

Disaster Questions and Answers
FICPA Webinar
February 28, 2023
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<p>Postponement vs extension of extended 2018 refund deadline for withholding and prepaid credit</p>	<p>See National Taxpayer Advocate Blog published May 11, 2021. https://www.taxpayeradvocate.irs.gov/news/nta-blog-claims-for-refunds-2019-and-2020-tax-year-trap-for-the-unwary/. We will be working on providing more information on statute dates and the effect of Hurricane delays. Not ready now. See Example 5 in the 7508A Regs.</p>
<p>I reviewed prior to the seminar the handout so could you please answer later the handout on Page 96, regarding condo assessments. The link provided in your handout doew not work anymore. Also, regarding perople living in condos, if they sustained a loss from the hurricane for their personal property (not structural), can they deduct these losses? thanks</p>	<p>See: https://www.irs.gov/businesses/small-businesses-self-employed/faqs-for-disaster-victims#collapseCollapsible1657809545011</p> <p><u>Q5: 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?</u></p> <p>A: The answer depends on whether the damaged property was owned by the homeowners association or by the individual members as tenants in common.</p> <p>A homeowner's association (including a condominium association) is organized and operated for the purpose of acquiring, constructing, managing, and maintaining "association property." Such property includes real and personal property owned by the organization or owned as tenants in common by the members of the organization. This property is generally referred to as "common elements."</p> <p>Funds for performance of the activities of the homeowners association are generally derived from assessments of the members and the assessments include real property taxes on</p>

association property as well as reserves for capital items such as resurfacing a parking lot, replacement of street lights, construction of a swimming pool, etc. This would include special assessments for any uninsured portion of the cost of repair or replacement of property damaged by a natural disaster.

A casualty loss deduction is only allowed for losses from property owned by the taxpayer. If the common elements are not owned by individual members, but rather by the homeowner's association, an individual member would not be entitled to a casualty loss deduction. A member's assessment for the replacement of a capital item, whether or not the item was damaged by a casualty, is in the nature of a contribution to the capital of the homeowners association and is not currently deductible by the member.

However, if the individual members of the homeowners association own the common elements as tenants in common, the individual members may be entitled to casualty loss deductions in proportion to each member's interest in the damaged common elements.

To compute the amount of a casualty loss, a taxpayer must determine the fair market value of the property both immediately before and immediately after the casualty and compare the decrease in fair market value with the adjusted basis in the property. From the smaller of these two amounts, a taxpayer must subtract any insurance or other form of compensation they have received or reasonably expect to receive. Fair market value may be determined by an appraisal. The cost to repair or clean up the property (cost-of-repairs method) may also be used as a measure of the decrease in fair market value caused by the

casualty if the repairs are actually made, are not excessive in cost, are necessary to bring the property back to its condition before the casualty, take care of the damage only, and do not cause the property to be worth more than before the casualty. See Regulations § 1.165-7(a)(2).

If the members own the common elements damaged by the casualty as tenants in common, they are entitled to a casualty loss deduction for the lesser of: (1) the decline in value of their ownership interest as a result of the casualty or (2) their adjusted basis. From the smaller amount, the member should subtract any insurance or other form of compensation received or expected to be received. With respect to a member claiming the special assessment as a casualty loss, a member could use the amount of the assessment as a measure of the decrease in the fair market value of the common elements caused by the casualty as long as the amount of the assessment is commensurate with the member's ownership interest in the common elements and the requirements for using the cost-of-repairs method of valuation, described above, are satisfied.

In summary, if the common elements are owned by the homeowners association, the members are not entitled to any casualty loss deduction for damage to the common elements and, therefore, the members may not deduct a special assessment to replace uninsured property (common elements) damaged by a disaster. However, if the common elements are owned by the members of the homeowner's association as tenants in common, the members may be entitled to a casualty loss deduction as discussed above.

	Please note that 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.
It works with Edge, not Brave. Unfortunately I missed the beginning.	Webinar is archived at: - https://event.on24.com/wcc/r/4133232/09A6517FF6F56ADA16EC20DBE0EE9792
We can file the returns using the 10% limit and amend later??	Yes.
go ahead file the return as qualified disaster loss?	As of now, IAN and Nicole are not qualified losses.
When you decrease your loss by the salvage value for a rental property is the salvage value based on just the house or do you include the land? If a house on the beach was completely destroyed the house salvage value is zero but the land salvage value could be more than the basis	The land should have been separated on the depreciation schedule. The building would be written down to zero if completely destroyed.
If you have a rental property that is a passive activity is the casualty loss limited by passive loss rules?	See https://www.taxnotes.com/research/federal/treasury-decisions/irs-amends-passive-loss-regs-for-casualty-and-theft-losses/cz01 . Passive activity limitations do not apply to casualty and theft losses , even when occurring in connection with a rental activity. Deductions for a loss from fire, hurricane, shipwreck, earthquake, or other casualty , or from theft are exempt if losses similar in cause and severity do not occur regularly in the conduct of the activity [Reg. 1.469-2(d)(2)(xi)]. The casualty or theft loss is treated as an event entirely separate from the passive rental activity.
so to clarify, if someone has hurricane damage from IAN, we have to wait to do their return until the final rules come out? what if we already filed their return assuming we took an additional deduction to standard deduction	You may file return as the law is now.
Listening in from MN for clients that had home in Ian - I am not familiar with how this all works	Good luck.

Seem to be using a different freeze for Nicole	There are not as many counties included in the Nicole delay as the IAN delay. See: https://www.ficpa.org/publication/hurricane-ian-and-nicole-filing-deadlines-and-practice-management
Hotline only addressing IMF	
If we file the return with a casualty loss, and later determine the loss is substantially greater, can we amend the return or do we need to file a new casualty loss on the 2023 return?	Cash basis taxpayer deducts when repairs paid. Hidden or subsequent damage deducted when found or paid.
condo special assessments can claim as loss	See above. https://www.irs.gov/businesses/small-businesses-self-employed/faqs-for-disaster-victims#collapseCollapsible1657809545011
What about storm repair assessments from a Condo to cover uninsured Losses	See above. https://www.irs.gov/businesses/small-businesses-self-employed/faqs-for-disaster-victims#collapseCollapsible1657809545011
Would a decline in FMV take into consideration the overall destruction of an island for example Sanibel Island. It certainly isn't the same after the hurricane and certainly won't be for a few years?	Temporary decline in value is addressed in the Finkbohner case. <i>Finkbohner v. United States</i> , 788 F.2d 723
Can the FICPA put these documents all in one place?	https://www.ficpa.org/disaster-relief
The issue that practitioners need to be sensitive to is the difference between condos under chapter 718, FS and homeowners association under Chapter 720, FS. Definitely review any information the FICPA's CIRA Committee has on the website and also email govaffairs@ficpa.org with specific condo vs HOA questions.	
Costs%2Bwhat you do to house, but no as-if depreciation reduction?	Not sure. Please resubmit questions.
What if there is no insurance adjuster? i.e. self insured homeowner?	May have to use one of the other methods in RP 2018-08 or cost to cure in the 165 regs.
There are a few different adjusting programs in use	Thank you.

I think you may have touched on this before, but could you please tell us the last Hurricane (name/date) that received the "qualified disaster" designation eliminating the 10% AGI requirement. Thanks.	Probably Hurricane Michael. Not sure.
Do we do a partial disposition for the loss and then add the repairs as new basis that could potentially receive bonus depreciation?	See Industry Audit Guide on Repair Regs. https://www.irs.gov/pub/irs-pdf/p5712.pdf
Do you happen to have any authoritative support? This is what we want to do, but can't find specific support.	Please resubmit question with facts.
if had a home was destroyed, can we still claim sec. 121 exclusion if still have gain	Yes, if completely destroyed. See Tax Consequences of an Involuntary Conversion of a Principal Residence (https://www.gscpa.org/content/files/sections/real_estate/042108_principle_residence.pdf#:~:text=sel%20issued%20Chief%20Council%20Advice%20%28CCA%29%20200734021%2C1%20which,the%20exclusion%20under%20Code%20Sec.%20121%20to%20apply)
Why would you not recommend filing an extension until October 15th?	Whatever you want to do.
Mindy should be the main presenter - I really didn't get anything out of what Jerry said. I was hoping for guidance on what and how to qualify the losses. Sorry to be blunt, but this was a waste of my time and \$100.	Thank you.
HOW DO WE CLAIM BEACH FRONT LAND EROSION LOSS	You would need an MAI appraisal on the decline in FMV.
can condo special assessment to claim as hurricane loss?	See above. https://www.irs.gov/businesses/small-businesses-self-employed/faqs-for-disaster-victims#collapseCollapsible1657809545011
Most FEMA and ordinary home insurance doesn't cover hurricane damage to seawalls (like collision from loose boats and tree trunks.) Any advice on seawalls made of concrete, wood or vinyl - and if paying for your neighbors' repairs (who cant	Could be depending on facts. Have to look at 165 regs. Reg § 1.165-7. Casualty losses- (ii) The cost of repairs to the property damaged is acceptable as evidence of the loss of value if the taxpayer shows that (a)

<p>afford to repair their seawalls) in order to protect your own also damaged seawall?</p>	<p>the repairs are necessary to restore the property to its condition immediately before the casualty, (b) the amount spent for such repairs is not excessive, (c) the repairs do not care for more than the damage suffered, and (d) 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.</p> <p>See if the neighbor qualifies for PACE funding if in FL. Repairs will attach to property, not person, be paid through monthly escrow, can be transferred to buyer if property is sold (and agreed by buyer), no credit check.</p>
<p>if homeowner is displaced, are they able to factor in temporary housing?</p>	<p>Generally, this is considered a personal expense. These could be covered by insurance, could be covered by Section 139 payment from employer, or FEMA or SBA payment.</p> <p>Also, see: https://www.irs.gov/businesses/small-businesses-self-employed/faqs-for-disaster-victims#collapseCollapsible1657809544961</p> <p>Travel Expenses</p> <p><u>Q1: If your employer relocates to another location because of a federally declared disaster, how do you determine if you will be able to deduct your travel expenses?</u></p> <p>A: For tax years beginning after December 31, 2017 and ending before January 1, 2026, travel expenses may only be deducted on Schedule C for taxpayers who own a business and not as a miscellaneous itemized deduction for taxpayers in the trade or</p>

business of being an employee. If this restriction does not apply, the answer will then depend on whether the employer move is realistically expected to be for less than or more than one year. A temporary assignment away from home, an assignment whose termination can be foreseen within a fixed and reasonably short period (less than one year), does not shift the "tax home."

Therefore, a taxpayer may deduct the necessary traveling expenses in getting to his temporary assignment and also for the return trip to his tax home after the temporary assignment is completed, and his expenses for lodging and 50% of the cost of the meals while he is in the place to which he is temporarily assigned.

A taxpayer is not treated as being temporarily away from home if his period of employment exceeds one year (Code Sec. 162(a)). The one-year rule generally is not triggered by short intermittent assignments that span more than one year.

Employment away from home at a single location for a period of less than a year is treated as temporary, in the absence of facts and circumstances indicating otherwise. If employment away from home is a single location initially is realistically expected to last for one year or less, but later is realistically expected to exceed one year, then the employment will be treated as temporary until the date that the taxpayer's realistic expectation changes (at which point the employment will no longer be "temporary").

An indefinite assignment away from home shifts the "tax home" and the taxpayer cannot deduct expenses of travel, meals, and lodging while in the location of the "indefinite assignment." Employment is indefinite if it lasts for more than one year, or there is no realistic expectation that the employment will last for one year or less.

	<u>Q2: May a taxpayer claim a travel expense deduction if the taxpayer is displaced by a federally declared disaster and must live and work in another locality?</u>
how do we get our CPE certificate? I don't see that I am able to get it directly from this site	
thank you!	
Thanks	
Just to be absolutely clear—an individual would be able to file (now) a return using the 10% of AGI limit and not have to amend if they never designate Ian as a qualified disaster. Correct? Then, if they do designate Ian as a qualified disaster, they could file an amended return to adjust as needed/required to eliminate the 10% limit?	Yes.