

# Instructions for Form 4684

## Casualties and Thefts

Section references are to the Internal Revenue Code.

### General Instructions

#### Purpose of Form

Use Form 4684 to report gains and losses from casualties and thefts. Attach Form 4684 to your tax return.

#### Losses You May Deduct

You may deduct losses from fire, storm, shipwreck, or other casualty, or theft (e.g., larceny, embezzlement, and robbery).

If your property is covered by insurance, you must file a timely insurance claim for reimbursement of your loss. Otherwise, you cannot deduct the loss as a casualty or theft loss. However, the part of the loss that is not covered by insurance is still deductible.

**Related expenses.** The related expenses you have due to a casualty or theft, such as expenses for the treatment of personal injuries or for the rental of a car, are not deductible as casualty or theft losses.

Costs for protection against future casualties are not deductible but should be capitalized as permanent improvements. An example would be the cost of a levee to stop flooding.

#### Losses You May Not Deduct

- Money or property misplaced or lost.
- Breakage of china, glassware, furniture, and similar items under normal conditions.
- Progressive damage to property (buildings, clothes, trees, etc.) caused by termites, moths, other insects, or disease.

#### Gain on Reimbursement

If the amount you receive in insurance or other reimbursement is more than the cost or other basis of the property, you have a gain. If you have a gain, you may have to pay tax on it, or you may be able to postpone the gain.

**Do not** report the gain on damaged, destroyed, or stolen property if you receive property that is similar or related to it in service or use. Your basis for the new property is the same as your basis for the old property.

Any tangible replacement property held for use in a trade or business is treated as similar or related in service or use to property held for use in a trade or business or for investment if:

- The property you are replacing was damaged or destroyed in a disaster, and
- The area in which the property was damaged or destroyed was declared by the President of the United States to warrant Federal assistance because of that disaster.

Generally, you must recognize the gain if you receive unlike property or money as reimbursement. But you generally can choose to postpone all or part of the gain if, within 2 years of the end of the first tax year in which any part of the gain is realized, you purchase:

1. Property similar or related in service or use to the damaged, destroyed, or stolen property, or
2. A controlling interest (at least 80%) in a corporation owning such property.

To postpone all of the gain, the cost of the replacement property must be equal to or more than the reimbursement you received for your property. If the cost of the replacement property is less than the reimbursement received, you must recognize the gain to the extent the reimbursement exceeds the cost of the replacement property.

If the replacement property or stock is acquired from a related person, gain generally cannot be postponed by:

- Corporations (other than S corporations).
- Partnerships more than 50% owned by one or more corporations (other than S corporations).
- All other taxpayers, unless the aggregate realized gains on the involuntarily converted property are \$100,000 or less for the tax year. (This rule applies to partnerships and S corporations at both the entity and partner or shareholder level.)

For more details, see section 1033(i).

For details on how to postpone the gain, see **Pub. 547**, Casualties, Disasters, and Thefts (Business and Nonbusiness).

If your main home was located in a Presidentially declared disaster area, and that home or any of its contents were damaged or destroyed due to the disaster, special rules apply. See **Gains Realized on Homes in Disaster Areas** on page 2.

#### When To Deduct a Loss

Deduct the part of your casualty or theft loss that is not reimbursable. Deduct it in the tax year the casualty occurred or the theft was discovered. However, a disaster

loss and a loss from deposits in insolvent or bankrupt financial institutions may be treated differently. See **Disaster Losses** below and **Special Treatment for Losses on Deposits in Insolvent or Bankrupt Financial Institutions** on page 2.

If you are not sure whether part of your casualty or theft loss will be reimbursed, do not deduct that part until the tax year when you are reasonably certain that it will not be reimbursed.

If you are reimbursed for a loss you deducted in an earlier year, include the reimbursement in your income in the year you received it, but only to the extent the deduction reduced your tax in an earlier year.

See Pub. 547 for special rules on when to deduct losses from casualties and thefts to leased property.

#### Disaster Losses

A disaster loss is a loss that occurred in an area determined by the President of the United States to warrant Federal disaster assistance.

You may elect to deduct a disaster loss in the prior tax year as long as the loss would otherwise be allowed as a deduction in the year it occurred.

This election must be made by filing your return or amended return for the prior year, and claiming your disaster loss on it, by the later of the following two dates:

1. The due date for filing your original return (without extensions) for the tax year in which the disaster actually occurred.
2. The due date for filing your original return (including extensions) for the tax year immediately before the tax year in which the disaster actually occurred.

You may revoke your election within 90 days after making it by returning to the IRS any refund or credit you received from the election. If you revoke your election before receiving a refund, you must repay the refund within 30 days after receiving it.

On the return on which you claim the disaster loss, specify the date(s) of the disaster and the city, town, county, and state in which the damaged or destroyed property was located.

**Note:** To determine the amount to deduct for a disaster loss, you must take into account as reimbursements any benefits you received from Federal or state programs to restore your property.

If your home was located in a disaster area and your state or local government ordered you to tear it down or move it because it was no longer safe to use as a home, the loss in value because it is no longer safe is treated as a disaster loss. The order for you to tear down or move the home must have been issued within 120 days after the area was officially declared a disaster area.

Use the value of your home before you moved it or tore it down as its fair market value after the casualty for purposes of figuring the disaster loss.

## Gains Realized on Homes in Disaster Areas

The following rules apply if your main home was located in an area declared by the President of the United States to warrant Federal assistance as the result of a disaster, and that home or any of its contents were damaged or destroyed due to the disaster. These rules also apply to renters who receive insurance proceeds for damaged or destroyed property in a rented home that is their main home.

- No gain is recognized on any insurance proceeds received for unscheduled personal property that was part of the contents of the home.
- Any other insurance proceeds you receive for the home or its contents is treated as received for a single item of property, and any replacement property you purchase that is similar or related in service or use to the home or its contents is treated as similar or related in service or use to that single item of property. Therefore, you can choose to recognize gain only to the extent the insurance proceeds treated as received for that single item of property exceed the cost of the replacement property.
- If you choose to postpone any gain from the receipt of insurance or other reimbursement for your main home or any of its contents, the period in which you must purchase replacement property is extended until 4 years after the end of the first tax year in which any part of the gain is realized.

**Example.** Your main home and its contents were completely destroyed in 1998 by a flood in a Presidentially declared disaster area. You received insurance proceeds of \$200,000 for the home, \$25,000 for unscheduled personal property in your home, \$5,000 for jewelry, and \$10,000 for a stamp collection. The jewelry and stamp collection were kept in your home and were scheduled property on your insurance policy. No gain is recognized on the \$25,000 you received for the unscheduled personal property. If you reinvest the remaining proceeds of \$215,000 in a replacement home, any type of replacement contents (whether scheduled or unscheduled), or both, you can elect to postpone any gain on your home, jewelry, or stamp collection. If you

reinvest less than \$215,000, any gain is recognized only to the extent \$215,000 exceeds the amount you reinvest in a replacement home, any type of replacement contents (whether scheduled or unscheduled), or both. To postpone gain, you must purchase the replacement property before 2003. Your basis in the replacement property equals its cost decreased by the amount of any postponed gain.

For details on how to postpone gain, see Pub. 547.

## Special Treatment for Losses on Deposits in Insolvent or Bankrupt Financial Institutions

If you are an individual who incurred a loss from a deposit in a bank, credit union, or other financial institution because it became insolvent or bankrupt, and you can reasonably estimate your loss, you can choose to deduct the loss as:

- A casualty loss to personal use property on Form 4684, or
- An ordinary loss (miscellaneous itemized deduction) on Schedule A (Form 1040), line 22. The maximum amount you can claim is \$20,000 (\$10,000 if you are married filing separately). Your deduction is reduced by any expected state insurance proceeds and is subject to the 2% limit.

If you choose, you can wait until the year of final determination of the actual loss and treat that amount as a nonbusiness bad debt. A nonbusiness bad debt is deducted on Schedule D (Form 1040) as a short-term capital loss.

If you are a 1% or more owner, an officer of the financial institution, or related to any such owner or officer, you cannot deduct the loss as a casualty loss or as an ordinary loss. See **Pub. 550**, Investment Income and Expenses, for the definition of "related."

You cannot choose the ordinary loss deduction if any part of the deposits related to the loss is federally insured.

If you decide to deduct the loss as a casualty loss or as an ordinary loss and you have more than one account in the same financial institution, you must include all your accounts. Once you make the choice, you cannot change it without permission from the IRS.

To choose to deduct the loss as a casualty loss, complete Form 4684 as follows: On line 1, show the name of the financial institution and write "Insolvent Financial Institution." Skip lines 2 through 9. Enter the amount of the loss on line 10, and complete the rest of Section A.

If, in a later year, you recover an amount you deducted as a loss, you may have to include in your income the amount recovered for that year. For details, see **Recoveries in Pub. 525**, Taxable and Nontaxable Income.

## Specific Instructions

### Which Sections To Complete

Use **Section A** to figure casualty or theft gains and losses for property that is not used in a trade or business or for income-producing purposes.

Use **Section B** to figure casualty or theft gains and losses for property that is used in a trade or business or for income-producing purposes.

If property is used partly in a trade or business and partly for personal purposes, such as a personal home with a rental unit, figure the personal part in Section A and the business part in Section B.

### Section A—Personal Use Property

Use a separate column for lines 1 through 9 to show each item lost or damaged from a single casualty or theft. If more than four items were lost or damaged, use additional sheets following the format of lines 1 through 9.

Use a separate Form 4684 through line 12 for each casualty or theft involving property not used in a trade or business or for income-producing purposes.

**Do not** include any loss previously deducted on an estate tax return.

If you are liable for casualty or theft losses to property you **lease** from someone else, see Pub. 547.

### Line 2

Cost or other basis usually means original cost plus improvements. Subtract any postponed gain from the sale of a previous main home. Special rules apply to property received as a gift or inheritance.

### Line 3

Enter on this line the amount of insurance or other reimbursement you received or expect to receive for each property. Include your insurance coverage whether or not you are filing a claim for reimbursement. For example, your car worth \$2,000 is totally destroyed in a collision. You are insured with a \$500 deductible, but decide not to report it to your insurance company because you are afraid the insurance company will cancel your policy. In this case, enter \$1,500 on this line.

If you expect to be reimbursed but have not yet received payment, you must still enter the expected reimbursement from the loss. If, in a later tax year, you determine with reasonable certainty that you will not be reimbursed for all or part of the loss, you can deduct for that year the amount of the loss that is not reimbursed.

**Types of reimbursements.** Insurance is the most common way to be reimbursed for a casualty or theft loss, but if:

- Part of a Federal disaster loan under the Disaster Relief Act is forgiven, the part

you do not have to pay back is considered a reimbursement.

- The person who leases your property must make repairs or must repay you for any part of a loss, the repayment and the cost of the repairs are considered reimbursements.
- A court awards you damages for a casualty or theft loss, the amount you are able to collect, minus lawyers' fees and other necessary expenses, is a reimbursement.
- You accept repairs, restoration, or cleanup services provided by relief agencies, it is considered a reimbursement.
- A bonding company pays you for a theft loss, the payment is also considered a reimbursement.

**Lump-sum reimbursement.** If you have a casualty or theft loss of several assets at the same time and you receive a lump-sum reimbursement, you must divide the amount you receive among the assets according to the fair market value of each asset at the time of the loss.

**Grants, gifts, and other payments.** Grants and other payments you receive to help you after a casualty are considered reimbursements only if they must be used specifically to repair or replace your property. Such payments will reduce your casualty loss deduction. If there are no conditions on how you have to use the money you receive, it is not a reimbursement.

**Use and occupancy insurance.** If insurance reimburses you for your loss of business income, it does not reduce your casualty or theft loss. The reimbursement is income, however, and is taxed in the same manner as your business income.

#### Line 4

If you are entitled to an insurance payment or other reimbursement for any part of a casualty or theft loss but you choose not to file a claim for the loss, you cannot realize a gain from that payment or reimbursement. Therefore, figure the gain on line 4 by subtracting your cost or other basis in the property (line 2) **only** from the amount of reimbursement you actually received. Enter the result on line 4, but do not enter less than zero.

If you filed a claim for reimbursement but did not receive it until after the year of the casualty or theft, include the gain on line 4 in your income in the year you received the reimbursement.

#### Lines 5 and 6

Fair market value is the price at which the property would change hands between a willing buyer and a willing seller, each having knowledge of the relevant facts. The difference between the fair market value immediately before the casualty or theft and the fair market value immediately after represents the decrease in fair market value because of the casualty or theft.

The fair market value of property after a theft is zero if the property is not recovered.

Fair market value is generally determined by competent appraisal. The appraiser's knowledge of sales of comparable property about the same time as the casualty or theft, knowledge of your property before and after the occurrence, and the methods of determining fair market value are important elements in proving your loss.

The appraised value of property immediately after the casualty must be adjusted (increased) for the effects of any general market decline that may occur at the same time as the casualty or theft. For example, the value of all nearby property may become depressed because it is in an area where such occurrences are commonplace. This general decline in market value is not part of the property's decrease in fair market value as a result of the casualty or theft.

Replacement cost or the cost of repairs is not necessarily fair market value. However, you may be able to use the cost of repairs to the damaged property as evidence of loss in value if:

- The repairs are necessary to restore the property to the condition it was in immediately before the casualty;
- The amount spent for repairs is not excessive;
- The repairs only correct the damage caused by the casualty; and
- The value of the property after the repairs is not, as a result of the repairs, more than the value of the property immediately before the casualty.

To figure a casualty loss to real estate not used in a trade, business, or for income-producing purposes, measure the decrease in value of the property as a whole. All improvements, such as buildings, trees, and shrubs, are considered together as one item. Figure the loss separately for other items. For example, figure the loss separately for each piece of furniture.

#### Line 15

If there is a net gain on this line:

- Combine your short-term gains with your short-term losses, and enter the net short-term gain or loss on Schedule D (Form 1040), line 4. Estates and trusts enter this amount on Schedule D (Form 1041), line 2.
- Combine your long-term gains with your long-term losses and enter the net long-term gain or loss on Schedule D (Form 1040), line 11, column (f). Estates and trusts enter this amount on Schedule D (Form 1041), line 7, column (f).
- Combine your 28% rate gains with your 28% rate losses and enter the net 28% rate gain or loss on Schedule D (Form 1040), line 11, column (g). Estates and trusts enter this amount on Schedule D (Form 1041), line 7, column (g).

The holding period for long-term gains and losses is more than 1 year. For short-term gains and losses, it is 1 year or less. To figure the holding period, begin counting on the day after you received the property and include the day the casualty or theft occurred. See Schedule D for the definition of 28% rate gain or loss.

#### Line 17

Estates and trusts figure adjusted gross income in the same way as individuals, except that the costs of administration are allowed in figuring adjusted gross income.

### Section B—Business and Income-Producing Property

Use a separate column of Part I, lines 19 through 27, to show each item lost or damaged from a single casualty or theft. If more than four items were lost or damaged, use additional sheets following the format of Part I, lines 19 through 27.

Use a separate Section B, Part I, of Form 4684 for each casualty or theft involving property used in a trade or business or for income-producing purposes. Use one Section B, Part II, to combine all Sections B, Part I.

For details on the treatment of casualties or thefts to business or income-producing property, including rules on the loss of inventory through casualty or theft, see Pub. 547.

If you had a casualty or theft loss involving a home you used for business or rented out, your deductible loss may be limited. First, complete Form 4684, Section B, lines 19 through 26. If the loss involved a home used for a business for which you are filing **Schedule C (Form 1040)**, figure your deductible casualty or theft loss on **Form 8829**, Expenses for Business Use of Your Home. Enter on line 27 of Form 4684 the deductible loss from line 33 of Form 8829, and write "See Form 8829" above line 27. For a home you rented out or used for a business for which you are not filing Schedule C (Form 1040), see section 280A(c)(5) to figure your deductible loss. Attach a statement showing your computation of the deductible loss, enter that amount on line 27, and write "See attached statement" above line 27.

**Note:** A gain or loss from a casualty or theft of property used in a passive activity is not taken into account in determining the loss from a passive activity unless losses similar in cause and severity recur regularly in the activity. See **Form 8582**, Passive Activity Loss Limitations, and its instructions for details.

#### Line 20

Cost or adjusted basis usually means original cost plus improvements, minus depreciation allowed or allowable (including any section 179 expense deduction), amortization, depletion, etc. Special rules apply to property received as a gift or inheritance. See **Pub. 551**, Basis of Assets, for details.

**Line 21**

See the instructions for line 3.

**Line 22**

See the instructions for line 4.

**Lines 23 and 24**

See the instructions for lines 5 and 6 for details on determining fair market value.

**Loss on each item figured separately.**

Unlike a casualty loss to personal use real estate, in which all improvements are considered one item, a casualty loss to business or income-producing property must be figured separately for each item. For example, if casualty damage occurs to both a building and to trees on the same piece of real estate, measure the loss separately for the building and for the trees.

**Line 26**

If you have business or income-producing property that is completely lost (becomes totally worthless) because of a casualty or theft, figure your loss without taking into account any decrease in fair market value.

**Line 28**

If the amount on line 28 includes losses on property held 1 year or less, and on property held for more than 1 year, you must allocate the amount between lines 29 and 34 according to how long you held each property. Enter on line 29 all gains and losses to property held 1 year or less. Enter on line 34 all gains and losses to property held more than 1 year, except as provided in the instructions for line 33 below.

**Part II, Column (a)**

Use a separate line for each casualty or theft.

**Part II, Column (b)(i)**

Enter the part of line 28 from trade, business, rental, or royalty property (other than property you used in performing services as an employee). Enter in column (b)(ii) the part of line 28 from property you used in performing services as an employee.

**Part II, Column (b)(ii)**

Enter the part of line 28 from income-producing property and from property you used in performing services as an employee. Income-producing property is property held for investment, such as stocks, notes, bonds, gold, silver, vacant lots, and works of art.

**Line 31**

If **Form 4797**, Sales of Business Property, is not otherwise required, enter the amount from this line on page 1 of your tax return, on the line identified as from Form 4797. Write "Form 4684."

**Line 32**

Estates and trusts, enter on the "Other deductions" line of your tax return. Partnerships, (except electing large partnerships) enter on Form 1065, Schedule K, line 11. Electing large partnerships, enter on Form 1065-B, Part II, line 11. S corporations, enter on Form 1120S, Schedule K, line 10. Write "Form 4684."

**Line 33**

If you had a casualty or theft gain from certain trade, business, or income-producing property held more than 1 year, you may have to recapture part or all of the gain as ordinary income. See the instructions for Form 4797, Part III, for more information on the types of property subject to recapture. If recapture applies, complete Form 4797, Part III, and this line, instead of Form 4684, line 34.

**Line 38a**

Taxpayers, other than partnerships and S corporations, if Form 4797 is not otherwise required, enter the amount from this line on page 1 of your tax return, on the line identified as from Form 4797. Write "Form 4684."

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

- Recordkeeping**..... 1 hr., 12 min.
- Learning about the law or the form** ..... 13 min.
- Preparing the form** ..... 1 hr., 2 min.
- Copying, assembling, and sending the form to the IRS** ..... 35 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.