



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

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The Honorable Richard G. Lugar
United States Senate
Washington, DC 20510

Attention:

Dear Senator Lugar:

I am responding to your letter, dated March 24, 2009, on behalf of your constituent, . wrote about the differences between the casualty loss tax treatment of losses resulting from the Midwestern disaster and from other disasters.

Generally, individuals who suffer casualty losses can deduct the casualty losses only in the year of the loss. The amount of loss that a taxpayer can deduct is subject to the following limitations: individuals must itemize their deductions, and the deduction is only allowed to the extent it exceeds \$100 and 10% of adjusted gross income. I am enclosing Publication 547, *Casualties, Disasters, and Thefts*, which explains the rules on how to calculate these amounts. The instructions for Form 4684, *Casualties and Thefts*, also enclosed, provide additional information.

On October 3, 2008, the Congress provided more taxpayer favorable casualty loss rules for the disaster that the President declared for the period beginning on May 20, 2008, and ending on July 31, 2008, in the states of Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin (Midwestern Disaster) (See Heartland Disaster Tax Relief Act of 2008, Subtitle A of Title VII of Public Law 110-343). Under these rules, the \$100 and 10% thresholds do not apply. Moreover, this law allows taxpayers to claim the disaster losses on the tax return for the year preceding the year of the loss. I am also enclosing Publication 4492-B, *Information for Affected Taxpayers in the Midwestern Disaster Areas*, which explains the special rules on claiming these casualty losses.

Public Law 110-343 also provided favorable casualty loss rules for other disasters that the President has determined warrant assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Among other things, these rules allow nonitemizers to deduct disaster losses. The law states that Midwestern Disaster losses are not eligible for this nonitemizer rule. Publication 547 explains these rules.

I hope this information is helpful. I am enclosing copies of the Federal Register Notice that FEMA released, which contains the text of the declaration that President George W. Bush issued on June 8, 2008, ; Publication 547, *Casualties, Disasters, and Thefts*; Publication 4492-B, *Information for Affected Taxpayers in the Midwestern Disaster Areas*, and a copy of instructions for Form 4684, *Casualties and Thefts*. As requested, I am also enclosing duplicate copies of this response and the enclosures. If you have additional questions, please contact , at .

Sincerely,

John P. Moriarty
Chief, Branch I
(Income Tax & Accounting)

Enclosures (in duplicate): (5)