



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

OFFICE OF THE CHIEF COUNSEL

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Senator John Kennedy
United States Senate
Washington, DC 20510

Attention:

Dear Senator Kennedy:

I am responding to your inquiry dated, October 20, 2020. Specifically, you asked if the IRS will give retroactive relief to individuals who previously requested extensions to file their 2019 tax returns and were impacted by Hurricane Delta. You also asked that we update Revenue Procedure 2018-09, so that taxpayers who were victims of hurricanes in 2020, can use the Cost Indexes Safe Harbor Method.

Filing Deadlines

On October 20, 2020, the IRS announced tax relief for taxpayers affected by Hurricane Delta. The announcement stated:

Certain deadlines falling on or after October 6, 2020, and before February 16, 2021, are postponed through February 16, 2021. This includes individual and business tax filers that had a valid extension to file their 2019 return due to run out on October 15, 2020.

We gave retroactive relief to October 6, 2020. Taxpayers who had a valid extension to file their 2019 return by October 15, 2020, now have until February 16, 2021, to file their return without incurring late filing penalties. For your convenience, I have enclosed a copy of announcement LA-2020-05.

The announcement also stated that "The IRS automatically identifies taxpayers located in the covered disaster area and applies filing and payment relief." These affected taxpayers do not need to do anything to receive relief.

In addition, the announcement provided a telephone number for affected taxpayers who reside or have a business outside the covered disaster area (generally, taxpayers whose records necessary to file are in the covered disaster area) to contact the IRS to request this tax relief.

Finally, the announcement advised affected taxpayers who receive a late filing or late payment penalty notice to call the telephone number on the notice to have the IRS abate the penalty. This includes returns, payments or deposits that had an original or extended due date that falls within the postponement period.

Cost Indexes Safe Harbor Method

We are aware that taxpayers often have difficulty determining the amount of their casualty losses under the methods provided in Section 1.165-7(a)(2) of the Income Tax Regulations.

In December 2017, we issued Revenue Procedure 2018-08 and Revenue Procedure 2018-09, to assist taxpayers by providing safe harbor methods that individuals may use to determine the amount of their casualty losses.

Revenue Procedure 2018-09 provides the Cost Indexes Safe Harbor Method for taxpayers in the particular geographic regions that were affected by Hurricanes Harvey, Irma, and Maria. However, Revenue Procedure 2018-08 provides certain safe harbor methods that taxpayers who experience losses from other federally declared disasters can use.

Therefore, taxpayers affected by a 2020 hurricane that is a federally declared disaster, can use the following Revenue Procedure 2018-08 methods to determine the amount of their losses for personal-use residential real property:

- The Estimated Repair Cost Safe Harbor Method,
- The De Minimis Safe Harbor Method,
- The Insurance Safe Harbor Method,
- The Contractor Safe Harbor Method, and
- The Disaster Loan Appraisal Safe Harbor Method.

Similarly, taxpayers affected by hurricanes in 2020 that were federally declared disasters are eligible to use the following Revenue Procedure 2018-08 methods to determine the amount of their casualty losses for personal belongings:

- The De Minimis Safe Harbor Method, and
- The Replacement Cost Safe Harbor Method.

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I hope this information is helpful. If you have any additional questions, please contact me, or a member of your staff may contact _____ at _____ .

Sincerely,

John P. Moriarty
Associate Chief Counsel
(Income Tax & Accounting)

Enclosure