



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

OFFICE OF THE CHIEF COUNSEL

March 18, 2011

Number: **2011-0032**  
Release Date: 6/24/2011

CONEX-105334-11

UIL: 1211.01-00

The Honorable Vernon Buchanan  
Member, U.S. House of Representatives  
2424 Manatee Ave. West, Suite 104  
Bradenton, FL 34205

Attention:

Dear Congressman Buchanan:

I am responding to your inquiry of February 1, 2011, on behalf of your constituent, . asked if he may claim a long-term capital loss on an investment with and related entities.

The information provided indicates that invested \$ in in . went into receivership, and filed claims to recover their investments. The Receiver recovered only a portion of the investment (\$ ), leaving them with a \$ loss.

may be able to claim their loss as either (1) a *capital loss* on their investment under section 1211 of the Internal Revenue Code (Code) or (2) a *theft loss* under section 165 of the Code. However, correspondence does not contain information sufficient to determine whether the loss qualifies for either treatment.

To help determine the tax consequences of their loss, we are enclosing publications describing both types of loss.

Capital Losses

- Publication 550, *Investment Income and Expenses (Including Capital Gains and Losses)*.

Theft Losses

- Revenue Ruling 2009-9, which explains the income tax consequences to investors who lost money in a fraudulent investment scheme and are entitled to a theft loss.
- Revenue Procedure 2009-20, which provides an optional safe harbor treatment for qualified investors who lost money in certain fraudulent investments.

may request a private letter ruling, which requires payment of a user fee. Rev. Proc. 2011-1 describes the procedures for requesting a private letter ruling. That document is available online at [www.irs.gov](http://www.irs.gov).

I hope this information is helpful. If you have any questions, please contact  
or at .

Sincerely,

George J. Blaine  
Associate Chief Counsel  
(Income Tax and Accounting)