



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Jim Webb
United States Senate
Washington, DC 20510

Attention:

Dear Senator Webb:

I am responding to your office's December 4, 2009, inquiry on behalf of your constituent, . asked how a taxpayer who has a casualty loss can determine whether they have a reasonable prospect of receiving compensation for the loss, since any compensation reduces the amount of the loss.

The law allows a deduction for casualty losses sustained during the year that are not compensated for by insurance or otherwise (Section 165 of the Internal Revenue Code). A taxpayer who has a reasonable prospect of compensation for a loss should reduce the amount of the loss by the expected compensation. Whether a taxpayer has a reasonable prospect of receiving compensation for the loss depends on the facts and circumstances of each taxpayer's case. Court cases indicate that a taxpayer has a reasonable prospect of recovery when the taxpayer has a bona fide claim and when there is a substantial possibility the claim will be decided in the taxpayer's favor.

If a taxpayer expects reimbursement for the loss, the taxpayer must subtract the amount of the expected reimbursement from the loss. If the reimbursement is less than expected, the taxpayer may include the difference as a loss in the year in which no more reimbursement is expected. If the reimbursement is more than the taxpayer expected, the taxpayer may have to include the excess in income for the year of receipt if the original deduction reduced the tax for the year in which it was taken.

I am enclosing a copy of Publication 547, *Casualties, Disasters, and Thefts*, which explains in detail the requirements for claiming a casualty loss deduction.

I appreciate your continued attention to this issue. If you have any questions, please contact _____ or me at _____.

Sincerely,

Christopher F. Kane
Branch Chief, Branch 3
(Income Tax and Accounting)

Enclosure