



January 2020

Fact Sheet for VITA/TCE Sites Impacted by Federally Declared Disasters (January 1, 2018 – December 20, 2019)

Background

Provisions contained in the Taxpayer Certainty and Disaster Tax Relief Act of 2019 provide special relief for taxpayers impacted by federally declared disasters that occurred in 2018 and before December 21, 2019, and continued no later than January 19, 2020. The disaster declaration must be made before February 19, 2020. The special relief for these qualified disasters does not apply to taxpayers impacted by the California wildfires in January 2018 (who received special relief in 2018). Our goal is to provide a general **summary** of how these changes may affect some individuals' income tax returns, as well as provide additional guidance for site operations.

Personal casualty losses attributable to a qualified disaster may be claimed as a qualified disaster loss on Form 4684, Casualties and Thefts. Taxpayers may deduct their qualified disaster losses without itemizing other deductions on Schedule A. However, like several other disaster-related tax law issues, **casualty losses are out of scope for the VITA/TCE program** regardless of whether the federally declared disaster is a qualified disaster. Because it will be useful for volunteers to be able to identify when a return is out of scope, we have provided a **Casualty Loss Screening Tool** which can be used as a resource to assist in identifying out-of-scope casualty loss returns. These returns will have to be referred to a paid preparer or, if available, a pro bono tax professional.

Impact of Tax Law Changes for VITA/TCE Sites

There are four provisions that may directly impact some taxpayers visiting VITA/TCE sites who were affected by a disaster:

- **Special Rules for Distribution and Use of Retirement Funds**
 - The IRS is developing new Forms 8915-C and 8915-D for qualified disaster distributions.
 - Affected taxpayers can make certain tax-favored distributions from certain retirement plans.
 - Affected taxpayers are eligible for special repayment options.
 - Qualified disaster distributions are not subject to the additional 10% tax (or the additional 25% tax for certain distributions from SIMPLE IRAs) on early distributions from qualified retirement plans (including IRAs).
 - Out-of-scope issues include:
 - Taxpayers have the option to include qualified disaster distributions in income in equal amounts over three years rather than including the entire amount in income in the year it was received.
 - Taxpayers have three years from the day after the date they received the qualified disaster distributions to make a repayment.
- **Temporary Suspensions on the Limitations of Charitable Deductions**
 - Qualified charitable contributions paid between January 1, 2018, and February 18, 2020, for eligible relief efforts are not subject to the 50% AGI limitation. A taxpayer must obtain written acknowledgement that the contribution was used for relief efforts for a qualified disaster.

- **Special Rules for Determining Earned Income**

- Taxpayers whose main home is located in a qualified disaster area on any date that falls within the disaster's incident period may be able to elect to calculate their earned income credit (EIC) and additional child tax credit (ACTC) by substituting their earned income from the preceding tax year if the preceding year's earned income is more than the earned income in the year of the applicable qualified disaster.

- **Automatic 60 Day Extension to File**

- Taxpayers whose main home is located in a disaster area are now automatically provided an extension of time to file returns, pay taxes, or complete other time-sensitive acts beginning on the first date specified in a federal disaster declaration and ending 60 days after the last date specified in that federal disaster declaration. Impacted taxpayers no longer need to wait for the IRS to announce postponed deadlines. This automatic relief applies to federal disaster declarations issued after December 20, 2019.

Additional Guidance for Site Operations

1. **Validating Identification for Disaster-Affected Taxpayers:** Volunteers need to verify taxpayer identities with original photo identification (ID) and verify taxpayer identification numbers (TINs), which helps prevent fraud and identity theft. However, **there are two exceptions to the general rules that can make a difference for many individuals affected by disasters:** (1) Under extreme circumstances, the site coordinator can approve accepting a valid form of original photo identification other than a valid driver's license, employer ID, school ID, state ID, military ID, national ID, visa, or passport. (2) The site coordinator can also approve an exception to the requirement to provide a photo ID and/or proof of a TIN for taxpayers known to the site. "Known to the site" is someone who visits the site frequently and is known to volunteers. These two exceptions give the site coordinator reasonable flexibility to approve service under difficult conditions.
2. **Certification for Puerto Rico (PR) taxpayers living in the United States:** Partners who serve Puerto Rican taxpayers should promote PR Level I and PR Level II certifications among their volunteers. Both the return preparer and quality reviewer must be certified in the Puerto Rico modules to prepare these returns. **Note:** Currently, the TaxSlayer Practice Lab and the TaxSlayer Pro Online version do not support the U.S. Federal Income Tax Return filed by bona fide residents of Puerto Rico who claim an exclusion for income earned in Puerto Rico. The Optional Contingency Plan for maintaining VITA/TCE return preparation operations can be used to prepare these types of returns. Also, PR taxpayers who need to file local income tax returns with the Puerto Rico Department of Treasury must use the Hacienda website Hacienda.Gobierno.pr or paid tax preparers.
3. **Lack of Records:** If the taxpayer has attempted and failed to obtain their Forms W-2 and 1099 records, a substitute Form W-2 or 1099 can be filed with the tax return after February 15. Publication 4012 ([page D-4](#)) shows volunteers how to access a "Form 4852, Substitute for W-2" in TaxSlayer. Form 4852 is also used as a substitute Form 1099-R.

Note: A Substitute W-2/1099-R Job Aid is available to assist sites in inputting a substitute W-2.

4. **Signing the Tax Return:** [Publication 4299](#) describes the rules for taxpayers signing returns. For a married couple who is temporarily separated due to a disaster and wants to file as married filing jointly, the following rules apply:

If two taxpayers are filing a joint return, one taxpayer may sign for a missing spouse if authorized by Form 2848, Power of Attorney and Declaration of Representative, or a written statement (with the same information) but only if the missing spouse is:

- i. **Unable** to sign a tax return due to disease or injury (Form 2848 must be prepared in advance, while the taxpayer is able to sign) or
- ii. Absent continuously from the U.S. (including Puerto Rico) for a period of at least 60 days prior to the due date of the tax return.

However, at the coordinator's discretion the following **exception** can be used if the taxpayer(s) are known to the site: A paper tax return can be prepared, and two copies provided to the taxpayers (one copy to mail and the other to keep for their records). The taxpayers should be directed where to sign their names on Form 1040 and given the appropriate IRS processing center address for mailing.

In accordance with Publication 4299, (1) A Form 2848 is not an option for married taxpayers who are not together due to disaster conditions unless one of the conditions above applies. (2) As for meeting the exception, if one spouse stayed in the same area where they are known by the VITA/TCE site, the site coordinator can provide approval for the known taxpayer to sign a paper return, mail it to the missing taxpayer to sign and then mail to the IRS. (3) If taxpayers are unknown to the site, they can't be serviced at VITA/TCE sites unless each spouse can validate their identities, verify their TINs, and sign their tax return or Form 8879 if e-filing.

Resources

Products: The following products are now available and should be shared with taxpayers appropriately:

- a) **Publication 4512 (EN-SP)** – Visiting a Free Tax Preparation Site
- b) **Publication 4512-A (EN-SP)** – Obtaining Your Prior Year Returns, Transcripts and Social Security Numbers
- c) **Publication 4512-B (EN-SP)** – Obtaining Your W-2's
- d) **Publication 4512-C (EN-SP)** – Determining If You Have a Tax-Deductible Casualty Loss
- e) **Publication 584** – Casualty, Disaster, and Theft Loss Workbook
- f) **Publication 547** – Casualties, Disasters, and Thefts (**Caution:** this link will open the tax year 2018 version until the 2019 version is available)
- g) **Publication 3067 (EN-SP)** – IRS Disaster Assistance, Federally Declared Disaster Area

Additional resources include:

- **TaxSlayer Blog (Disaster Area Implementation)**
- **www.irs.gov/pub/irs-pdf/p4491x.pdf**
- **www.disasterassistance.gov**
- **www.irs.gov/businesses/small-businesses-self-employed/disaster-assistance-and-emergency-relief-for-individuals-and-businesses**
- **www.FEMA.gov**
- **IRS Videos on disaster information**