

Claiming Personal Casualty Losses 2009 vs. 2010 - What You Need to Know

May 2010

New England storm victims should evaluate the tax consequences of including the 2010 flood casualty losses on their 2009 versus their 2010 tax returns.

General Rule – Year of Deduction

Generally, casualty losses are deductible in the year the casualty occurred.

Special Rule for Federally Declared Disaster Areas

Taxpayers with disaster losses in federally declared disaster areas may elect to claim their disaster losses in the preceding year.

Amended returns can be filed to take the deduction on the preceding year if that year's returns were already filed.

Casualty losses can create a net operating loss eligible for a three year carry back.

Advantages of Taking the Loss on Your 2009 Tax Return

The advantages of taking the casualty loss from a federally declared disaster area on your 2009 return include:

- No 10% of adjusted gross income limitation
- Lower tax liability resulting in a quicker potential refund and
- Lower 2010 estimated tax payment

What is a Casualty?

A casualty is the damage, destruction, or loss of property resulting from sudden, unexpected, or unusual identifiable events. The damage must be permanent in nature. For example:

- Car accidents
- Storms
- Floods

Not a Casualty

A casualty is not the loss of property due to progressive deterioration. The following items are not casualties.

- Termites
- Drought
- Disease
- Erosion
- Temporary decline in value

Amount of Loss

Lesser of -

- Adjusted basis of the property or
- The decrease in fair market value due to the casualty

Reduced by -

- Expected insurance or other reimbursement - for personal losses, an insurance claim must be filed in order to take a casualty loss deduction
- Estimated law suit settlement
- \$100 in 2010 and \$500 in 2009 per casualty and
- 10% of Adjusted Gross Income - this limitation has been waived for losses arising from federal disaster areas for the 2009 tax year

(over)

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Amount of Loss (Continued)

Cost of repairs to get the property back to its original condition (not improve it beyond the original condition) can be used as a measure of the decrease in the fair market value of the property. However, the repairs must be made and the actual costs used in the calculation. Estimated costs to repair do not support the decline. For significant losses, an appraisal should be obtained.

Where to Report

Casualty losses are reported on Form 4684, Casualties and Thefts, and then flow to Schedule A, Itemized Deductions. For federal disaster losses, the deduction can be added to the standard deduction if the taxpayer doesn't itemize.

Casualty losses are not subject to the itemized deduction phase-outs.

Additional Information

IRS Publications that give additional details on casualty gains and losses can be found at www.irs.gov:

- Publication 547, Casualties, Disasters, and Thefts
- Publication 584, Casualty, Disaster, and Theft Loss Workbook (Personal-use Property)
- Publication 584-B, Business Casualty, Disaster, and Theft Loss Workbook

PI & CERELLI, GILSTEIN
& COMPANY, LLP

Certified Public Accountants and Consultants

144 Westminister Street
Providence, RI 02903
pgco.com | 401-831-0200

Laura Da Fonseca, Tax Principal
Contact: 401-831-0200 laurad@pgco.com