



A number of the homes and businesses damaged by the Middle Tennessee Flood of 2010 may not be covered by insurance. Consequently many are in dire need of financial resources to help pay for the losses they have suffered. A tax refund won't cover 100% of these losses but it could pay for up to 35%, depending on your tax bracket, and the refund can be requested NOW!

Since Nashville and surrounding areas have been declared a federal disaster area, there are special tax rules that may help you recover some of your "casualty" loss. These rules are very different from those that apply to ordinary casualty losses. They are designed to help folks like us get back on our feet and back to our everyday lives a little faster. These special rules do this by:

- Removing a limitation that reduces ordinary casualty losses;
- Allowing you to take a deduction even if you don't itemize your deductions, which you have to do for most other casualty losses; and,
- Letting you take the deduction in the year before (2009) the disaster.

For purposes of the tax code, a casualty is when your property is damaged or destroyed by an identifiable event that is sudden, unexpected, or unusual. Clearly, the Flood of 2010 that hit Middle Tennessee qualifies for this special tax relief.

Computation of Flood Loss

A casualty loss is computed 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.

A disaster related casualty loss is NOT subject to the 10% Rule which would normally reduce your loss deduction by 10% of your adjusted gross income.

Your tax refund would generally be equal to your marginal tax rate multiplied by your casualty loss. Marginal tax rates for 2009 start at 10%. The top tax bracket is 35% for those with taxable incomes greater than \$372,950.

Itemized or Standard Deduction

If you itemize your personal deduction you report your casualty loss (computed on Form 4684) on Schedule A. But, you don't have to itemize your deductions in order to take a deduction for disaster area casualty losses. If you take the standard deduction, you report the casualty loss deduction by completing Form 4684 and entering your net disaster loss on line 6 of the standard deduction worksheet.

When to Report Flood Loss – 2009 or 2010?

Unlike other casualty losses, which have to be claimed in the same year they happen, victims of the Flood of 2010 can choose to deduct their losses in 2009 or 2010. Generally you would want to claim the loss in the year that maximized your tax benefit but other issues may play into this decision. If you've already filed your return for 2009, you can file an amended return to claim the loss in 2009. You have until April 15, 2011 to make the decision to take the deduction in 2009 and amend your 2009 tax return.

If you decide to claim the loss in 2009, you need to include a statement with your return that specifies:

- You are making the choice to take the deduction in a prior year
- The date of the disaster
- The city, town, county and state where your damaged property was located

By taking the loss in 2009, you will lower the amount of taxes you owe for 2009 and accelerate the receipt of any tax refund. If you make the election to claim the loss in 2009 and change your mind, you have 90 days to cancel the election and return the refund. If you revoke your choice before receiving a refund, you have to return any refund or credit within 30 days after you get it.

If you have any questions related to how to compute your casualty loss or need help in filing an amended 2009 tax return to get your refund quickly, we would be happy to help.

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