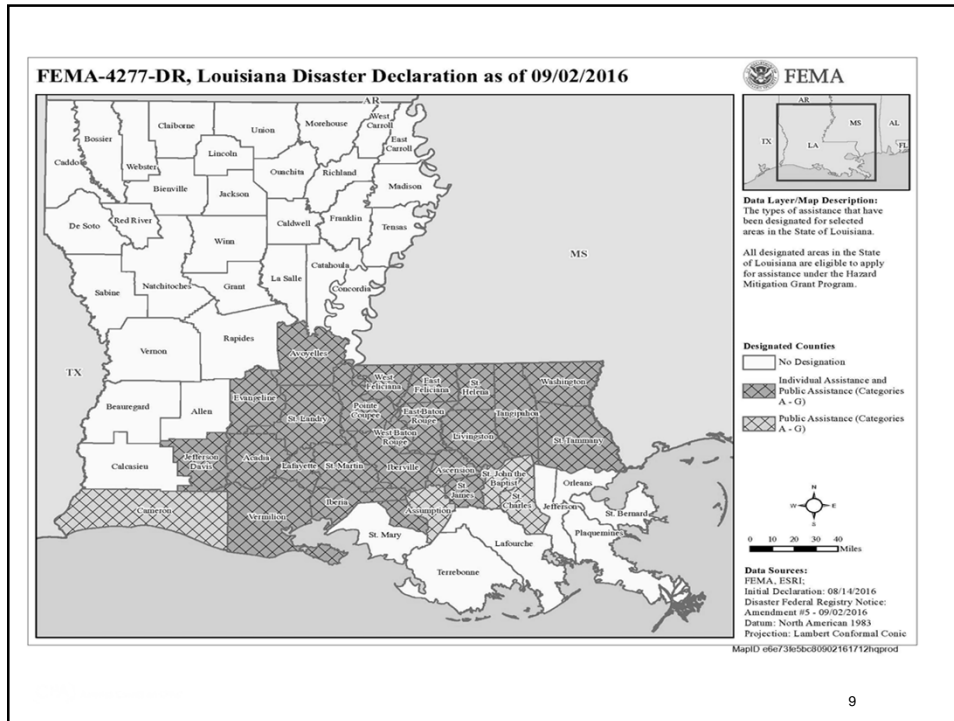
Major Disaster Declaration declared on August 14, 2016

Designated Parishes: Acadia Parish, Ascension Parish, Avoyelles Parish, East Baton Rouge Parish, East Feliciana Parish, Evangeline Parish, Iberia Parish, Iberville Parish, Jefferson Davis Parish, Lafayette Parish, Livingston Parish, Pointe Coupee Parish, St. Helena Parish, St. James Parish, St. Landry Parish, St. Martin Parish, St. Tammany Parish, Tangipahoa Parish, Vermilion Parish, Washington Parish, West Baton Rouge and West Feliciana Parish.

Apply for assistance:

1. Online at www.DisasterAssistance.gov (https://www.disasterassistance.gov/?utm_source=hp_promo&utm_medium=web&utm_campaign=femagov)
2. Call 800-621-3362 (711 or Video Relay Service). If you use TTY, call 800-467-7585

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<http://www.iii.org/articles/insurance-company-claims-filing-telephone-numbers.html>

Here is a list of claim contact numbers:

- A**
- AAA Insurance (Auto Club Family Insurance Company) 800-222-7623 ext. 5000
 - Acadia Insurance Company 800-444-0049, ext. 2600
 - ACE Private Risk Services 800-945-7461
 - ACE USA Clients receive individual 800 numbers or call 800 945-7461 (ACE USA/ACE Recreational Marine claims); 800 234-7354 (Disaster Mortgage Protection claims)
 - Acuity 800-242-7666
 - AGCS Marine 800-558-1606
 - Alabama Department of Insurance 334-269-3550
 - Alabama Municipal Insurance Corporation 866-239-AMIC
 - Alfa Insurance Group 888-964-2532
 - Allmerica 800-628-0250
 - Allstate 800-54-STORM (800-547-8676)
 - Allstate Floridian Insurance Company 800-54-STORM (800-547-8676)
 - America First Insurance 877-263-7890
 - America's Health Insurance Plans (AHIP) 800-644-1818
 - American Bankers Insurance Company 800-245-1505
 - American Federation Insurance Company 800-527-3907
 - American General Property Insurance Company of Florida 800-321-2452
 - American International Group, Inc. (AIG) 877-244-0304
 - American National Property & Casualty Company & Affiliates 800-333-2860
 - American Reliable Insurance Company 800-245-1505
 - American Security Insurance Company 800-326-2845
 - American Skyline Insurance Company 888-298-5224
 - American States Insurance Company 888-557-5010
 - American Strategic Insurance 866-ASI-LOSS (274-5677)
 - American Superior Insurance 954-577-2202
 - Arch Insurance 800-817-3252

FEMA
Individual v. Public Assistance

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Individual Assistance

The Individuals and Households Program (IHP) can assist those affected by the recent storms in Iowa by providing financial assistance for housing or other needs. The program is available to all people who qualify regardless of race, sex, religion, color or national origin. FEMA's IHP is available to both homeowners and renters.

The IHP has two provisions; Housing Assistance and Other Needs Assistance.

Housing Assistance can provide funding for:

Referrals for rental housing

Financial assistance to rent a different place to live

Repairs to make the home safe, sanitary and functional

Replacement - financial assistance to replace destroyed homes

Other Needs Assistance may include funding for:

Medical, dental and funeral expenses

Essential personal property such as furniture, clothing and some appliances

Repair or replacement of damaged vehicles

Other disaster-related expenses

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Individual Assistance(Continued)-

Individual assistance can also be in the form of federal low-interest disaster loans from the U.S. Small Business Administration (SBA) for homeowners, renters, businesses of all sizes, and private non-profit organizations.

Homeowners may borrow up to \$200,000 to repair or replace their primary residence. Renters and homeowners may borrow up to \$40,000 to replace personal property. Up to \$2 million may be borrowed by businesses for any combination of property damage or economic injury. The SBA also offers working capital loans to small businesses and most private, non-profit organizations of all sizes having difficulty meeting obligations as a result of the disaster.

For information on SBA disaster loans, call (800) 659-2955 or visit www.sba.gov. Hearing- or speech-impaired individuals may call (800) 877-8339.

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Public Assistance

Under the Public Assistance Grant Program, FEMA awards grants to assist state and local governments and certain private nonprofit organizations with the response to and recovery from disasters. The program provides funding for debris removal, implementation of emergency protective measures and permanent restoration of infrastructure. The program also encourages protection from future damage by providing assistance for hazard mitigation measures during the recovery process. The program runs on a cost share with FEMA and the applicant who may be the state or local governments.

Public assistance is based on a partnership between FEMA, state and local officials. FEMA is responsible for managing the program, approving grants and providing technical ...

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IRS Filing Issues and Dates

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The screenshot shows the IRS website page for 'Tax Relief in Disaster Situations'. The browser address bar shows the URL: https://www.irs.gov/uac/Tax-Relief-in-Disaster-Situations. The page features the IRS logo at the top left, a search bar, and a navigation menu with categories like Filing, Payments, Refunds, Credits & Deductions, News & Events, Forms & Pubs, Help & Resources, and for Tax Pros. The main content area is titled 'Tax Relief in Disaster Situations' and includes a 'Recent Tax Relief' section with a list of news releases. A sidebar on the left contains 'News Essentials' and 'The Newsroom Topics'. A 'Taxpayer Bill of Rights' banner is visible on the right side of the page.

News Essentials

- What's Hot
- News Releases
- IRS - The Basics
- IRS Guidance
- Media Contacts
- Facts & Figures
- Around the Nation
- e-News Subscriptions

The Newsroom Topics

- Multimedia Center
- Noticias en Español
- Radio PSAs
- Tax Scams
- The Tax Gap
- Fact Sheets
- IRS Tax Tips
- Armed Forces
- Latest News Home

Recent Tax Relief

- Tax Relief for Victims of Severe Storms and Flooding in Mississippi, see [news release](#).
- Tax Relief for Victims of Severe Storms, Tornadoes, and Flooding in Texas, see [news release](#).
- Tax Relief for Victims of Severe Storms and Flooding in Louisiana, see [news release](#).
- Tax Relief for Victims of Severe Storms, Tornadoes, Straight-Line Winds and Flooding in Arkansas, see [news release](#).
- Tax Relief for Victims of Dec. 2015 Severe Storms, Tornadoes, Straight-Line Winds and Flooding in Missouri, see [news release](#).
- Mississippi victims of December 2015 severe storms and flooding, see [news release](#).
- Texas victims of October 2015 severe storms tornadoes, straight-line winds and flooding, see [news release](#).
- South Carolina victims of October 2015 severe storms and flooding, see [news release](#).
- Farmers and Ranchers Whose Farms Were Drought-Stricken between September 2014 and August 2015 Have More Time to Replace Livestock, 48 States and Puerto Rico Affected, see [news release](#).
- California victims of September 2015 Valley and Butte fires, see [news release](#).
- Kentucky victims of July 2015 severe storms, tornadoes, straight-line winds, flooding, landslides and mudslides see [news release](#).
- Pine Ridge Indian Reservation victims of May 2015 severe storms, straight-line winds and flooding, see [news release](#).
- Northern Mariana Islands victims of August 2015 Typhoon Soudelor, see [news release](#).
- Wyoming victims of May - June 2015 severe storms and flooding, see [news release](#).
- Arkansas victims of May - June 2015 severe storms, tornadoes, straight-line winds and flooding, see [news release](#).
- Texas victims of May - June 2015 severe storms, tornadoes, straight-line winds and flooding, see [news release](#).
- Oklahoma victims of May - June 2015 severe storms, tornadoes, straight-line winds and flooding, see [news release](#).
- Kentucky victims of April 2015 severe storms and flooding, see [news release](#).

Taxpayer Bill of Rights

What You Should Know

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Tax Relief for Victims of Severe Storms, Flooding in Louisiana ←

LA-2016-20, August 15, 2016

Updated 9/6 to include St. James and West Baton Rouge parishes.

Updated 8/16 to include Acadia, Ascension, East Feliciana, Iberia, Lafayette, Pointe Coupee, St. Landry and Vermilion parishes.

Updated 8/17 to include Avoyelles, Evangeline, Iberville, Jefferson Davis, St. Martin, St. Tammany, Washington and West Feliciana parishes.

NEW ORLEANS — Victims of the severe storms, flooding, that took place beginning on August 11, 2016 in parts of Louisiana may qualify for tax relief from the Internal Revenue Service.

The President has declared that a major disaster exists in the State of Louisiana. Following the recent disaster declaration for individual assistance issued by the Federal Emergency Management Agency, the IRS announced today that affected taxpayers in the parishes of East Baton Rouge, Livingston, St. Helena, and Tangipahoa will receive tax relief.

Individuals who reside or have a business in the parishes of East Baton Rouge, Livingston, St. Helena, and Tangipahoa may qualify for tax relief.

The declaration permits the IRS to postpone certain deadlines for taxpayers who reside or have a business in the disaster area. For instance, certain deadlines falling on or after August 11, 2016, and before January 17, 2017, are granted additional time to file through January 17, 2017. This includes individual returns on extension to October 17, the September 15 deadline for making quarterly estimated tax payments, the 2015 corporate and partnership returns on extension through September 15, and the October 31 deadlines for quarterly payroll and excise tax returns.

In addition, the IRS is waiving the failure-to-deposit penalties for employment and excise tax deposits due on or after August 11 as long as the deposits were made by August 26, 2016.

If an affected taxpayer receives a late filing or late payment penalty notice from the IRS that has an

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The postponement of time to file and pay does not apply to information returns in the W-2, 1098, 1099 series, or to Forms 1042-S or 8027. Penalties for failure to timely file information returns can be waived under existing procedures for reasonable cause. Likewise, the postponement does not apply to employment and excise tax deposits. The IRS, however, will abate penalties for failure to make timely employment and excise tax deposits due on or after Oct. 1, and on or before Oct. 16 provided the taxpayer made these deposits by Oct. 16, 2015.

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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

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Affected Taxpayers (cont'd)

- 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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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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Disaster Hotline and other IRS Calls

- Document all calls for future reference
- Take down name and badge number
- Length of time of call
- Keep track of who you are transferred to



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Casualty Losses



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Casualty Losses

- Definition of Casualty Loss
- Businesses Losses
- Personal Losses
- General Rules
- Involuntary Conversions
- 121 Exclusion
- Personal Belongings
- Use of Estimates
- Business Interruption Claims
- Protective Claims
- IRS Examples

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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. Emcigh	PO Box 94054 PALATINE, IL 60094	February 6, 2006
Phone	Phone (800) 547-8676	Fax (888) 859-3946
Fax		
Insured Name	Loss Address	Policy #
Phone Number	Other Phone	Ins Claim #
Ins Company	Allstate Indemnity Company	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

Additional Structures or Mobile Home Contents

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Allstate Insurance-National Catastrophe Team		
Adjuster Rebekah L. Emcigh	PO Box 94054 PALATINE, IL 60094	February 6, 2006
Phone	Phone (800) 547-8676	Fax (888) 859-3946
Fax		
Insured	Loss Address	Policy #
Phone Number	Other Phone	Ins Claim #
Ins Company	Allstate Indemnity Company	Catastrophe # 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, Ceiling, Drywall										

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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

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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

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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

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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.

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Definitions

•IRS Regulation 1.165-7(a)(2)(i) indicates an independent appraisal by a qualified appraiser is mandatory in most situations

•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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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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Aggregation of Property

IRS Regulation 1.165-7(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)

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Form 4684 Department of the Treasury Internal Revenue Service	Casualties and Thefts ▶ Information about Form 4684 and its separate instructions is at www.irs.gov/form4684 . ▶ Attach to your tax return. ▶ Use a separate Form 4684 for each casualty or theft.	OMB No. 1545-0177 <div style="font-size: 2em; font-weight: bold; text-align: center;">2014</div> 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.)																						
1 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.																						
Property A _____ Property B _____ Property C _____ Property D _____																						
<table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th colspan="5" style="text-align: center;">Properties</th> </tr> <tr> <th style="width: 10%;"></th> <th style="width: 15%;">A</th> <th style="width: 15%;">B</th> <th style="width: 15%;">C</th> <th style="width: 15%;">D</th> </tr> </thead> <tbody> <tr> <td>2 Cost or other basis of each property</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>3 Insurance or other reimbursement (whether or not you</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>			Properties						A	B	C	D	2 Cost or other basis of each property					3 Insurance or other reimbursement (whether or not you				
Properties																						
	A	B	C	D																		
2 Cost or other basis of each property																						
3 Insurance or other reimbursement (whether or not you																						

16 If line 14 is less than line 13, enter the difference	16	
17 Enter 10% of your adjusted gross income from Form 1040, line 38, or Form 1040NR, line 37. 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 20, or Form 1040NR, Schedule A, line 6. Estates and trusts, enter the result on the "Other deductions" line of your tax return	18	

or Paperwork Reduction Act Notice, see instructions. Cat. No. 129970 Form **4684** (2014)

Example No. 1

Facts:

**Married couple, 2 children, Own Home
Filing Joint Return, Both spouses work
Income \$125,000**

Deductions:

**State income and real estate tax paid \$6,250
Home mortgage interest \$7,500
Charitable contributions \$1,250
Casualty Loss Residence \$75,000
 Personal Property \$24,000**

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	Without Casualty Loss	With Casualty Loss
Income	\$125,000	\$125,000
Deductions	\$15,000	\$101,400
Exemptions	\$16,000	\$16,000
Taxable Income	\$94,000	\$7,600
Tax	\$15,094	\$0

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	A	B	C	D
2 Cost or other basis of each property...	275,000.	25,000.		
3 Insurance or other reimbursement (whether or not you filed a claim) (see instructions).....	25,000.			
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.....				
5 Fair market value before casualty or theft.....	350,000.	25,000.		
6 Fair market value after casualty or theft.....	250,000.	1,000.		
7 Subtract line 6 from line 5.....	100,000.	24,000.		
8 Enter the smaller of line 2 or line 7.....	100,000.	24,000.		
9 Subtract line 3 from line 8. If zero or less, enter -0-.....	75,000.	24,000.		
10 Casualty or theft loss. Add the amounts on line 9 in columns A through D.....				99,000.
11 Enter the smaller of line 10 or \$100.....				100.
12 Subtract line 11 from line 10.....				98,900.
Caution: Use only one Form 4684 for lines 13 through 18.				
13 Add the amounts on line 12 of all Forms 4684.....				98,900.
14 Add the amounts on line 4 of all Forms 4684.....				
15 • If line 14 is more than line 13, enter the difference here and on Schedule D. Do not complete the rest of this section (see instructions). • If line 14 is less than line 13, enter -0- here and go to line 16. • If line 14 is equal to line 13, enter -0- here. Do not complete the rest of this section.				0.
16 If line 14 is less than line 13, enter the difference.....				98,900.
17 Enter 10% of your adjusted gross income from Form 1040, line 38, or Form 1040NR, line 37. Estates and trusts, see instructions.....				12,500.
18 Subtract line 17 from line 16. If zero or less, enter -0-. Also enter the result on Schedule A (Form 1040), line 20, or Form 1040NR, Schedule A, line 6. Estates and trusts, enter the result on the 'Other deductions' line of your tax return.....				86,400.

BAA For Paperwork Reduction Act Notice, see instructions. FDZ0991L 08/13/15 Form 4684 (2015)

Example No. 2

Facts:

Single \$45,000, Renter

Deductions:

State income tax paid \$1,250

Charitable contributions \$500

Casualty Loss Personal Property \$15,000

	Without Casualty Loss	With Casualty Loss
Income	\$45,000	\$45,000
<u>Deductions-Standard</u>	\$6,300	\$12,150
<u>Deduction without casualty loss, Itemize with casualty loss</u>		
Exemptions	\$4,000	\$4,000
Taxable Income	\$34,700	\$28,850
Tax	\$4,748	\$3,870

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Form **4684** **Casualties and Thefts** OMB No. 1545-0177

Department of the Treasury Internal Revenue Service **2015** Attachment Sequence No. **26**

Information about Form 4684 and its separate instructions is at www.irs.gov/form4684. Use a separate Form 4684 for each casualty or theft.

Name(s) shown on tax return: XXXXXXXX XXXXXXXX Identifying number: 999-99-9999

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.)

1 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.

Property **A** PERSONAL PROPERTY Various
Property **B**
Property **C**
Property **D**

	Properties			
	A	B	C	D
2 Cost or other basis of each property	2 45,000.			
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 15,000.			
6 Fair market value after casualty or theft	6 0.			
7 Subtract line 6 from line 5	7 15,000.			
8 Enter the smaller of line 2 or line 7	8 15,000.			
9 Subtract line 8 from line 7. If zero or less, enter -0-	9 15,000.			
10 Casualty or theft loss. Add the amounts on line 9 in columns A through D				10 15,000.
11 Enter the smaller of line 10 or \$100				11 100.
12 Subtract line 11 from line 10				12 14,900.
Caution: Use only one Form 4684 for lines 13 through 18.				
13 Add the amounts on line 12 of all Forms 4684				13 14,900.
14 Add the amounts on line 4 of all Forms 4684				14
15 If line 14 is more than line 13, enter the difference here and on Schedule D. Do not complete the rest of this section (see instructions). • If line 14 is less than line 13, enter -0- here and go to line 16. • If line 14 is equal to line 13, enter -0- here. Do not complete the rest of this section.				15 0.
16 If line 14 is less than line 13, enter the difference				16 14,900.
17 Enter 10% of your adjusted gross income from Form 1040, line 38, or Form 1040NR, line 37. Estates and trusts, see instructions				17 4,500.
18 Subtract line 17 from line 16. If zero or less, enter -0-. Also enter the result on Schedule A (Form 1040), line 20, or Form 1040NR, Schedule A, line 6. Estates and trusts, enter the result on the "Other deductions" line of your tax return				18 10,400.

BAA For Paperwork Reduction Act Notice, see instructions. FD-20901L 08/13/15 Form **4684** (2015)

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Form 4684 (2014) 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						

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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
- 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

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Tax Benefit Worksheet

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

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Worksheet 2. Recoveries of Itemized Deductions

To determine whether you should complete this worksheet to figure the part of a recovery amount to include in income on your 2007 Form 1040, see *Total recovery not included in income under Itemized Deduction Recoveries*. If you recovered amounts from more than one year, such as a state income tax refund from 2006 and a casualty loss reimbursement from 2005, complete a separate worksheet for each year. Use information from Schedule A (Form 1040) 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 alternative minimum tax or your tax credits reduced your tax to zero, see *Unused tax credits and Subject to alternative minimum tax 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*.

1.	State/local income tax refund or credit ¹	1.
2.	Enter the total of all other Schedule A refunds or reimbursements (excluding the amount you entered on line 1) ²	2.
3.	Add lines 1 and 2	3.
4.	Itemized deductions for the prior year (for example, line 28 of Schedule A for 2006)	4.
5.	Enter any amount previously refunded to you (do not enter an amount from line 1 or line 2)	5.
6.	Subtract line 5 from line 4	6.
7.	Standard deduction for the prior year. (The standard deduction amounts for 2006, 2005, and 2004 are shown in Tables 2, 3, and 4.) 7.	7.
8.	Subtract line 7 from line 6. If the result is zero or less, stop here. The amounts on lines 1 and 2 are not taxable	8.
9.	Enter the smaller of line 3 or line 8	9.
10.	Taxable income for prior year ³ (for example, line 43, Form 1040 for 2006)	10.
11.	Amount to include in income for 2007: 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).	11.

If line 11 equals line 3- Enter the amount from line 1 on line 10, Form 1040. Enter the amount from line 2 on line 21, Form 1040.

If line 11 is less than line 3 and either line 1 or line 2 is zero- If there is an amount on line 1, enter the amount from line 11 on line 10, Form 1040. If there is an amount on line 2, enter the amount from line 11 on line 21, Form 1040.

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

A.	Divide the amount on line 1 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 line 10, Form 1040	B.
C.	Subtract the amount on line B from the amount on line 11. Enter the result here and on line 21, Form 1040	C.

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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.

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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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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.
- IRC Code Section 139 excludes “qualified disaster relief payments” to the extent they are not duplicative of other payments

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139(g)(1) In general.—

Gross income shall not include any amount received as a qualified disaster mitigation payment.

139(g)(2) Qualified disaster mitigation payment defined.—

For purposes of this section, the term "qualified disaster mitigation payment" means any amount which is paid pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date) to or for the benefit of the owner of any property for hazard mitigation with respect to such property. Such term shall not include any amount received for the sale or disposition of any property.

139(g)(3) No increase in basis.—

Notwithstanding any other provision of this subtitle, no increase in the basis or adjusted basis of any property shall result from any amount excluded under this subsection with respect to such property.

139(h) Denial of Double Benefit.—

Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed (to the person for whose benefit a qualified disaster relief payment or qualified disaster mitigation payment is made) for, or by reason of, any expenditure to the extent of the amount excluded under this section with respect to such expenditure.

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Other Section 139 Payments

- Revenue Ruling 131, IRB 1953-15,7
- Revenue Ruling 2003-12

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REV. RUL. 2003-12, 2003-3 I.R.B. 283 (1/21/2003)

CERTAIN DISASTER RELIEF PAYMENTS ARE TAX-FREE

WASHINGTON – The Internal Revenue Service today issued guidance holding that individuals who are disaster victims will generally not have to pay taxes on assistance payments they receive.

Taxpayers in a Presidentially declared disaster area who receive grants from state programs, charitable organizations or employers to cover medical, transportation, or temporary housing expenses do not include these grants in their income.

The Victims of Terrorism Tax Relief Act of 2001 added Section 139 to the Internal Revenue Code, excluding from income qualified disaster relief payments to individuals. Today's ruling explains how that and other tax law sections apply in hypothetical disaster situations.

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Sec. 165(i) Election

- Can elect to deduct loss in the year when disaster occurs or to deduct in the tax year immediately preceding the disaster
- If deduction taken in the earlier tax year, must be by the due date, without extensions, for the taxable year when the disaster actually occurs
- Election may be revoked within 90 days
- 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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Sample 165(i) Election

Election to take deduction for preceding year
XYZ taxpayer
123 Main Street
Anywhere, Anystate 12345
Attachment to Return for Calendar year 20XX

The above named taxpayer elects, under Section 165(i) of the Internal Revenue Code, to claim a disaster loss deduction for the calendar year 20XX.

The taxpayer's house was destroyed by XXXXXX in XXXX, 20XX.

Signed _____
Date _____



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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The tax liability for the year or years in which an election is made is recomputed by filing an amended return if, after having made an election:

- the converted property is *not replaced* within the required period of time;
- the replacement property *costs less than what was anticipated* at the time of the election;
- a decision is made *not to purchase* qualified replacement property; or
- any of the other conditions for qualifying under the involuntary conversion rules are not met.

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121 Exclusion

Personal Residences

- Section 121 exclusion on personal residence
- Special rules for residence and contents
1033(h)(1)(A)(i) and 1033(h)(1)(A)(ii)
- Sale of land underlying a destroyed personal residence after receipt of insurance proceeds. The insurance proceeds and sale are viewed as single transaction (Rev. Rul. 96-32)
- Affirmative election not to use 121 exclusion signed by taxpayers
- See IRS FAQs



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.

	A	B	C	D	E	F	G	H	I	J
1										
2										
3	-1	-2	-3	-4	-5	-6	-7	-8	-9	-10
4	Item	No. of items	Date acquired	Cost or other basis	Insurance or other reimbursement	Fair market value before casualty	Fair market value after casualty	Decrease in fair market value	Smaller of column (4) or column -8	Casualty/Theft Loss (column (9) minus column (5))
5										
6										
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										
20										
21										
22										
23										
24										
25										
26										
27										
28										

Ready

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

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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?





Use of Estimates



**Information on reduced property taxes:
The Flood of 2016: Reduced Property Taxes
<http://www.louisianalawblog.com/business-and-corporate/flood-2016-reduced-property-taxes/>**

Lost Records

- Records reconstruction

<http://www.irs.gov/govt/tribes/article/0,,id=180701,00.html> *“You will want to evaluate the need for the records in relation to the cost of reconstruction.”*

- IRS Fact Sheet 2006-7 “Reconstructing your Records”

<http://www.irs.gov/newsroom/article/0,,id=152317,00.html>



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From IRS Website

- Every effort should be made to find lost records, or partial records that may have "survived" a disaster.
- Partial records are the best place to begin a reconstruction.
- A reconstruction of records is best approached in reverse order. Begin with the end of the year and work backward.
- Determine exactly what has been lost.
- Determine if you lost the only copy of an item.
- Rank the relative importance of the lost items, starting with those of highest importance.
- Determine items that warrant the time and expense of reconstruction.
- Determine if there is a state, federal, or other agency from which you can request a copy of a lost report. For items of public record, contact your local courthouse for a copy. For bank records, contact your bank. It could be expensive to get copies of canceled checks, but they are available.

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Business Interruption Claims

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IRS Protective Claims

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Louisiana Sales Tax Refund

 America Counts on CPAs*

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R-1362 (8/16)

LOUISIANA DEPARTMENT of REVENUE	Natural Disaster Claim for Refund of State Sales Taxes Paid	Return completed form to: Louisiana Department of Revenue P.O. Box 91138 Baton Rouge, LA 70821-9138
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Must attach Forms R-1362S and R-1362D

PLEASE PRINT OR TYPE.

Claimant's Name		DOB (mm/dd/yyyy)	Social Security Number	
Spouse's Name		DOB (mm/dd/yyyy)	Spouse's Social Security Number	
Mailing Address	<input type="checkbox"/> Check box to indicate address change	City	State	ZIP
Resident of Louisiana Since (mm/yyyy)		Telephone (Daytime)		
Location and Description of Destruction				
Street Address (including apartment number)		City	ZIP	
Parish	Date of Disaster (mm/dd/yyyy)	Name or Description of Disaster		
Primary Cause of Destruction:		Type of Home:		
<input type="checkbox"/> Flood <input type="checkbox"/> Wind <input type="checkbox"/> Other _____		<input type="checkbox"/> House <input type="checkbox"/> Apartment/Condo <input type="checkbox"/> Mobile Home		
Area(s) of the home that received damage:				Total Number of Areas that Received Damage
<input type="checkbox"/> Kitchen	<input type="checkbox"/> Living Room	<input type="checkbox"/> Dining Room	<input type="checkbox"/> Bedroom(s) (how many rooms) _____	

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R-1362I (8/16)

LOUISIANA
DEPARTMENT of REVENUE

Natural Disaster Claim For Refund Instructions
for Forms R-1362, R-1362D, and R-1362S

Louisiana residents whose property was destroyed by a natural disaster in a parish that has been declared by the President of the United States to be eligible for federal assistance may be entitled to a refund of the state sales tax paid on the destroyed property if the loss was not fully reimbursed by insurance or otherwise as authorized by Revised Statute 47:315.1.

To be eligible for a sales tax refund, a resident's loss must meet the following criteria:

- The loss was suffered by a Louisiana resident on property used in or about the individual's home, apartment, or homestead. Property owned by corporations, partnerships, or any type of business does not qualify for a sales tax refund.
- The destroyed property must have been movable at the time of its purchase and at the time of its destruction. Examples are clothing, furniture, television, etc.
- The resident must have paid Louisiana state sales tax on the purchase of the destroyed property. Property purchased in another state with no Louisiana sales taxes paid to the vendor and no consumer use tax paid directly to the state of Louisiana on its importation, or property received as a gift are not eligible for the sales tax refund.

The refund amount will be equal to the state sales taxes paid on the original purchase of the destroyed property and not on the purchase of the replacement property. A refund will not be issued on the portion of the loss that was reimbursed by insurance, disaster relief agencies, or otherwise.

All claims must be filed on or before December 31st of the third calendar year following the calendar year in which the property was destroyed.

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Proof of Property Loss Documentation

Persons claiming a refund must present some evidence to show that they actually suffered the loss and report all expected and actual reimbursements from insurance or otherwise. This documentation should be attached to the claim form R-1362D:

The declaration page of your homeowner's or renter's insurance policy and a copy of the insurance adjuster's report that documents the damage and claim reimbursement amounts.

For those that did not have any insurance coverage, all available purchase receipts for the destroyed items and any documentation of reimbursement from FEMA or other disaster relief sources. Also include copies of any letters showing you were denied reimbursement.

If the claimant is unable to provide documentation to document the property loss, the Secretary will make a reasonable estimate of the sales tax paid on the purchase of the tangible personal property that was destroyed based on income previously reported to the Louisiana Department of Revenue and other available information.

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To be eligible for a state sales tax refund, the following criteria must be met:

(1) The loss was suffered by a Louisiana taxpayer on property used in or about the individual's home, apartment, or homestead which is located in Louisiana (property owned by corporation, partnerships, or any type of business does not qualify);

(2) The destroyed property must have been movable at the time of its purchase and at the time of its destruction, such as clothing, furniture, televisions, and appliances which are not permanently attached to a house or building (motor vehicles are not eligible); and

(3) The taxpayer must be the owner of the tangible personal property who paid Louisiana state sales tax on the purchase of the destroyed property.

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IRS Examples

CPA America Counts on CPAs*

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(6/1/07) Q: A number of concerns have been raised by taxpayers and tax professionals about casualty loss valuations. While the IRS continues to research and develop specific answers to these issues, general guidance follows below.

A: While we cannot address every question received about property valuation issues, the IRS wants to express to the public that we sincerely recognize the extraordinary damage that can be caused by disasters. We urge taxpayers and tax professionals to act in good faith and make reasonable estimations based on all information available. The IRS is committed to considering each situation on a case-by-case basis. We have extensive experience with disaster situations and will be reasonable in determinations.

As for lost records, when records are not available or it is not feasible to obtain documentation sufficient to re-create records otherwise required, the IRS will consider documentation requirements satisfied by the best reasonably available information presented in good faith.

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(6/1/07) Q: The reporting of casualty losses on Form 4684 is cumbersome when using the repairs as evidence of the loss. You must reduce the value of the property after the loss by the amount of the repairs paid out to get the form to compute correctly.

A: Under the law, a personal casualty loss is determined by taking the smaller of:

The cost or other basis of the property (reduced by any insurance reimbursement), or

The decline in fair market value of the property as measured immediately before and after the casualty (reduced by any insurance reimbursement).

The cost of repairs may, in certain cases, be used to measure the decline in fair market value, but it cannot be used by itself to determine the amount of the loss. When the cost of repairs is determined to be a fair measure of the decline in fair market value, then all you have to do is take the fair market value before the casualty and reduce it by the cost of repairs to arrive at the fair market value after the casualty.

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(6/1/07) Q: Section 1.165-7(b)(1)(i) indicates the decrease in fair market value is the difference between the property's value immediately before and immediately after the casualty. What constitutes "immediately after"?

A: To compute the deductible casualty loss, taxpayers need to determine: (1) the difference between the fair market value immediately before and immediately after the casualty; and (2) the adjusted basis of the property (usually the cost of the property and improvements). Taxpayers may deduct the smaller of these two amounts minus insurance or any other form of compensation received or expected to be received. One method of determining the decrease in fair market value is an appraisal. An appraisal must reflect only the physical damage to the property and not a general decline in the property's fair market value. See § 1.165-7(a)(2)(i) of the Income Tax Regulations. Taxpayers may also use the cost to repair or clean up the property (cost-of-repairs method) to determine the decrease in fair market value caused by the casualty. See § 1.165-7(a)(2)(ii).

Although the regulations use the term "immediately after" when referring to the post-casualty value, we recognize that taxpayers' ability to determine the decrease in the fair market values of their properties, as a result of a disaster, may be restricted by lack of access to the properties and the need to remove water from flooded properties. Under these circumstances, the decrease in fair market value would take into account additional damage sustained to the property as a result of delays due to legal and physical restrictions to taxpayers' access to their property and the need to remove standing water from the properties.

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(03/09) Q: If a taxpayer owns several parcels of real estate that are damaged by a federally declared disaster, may the taxpayer elect under § 165(i) to claim a casualty loss on one property in the prior year and a casualty loss on other property in the current year?

A: If a taxpayer elects under § 165(i) to deduct in the prior tax year losses attributable to a federally declared disaster, the taxpayer must report all related losses that qualify for the election on the prior year tax return (original or amended). See § 1.165-11(d) of the Income Tax Regulations.

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(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?

A: The answer depends on whether the damaged property was owned by the homeowners association or by the individual members as tenants in common.

<http://www.irs.gov/businesses/small/article/0,,id=171138,00.html>

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(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?

A: In determining the amount of a casualty loss from damage to personal-use residential property, trees and other landscaping are considered part of the entire residential property, and *are not valued separately or assigned a separate basis, even if purchased separately.*

<http://www.irs.gov/businesses/small/article/0,,id=171138,00.html>

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(6/1/07) Q: A taxpayer's residence is damaged by a disaster. Prior to the disaster the taxpayer's basis in the property was \$100,000. The taxpayer receives insurance proceeds of \$10,000 for the damage (not for living expenses), but only spends \$7,500 for repairs necessary to restore the residence to its condition before the hurricane. The taxpayer receives no other form of compensation for the damage. Does the taxpayer have a casualty loss deduction? Is the difference of \$2,500 between the insurance recovery and the repair cost taxable? What is the adjusted basis of the residence after the repairs?

A: The taxpayer does not have a casualty loss deduction, because the loss is fully covered by insurance. To compute a casualty loss deduction, a person must:

Determine the adjusted basis in the property before the casualty.

Determine the decrease in fair market value of the property as a result of the casualty (generally by appraisal or using the cost-of-repairs method).

From the smaller of these two amounts, subtract insurance and any other form of compensation received or expected to be received.

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(11/03/2006) Q: A business building has adjusted basis of \$40,000 (\$30,000 building and \$10,000 land). Building is 50% destroyed. Insurance is \$10,000. Cost to repair is \$85,000. What is the amount of the taxpayer's casualty loss deduction?

A: If the business property was damaged but not totally destroyed, the casualty loss is measured by the lesser of the adjusted basis or the decrease in fair market value, minus any other form of compensation (such as insurance reimbursement). Section 1.165-7(a)(2) of the Income Tax Regulations provides two methods for taxpayers to determine the decrease in fair market value of the property affected by a casualty. The first method is an appraisal. An appraisal must reflect only the physical damage to the property and not a general decline in the property's fair market value. See § 1.165-7(a)(2)(i). The second method is the cost to repair the property. See § 1.165-7(a)(2)(ii). The cost to repair the damaged property may be used as evidence of the decrease in value if the taxpayer makes the repairs and shows that the repairs: a. are necessary to bring the property back to its condition before the casualty; b. the amount spent for repairs is not excessive; c. the repairs take care of the damage only; and d. the value of the property after the repairs is not, as a result of the repairs, more than the value of the property before the casualty.

<http://www.irs.gov/businesses/small/article/0,,id=171138,00.html>

93

(12/15/09) Q. Is there an audit technique guide to assist in the preparation of casualty losses?

A: No, but there is other IRS-issued guidance to help taxpayers determine and report disaster-related casualty losses. See, Publication 584, Casualty, Disaster and Theft Loss Workbook. Also see, Internal Revenue Manual Section 4.10.7.3, Evaluating Evidence, and Section 4.10.7.4, Arriving at Conclusions.

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(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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(12/15/09) Q. During a recent disaster many taxpayers lost food stored in refrigerators and freezers due to long periods without electricity. Many insurance companies reimbursed policyholders a flat amount for food losses, without requiring the policyholders to itemize the food losses or file claims. If the amount the taxpayer received from the insurance company exceeded the original cost of the food, does the taxpayer have a reportable gain?

A: No. Section 1033(h)(1)(A)(i) of the Code states that no gain shall be recognized by reason of the receipt of any insurance proceeds for personal property which was part of such contents and which was not scheduled property for purposes of such insurance.

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(12/15/09) Q. Can an affected taxpayer use the value of their property as stated their most recent property tax statement to establish the FMV of the property before the casualty?

A: No. The law allows the taxpayer to establish the FMV of the property before the casualty by either: (1) obtaining an appraisal from a competent appraiser (see Reg. 1.165-7(a)(2)(i)); or (2) by using the cost of repairs method (see Reg. 1.165-7(a)(2)(ii)). The IRS will review each return based on the particular facts and circumstances.

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(12/15/09) Q. Taxpayer's beach front rental property was totally destroyed as a result of a hurricane that occurred in 2008. The taxpayer then decided not to rebuild. After the hurricane, the County Tax Assessor valued the property at \$100. The taxpayer received insurance proceeds in 2009 that resulted in a gain. The taxpayer, who had been reporting income and expenses on Schedule E, has suspended losses. Is the taxpayer required to report the gain in 2008 or 2009? Is the taxpayer required to consider the property as disposed of and take the suspended losses? If so, are these losses reported on the 2008 or 2009 return?

A: The gain that results from the casualty must be reported in the year in which the insurance proceeds were received. Therefore, in the example above, the taxpayer should report the gain in 2009. See IRS Notice 90-21, 1990-1 C.B. 332. Pursuant to section 469(g) of the Code, losses are allowed, without limitation, if the taxpayer disposes of the entire interest in the activity to an unrelated person in a fully taxable transaction. Generally, this rule does not apply unless the taxpayer disposes of all of the assets used in the activity (including land). Because the taxpayer in the example above has not disposed of the land, the taxpayer may only take passive activity losses up to the amount of the taxpayer's passive income in 2008. Any suspended losses not allowed would carryover to 2009.

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Questions



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Thank You

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