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Topic 515 - Casualty, Disaster, and Theft Losses

A casualty loss can result from the damage, destruction or loss of your property from any sudden, unexpected, or unusual event such as a flood, hurricane, tornado, fire, earthquake or even volcanic eruption.

A theft is the taking and removing of money or property with the intent to deprive the owner of it. The taking must be illegal under the law of the state where it occurred and it must have been done with criminal intent.

If your property is not completely destroyed, or if it is personal-use property, the amount of your casualty or theft loss is the lesser of the adjusted basis of your property or the decrease in fair market value of your property as a result of the casualty or theft. The adjusted basis of your property is usually your cost, increased or decreased by certain events such as improvements or depreciation. For more information about the basis of property, refer to Topic 703, or Publication 547, *Casualties, Disasters, and Thefts.* You may determine the decrease in fair market value by appraisal or, if certain conditions are met, by the cost of repairing the property. For more information, refer to Publication 547. Keep in mind the general definition of fair market value is the price at which property would change hands between a buyer and seller, neither having to buy or sell, and both having reasonable knowledge of all necessary facts.

If the property was held by you for personal-use, you must further reduce your loss by $100. This $100 reduction for losses of personal-use property applies to each casualty or theft event that occurred during the year. The total of all your casualty and theft losses of personal-use property must be further reduced by 10% of your adjusted gross income. In addition, individuals are required to claim their casualty and theft losses as an itemized deduction.

The National Disaster Relief Act of 2008 changed some of the tax rules pertaining to losses resulting from federally declared disasters. The new law, which is effective for losses attributable to disasters federally declared in taxable years beginning after December 31, 2007, and before January 1, 2010, provides the following:

- Allows all taxpayers, not just those who itemize, to claim the net disaster loss deduction regardless of the taxpayer's adjusted gross income
- Removes the 10 percent of adjusted gross income limitation for net disaster losses
- Provides a 5-year net operating loss (NOL) carryback for qualified disaster losses
- Changes the amount by which all individual taxpayers must reduce their personal casualty or theft losses for each casualty or theft event from $100 to $500. This applies to deductions claimed in 2009. The reduction amount returns to $100 for taxable years beginning after December 31, 2009

For more information on these tax law changes (including changes for business taxpayers), see Publication 547, *Casualties, Disasters, and Thefts.* Additional information can be found on the IRS Website at the following link: Tax Relief in Disaster Situations.

For individuals affected by the Midwestern Disasters, the Heartland Disaster Tax Relief Act of 2008 provides that losses of personal-use property that arose in identified disaster areas are generally not subject to the $100 reduction or 10% of adjusted gross income limitation. In other words, the entire amount of unreimbursed loss is deductible for a taxpayer who itemizes. For additional information specific to the Midwestern disasters see Publication 4492-B, *Information for Affected Taxpayers in the Midwestern Disaster Areas.*

Casualty and theft losses are claimed on Form 4684 (PDF), *Casualties and Thefts.* Section A is used for personal-use property and Section B is used for business or income-producing property. If personal-use property was damaged, destroyed or stolen, you may wish to refer to Publication 584, *Casualty, Disaster, and Theft Loss Workbook (Personal-Use Property).* For losses involving business-use property, refer to Publication 584B (PDF), *Business Casualty, Disaster, and Theft Loss Workbook.*

Casualty losses are generally deductible in the year the casualty occurred. However, if you have a deductible loss from a disaster in a federally declared disaster area, see Publication 547 and Publication 4492-B for additional information. Theft losses are generally deductible in the year you discover the property was stolen.

If you receive insurance or other reimbursement for your loss or expect to be reimbursed for all or part of the loss, you must subtract the amount when you figure your loss.

If your loss deduction is more than your income, you may have a net operating loss. You do not have to be in business to have a net operating loss from a casualty. For more information, refer to Publication 536, *Net Operating Losses.*

The IRS may postpone for up to one year certain tax deadlines of taxpayers who are affected by a federally declared disaster. The tax deadlines the IRS may postpone include those for filing income, estate, gift, generation-skipping transfer, certain excise, and employment tax returns, paying taxes associated with those returns, and making contributions to a traditional IRA or Roth IRA.

If the IRS postpones the due date for filing your return and for paying your tax and you are affected by a federally declared disaster area, the IRS may abate the interest on underpaid tax that would otherwise accrue for the period of the postponement.

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