

## Questions and Answers from the June 17, 2009 IRS webinar, IRS Disaster and Emergency Relief

These responses are provided within the context of the information presented during the webinar and are intended to clarify points discussed in the presentation. Due to the public nature of this Q&A, we are able to respond only to general questions relating to the presentation, so some questions were omitted. If you have account questions or client issues, please call the IRS.

Other questions were edited for brevity, clarification or to remove specific identifying references. The responses below should not be considered official guidance independent of the presentation. To avoid potential misinterpretation, this document should be used only to clarify the material presented during the webinar and should not be disassociated from the webinar. Thank you for your professional consideration.

### Filing disaster claims/procedures

**Q1. What are the rules for amending a return if filing and payment deadlines are postponed due to a federally declared disaster? Does the deadline change, adding the time during which the original due dates were postponed?**

**A.** When the IRS postpones filing and payment deadlines in response to a federally declared disaster, certain amended returns' due dates are also postponed. Amended returns with due dates that fall within the relief period are postponed until the last day of the relief period. Amended returns associated with original returns filed during the relief period will be due three years from the end of the relief period.

**Q2. How does a practitioner who is located in a federally declared disaster area obtain relief for clients located outside of the covered disaster area? Are the procedures different if the practitioner has more than 10 clients qualifying for relief?**

**A.** In order for a client to qualify for relief, the practitioner must possess records necessary for the client to meet a tax deadline occurring during the postponement period. A practitioner may call the Disaster Hotline at 866-562-5227 to identify up to 10 clients. The process for submitting bulk requests is [online](#).

**Q3. Are there any procedures in place to help the taxpayer and/or the practitioner during the tax years that occur after a disaster – for example, a taxpayer who resided in a covered disaster area whose return was prepared by a different practitioner and received Notice CP2000 for additional tax? Although additional time was requested, the IRS assessed the additional tax. Does the taxpayer need to request an audit reconsideration or prepare an amended return showing the casualty loss supported by necessary documentation?**

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**A.** There are no special disaster-related procedures in place for this type of notice. Whether the taxpayer or practitioner should request audit reconsideration or file an amended return will depend on the specific facts and circumstances at hand. If the notice had been for interest and penalties that should not have been asserted due to disaster relief, the taxpayer or practitioner could call the special toll free line at 866-562-5227 to explain the situation and request abatement.

### **Q4. How does a taxpayer notate that a carryback is due to a qualified disaster loss and thus, eligible for the 5-year carryback period?**

**A.** The carryback period for a qualified disaster recovery assistance loss is five years. A notation of such is not necessary. However, if the taxpayer wishes to waive the five-year carryback, the taxpayer should attach a statement to the return filed by the due date (including extensions) if the taxpayer is choosing to treat any qualified disaster recovery assistance losses without regard to the special five-year carryback rule. Once made, the choice is irrevocable. IRS [Publication 536](#), Net Operating Losses for Individuals, Estates, and Trusts, contains additional information.

## Types of relief available

### **Q5. When are disaster losses not subject to the 10 percent of adjusted gross income floor? Please provide clarification.**

**A.** Losses due to disasters declared by the president to be eligible for federal assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, beginning after 2007 and before 2010, are not subject to the 10 percent of adjusted gross income floor. These federally declared disasters include only major disaster or emergency declarations issued under the Act. See IRS [Publication 547](#), Casualties, Disasters, and Thefts, for additional information.

### **Q6. Where is more information on special tax rules for federally declared disasters located?**

**A.** Refer to [IRS Fact Sheet FS-2009-8](#), Tax Law Changes Related to National Disaster Relief.

### **Q7. Are there benefits for disaster areas that include student aid? What, exactly, are the education benefits covered under disaster relief?**

**A.** The National Disaster Relief Act of 2008 does not contain any education incentives. Special legislation enacted in response to the 2005 hurricanes and the 2008 midwestern floods does provide expanded education credits to taxpayers affected by those specific disasters. Specific information on those

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benefits is in IRS Publications 4492 and 4492-B. (Links to these publications are on the [IRS Forms & Publications](#) page).

### **Q8. Are disaster preparedness expenses, such as removal of equipment and/or records from business to avoid losses, deductible?**

**A.** Expenses paid or incurred that are ordinary, necessary and reasonable for a particular business are generally deductible. Disaster preparedness expenses such as those mentioned above would qualify. Taxpayers are responsible for providing documentary evidence of any claimed expense when requested.

### **Q9. If a taxpayer incurred a casualty loss in a federally declared disaster area in 2007, were they subject to the 10 percent of AGI loss reduction? Was this changed for only losses incurred after 2007?**

**A.** The National Disaster Relief Act applies to federally declared disasters occurring after 2007 and before 2010. Losses incurred in 2007 do not qualify unless the particular disaster was subject to other specific disaster-related legislation. See IRS [Publication 547](#), Casualties, Disasters, and Thefts, for additional information on reporting disaster-related casualty losses.

### **Q10. Is the carryback period for an individual, not a business, claiming casualty losses related to damage to main home and loss of personal property three or five years?**

**A.** Carryback periods for net operating losses are generally two years. However, The National Disaster Tax Relief Act of 2008 provides for a five-year carryback for qualified natural disaster losses. IRS [Publication 536](#), Net Operating Losses for Individuals, Estates, and Trusts, contains complete details on the five-year carryback rules.

## **Miscellaneous**

### **Q11. Do the rules for reconstructing records that apply to personal disasters also apply to national disaster events?**

**A.** The IRS will waive only the fees associated with requests for tax transcripts and filed return copies when relief is granted due to federally declared disasters. Taxpayers need to note the declared disaster information in red at the top of the Form 4506 or 4506T. The record reconstruction suggestions provided in the webinar would be the same for personal or national disaster events.

### **Q12. Is the income that fishermen receive for the fishing disaster relief considered self employment or ordinary income?**

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**A.** Whether income received is subject to self-employment tax depends on whether it is considered earned or unearned income. More information on self-employment tax is in IRS Publication 334, Tax Guide for Small Businesses. Information on taxation of various disaster-related grants and payments is in IRS Publication 547, Casualties, Disasters, and Thefts. Both publications are available on the [IRS Forms & Publications](#) page.

### **Q13. What, if any, coordination does the IRS have with related state agencies?**

**A.** IRS employees in its Governmental Liaison function work with state and federal agencies on various matters. State government agencies make their own decisions with respect to disaster relief provided at the state level.

### **Q14. Is there a kit available for IRS disaster relief?**

**A.** There are two Disaster Losses kits. One for individuals (IRS Publication 2194); another for businesses (IRS Publication 2194B). These kits include various disaster-related forms and publications, and schedules to assist disaster victims in calculating losses. The kits are available on the IRS Web site. Direct links to the kits are in the “Resources” section below.

### **Q15. If a taxpayer filed an amended return after April 15 because a K-1 was received after the original return was filed, and the information necessary to prepare the K-1 was located in a disaster area, should interest and penalties be waived because the preparer of the K-1 was affected by a federally declared disaster? In other words, if the documents necessary for the taxpayer to file his return are delayed because of a federally declared disaster, is the taxpayer entitled to waiver of penalties and interest? If so, how should the taxpayer apply for abatement of penalties and interest after they have been assessed?**

**A.** Taxpayers whose records necessary to meet a filing or payment deadline occurring during a disaster-related postponement period are located in an IRS covered disaster area, are entitled to the relief granted. The taxpayer should call the Disaster Hotline at 866-562-5227 and provide the necessary information. The assistor can manually code the taxpayer’s account for the appropriate relief and correct the associated notice.

### **Q16. During the Q & A session, the links for tax professionals to obtain more information was discussed. Please provide the complete instructions to access the information.**

**A.** The IRS Web site contains a wealth of information on disaster-related issues for individuals, businesses, and tax professionals. Point your Web browser to [www.irs.gov](http://www.irs.gov) and enter the keyword Disaster in the search box. Click on “Tax

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Relief in Disaster Situations” to locate a page with links to information on various disaster-related topics, including the Disaster Relief Resource Center for Tax Professionals. For your convenience, links to the most frequently used items are located below under “Resources.”

**Q17. How does an organization qualify its relief workers under the new regulations that expand the definition of “affected taxpayer” to include relief workers? Is certification or other proof necessary for the relief workers to qualify for tax relief? During the webinar, the Red Cross was used as an example of a relief agency whose workers qualify under the new regulations as “affected taxpayer.” In the case of groups of relief workers from churches outside the disaster area that are sent to assist local churches in a disaster area to assist in rebuilding homes, etc., would the church group, which does not have a common oversight board as does the Red Cross, need to be approved by FEMA or another agency? What about a Boy Scout troop from another part of the country that is assisting a local Boy Scout troop in performing relief work in the covered disaster area?**

**A.** Relief workers qualify for the relief if they are affiliated with a recognized government or philanthropic organization assisting with relief efforts in the IRS covered disaster area. Relief workers should call the IRS Disaster Hotline at 866-562-5227 and explain their particular situation to self-identify for the relief. Churches and the Boy Scouts of America are considered philanthropic organizations. FEMA or other government agency approval of the philanthropic organization is not necessary.

**Q18. In early 2009, there was an ice storm that left a particular area without power for approximately three weeks. Why was filing and payment relief not granted when affected businesses lost two to three weeks of filing season?**

**A.** IRS provides systemic filing and payment relief in areas identified by the Federal Emergency Management Agency for Individual Assistance to households and families. For instance, in 2008 there were 75 federally declared disasters, of which 35 provided for IA. In each of those 35 instances, the IRS provided a level of systemic relief, depending on the severity of the event, to taxpayers residing in the areas identified by FEMA for IA. The event referenced in the question did not result in a FEMA IA declaration and, therefore, no systemic relief was granted. However, a taxpayer affected by the weather event can contact the IRS and request relief from penalties if reasonable cause exists for a late filed return.

## **Resources**

[Disaster Relief Resource Center for Tax Professionals](#)

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[Disaster Assistance and Emergency Relief for Individuals and Businesses](#)

[Tax Relief in Disaster Situations](#) (recent Tax relief information)

[Preparing for a Disaster](#) (Taxpayers and Businesses)

[Help During Disasters](#)

[Around the Nation](#) (Specific disaster relief or tax provisions related to certain states)

[Pub. 2194, IRS Disaster Losses Kit for Individuals](#)

[Pub. 2194B, Disaster Losses Kit for Businesses](#)

[Pub. 3067 \(EN/SP\) IRS Disaster Assistance](#)

[Frequently Asked Questions & Answers about Disasters](#)