1. What types of federal tax relief am I entitled to if I lost property in a disaster?

You may be eligible for several types of income tax relief:

1. First, if you have disaster losses that are not fully reimbursed through insurance or otherwise, you are entitled to a deduction for the year in which the loss occurred OR you may choose to deduct the loss in the prior year by filing an amended tax return. By taking the deduction in the prior year, you may receive an immediate tax refund. The whole idea is to get you the refund as fast as possible.

2. Second, if your main home was damaged or destroyed and you received insurance payments that were more than the adjusted basis*, you can postpone paying tax on some or all of the gain if you buy a replacement property within the next four years. (*The adjusted basis of personal use property is generally the original purchase price, increased by the cost of additions or permanent improvements and decreased by any earlier casualty losses.)

3. Third, if you own a second property, such as a vacation home, and received insurance payments that were more than the adjusted basis for the loss of that property, you may be able to postpone some or all of the gain by buying replacement property—but you must do so within the next two years, not four.

2. How can I decide whether to amend my return from last year when my tax records were destroyed in the disaster?

You can get copies of your prior tax returns and tax records by requesting them from the IRS. Although the IRS usually charges a fee for this service, it will waive the fee and speed up your request because your records were lost due to a disaster. Just write the official Disaster Designation in red ink at the top of the form.

3. How can I tell whether my casualty loss occurred in an area determined by the President to be a disaster area?

You can find a list of the Presidentially declared disaster areas on the web site of the Federal Emergency Management Agency.

Claiming Disaster Loss Deductions for Personal Use Property

1. How do I calculate my disaster loss?

Take the lesser of the adjusted basis of the property, or the decrease in fair market value due to the disaster, and subtract any insurance or other reimbursement you received or expect to receive. For example, if a home with an adjusted basis of $80,000 and a value of $120,000 was completely destroyed and the owner received $70,000 in insurance payments, the owner's disaster loss would be $10,000. This is determined by taking the adjusted basis ($80,000), which is less than the decrease in fair market value ($120,000), and subtracting the insurance payments ($70,000). We can help you with this calculation if needed, especially since most people are unsure just how much they will receive from insurance or a lawsuit.

2. If I have not yet filed an insurance claim, can I count the whole loss to figure out my tax deduction or do I have to count the insurance payments that I expect to receive?

When you calculate your disaster loss, you must take into account the amount of insurance payments or settlement from a lawsuit that you expect to receive, whether or not you have filed a claim. If you later receive less insurance money than was expected, you may include that difference as a loss for the year in which you expect no further insurance or other reimbursement. If you choose not to file an insurance claim, your disaster loss cannot exceed the amount of your insurance deductible.

3. How do I decide whether it is better to take the disaster loss in the year of the disaster or in the prior year?

This is an important question. Your tax attorney should calculate the tax benefit both ways and see which is greater. Also consider the time value of money and other factors on both year's tax returns. Since the disaster loss is deductible only to the extent it exceeds 10% of your adjusted gross income, it may be smarter to claim the loss in the year in which your income is lower. You will need to itemize deductions (instead of claiming the standard deduction).

4. How long do I have to decide whether to claim the disaster loss on an amended return for the prior year?

You must make this election to take your casualty loss for the disaster in the preceding year on or before the date that is six months after the regular due date for filing your original return (without extensions) for the tax year in which the disaster occurred.

Disaster Losses and Gains for Business or Employee Property

1. I have business property that was destroyed in a disaster. Is the tax loss calculated the same way for business property as for personal use property?

To calculate the amount of disaster loss from business property, take the lesser of the adjusted basis of the property or the decrease in fair market value due to the disaster and subtract any insurance or other reimbursement that has been received or is expected. Business disaster losses are not subject to the $100 or the 10% adjusted gross income reductions that apply to individuals.

2. Can a business elect to claim a disaster loss in the prior year?

Yes. Businesses, like individuals, may elect to deduct disaster losses in the prior year by filing an amended return.

3. What about gain from the receipt of insurance proceeds in excess of the adjusted basis of business property destroyed in a disaster? Is that calculated the same way as with respect to personal use property?

If business property is destroyed and the insurance payments exceed the adjusted basis, there is a gain for tax purposes. The business may elect to postpone the gain by buying replacement property with a cost equal to or more than the insurance payments for business use within two years of the end of the tax year in which the gain was realized.

4. I was required to purchase special uniforms for work and they were destroyed. Are there any special rules for deducting their loss on my taxes?

The loss of property you used as an employee should be included in your "miscellaneous itemized deductions," which are deductible if you itemize deductions to the extent they exceed 2% of your adjusted gross income.

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