

# Disaster Tax Relief



**CERTIFIED**  
**Spidell**

## Table of Contents

<b>Introduction .....</b>	<b>1</b>
<b>Federal Disaster Tax Relief Act of 2023 .....</b>	<b>2</b>
Wildfire settlements.....	2
Double benefits prohibited .....	3
Enhanced personal casualty losses .....	3
\$500 threshold.....	4
East Palestine train derailment.....	4
<b>Disaster declarations .....</b>	<b>5</b>
<b>Filing and payment postponement administrative relief .....</b>	<b>6</b>
Affected taxpayers .....	8
Can taxpayers outside the listed counties qualify for relief? .....	8
Postponed filings and payments.....	9
Postponed filings.....	9
Fiscal-year taxpayers.....	10
No additional “extensions” .....	10
Postponed payments .....	10
Other postponements .....	11
IRC §1031 exchanges.....	11
Other Rev. Proc. 2018-58 extensions.....	12
FBAR filings .....	13
More time to file superseding returns.....	13
Why should a superseding return be filed? .....	13
Irrevocable elections .....	14
<b>Retirement plan distributions and loans.....</b>	<b>14</b>
Repayments.....	15
Income inclusion spread over three years .....	15
Other disaster-related relief.....	16
<b>Casualty and disaster losses.....</b>	<b>16</b>
Election to take disaster loss on prior-year return.....	17
Due date for throwback disaster election .....	17
Making separate elections for separate losses prohibited .....	17
No NOL carryback period for disaster losses .....	18
Revoking the election.....	18
<b>Calculating the gain or loss for individuals .....</b>	<b>18</b>
Document, document, document .....	19
Loss calculation safe harbors .....	19
Personal use residential property defined.....	21
Personal belongings defined.....	21

Reporting requirements .....	22
Appraisals .....	22
Where to deduct the cost of the appraisal.....	23
Decline in general market value .....	23
<i>Taylor II v. Comm.</i> .....	23
<i>Kamanski v. Comm.</i> .....	24
<i>Finkbohner v. U.S.</i> .....	24
<i>Philmon v. U.S.</i> .....	24
Clean-up and repairs .....	24
Cost of repairs.....	24
Gain from foreclosure.....	25
<b>Calculating the gain or loss for businesses/income-producing property.....</b>	<b>26</b>
Differences from personal casualty losses .....	26
Leased property.....	26
Property used for both business and personal purposes .....	26
Loss of inventory.....	27
Self-employment tax.....	27
Passive activities.....	28
<b>Insurance or other reimbursements.....</b>	<b>28</b>
Tax benefit rule.....	28
Subsequent lawsuits.....	29
<b>Capitalize repairs versus casualty loss.....</b>	<b>29</b>
<b>IRC §121 gain exclusion.....</b>	<b>30</b>
Holding and use periods.....	30
<b>Involuntary conversions.....</b>	<b>31</b>
Replacement period .....	31
Extensions.....	31
Adjusted basis of involuntarily converted property .....	32
Special rules for principal residences .....	33
Interplay with IRC §121 exclusion.....	33
Common pool of funds .....	34
Deferring the gain .....	34
Reporting casualty losses to business or income-producing property.....	35
Treatment of the land .....	36
<b>Disaster relief and living expenses payments.....</b>	<b>37</b>
Qualified disaster relief payments.....	37
Employer’s emergency disaster fund.....	39
Excess living expenses.....	39
<b>Other disaster relief.....</b>	<b>41</b>
Crowdfunding.....	41

Other charitable donation issues.....	42
<b>Tips for times of disaster .....</b>	<b>43</b>
Tax planning tips.....	43
Practice tips for handling disaster losses .....	44
How to audit-proof your disaster/casualty loss .....	44
Include the loss on the originally filed tax return.....	44
Estimate and pay tax due with extension .....	44
Basis reduction for land value .....	45
Pictures will help .....	45
Testimony .....	46
Newspaper clippings.....	46
Make an inventory .....	46
File an insurance claim .....	46
SBA paperwork .....	46
Depreciate personal property .....	46
<b>Appendix: California disaster related provisions.....</b>	<b>46</b>
Filing/payment postponements .....	46
Income and franchise tax extensions for Los Angeles County wildfires.....	46
Filing extensions for future disasters.....	49
EDD extensions.....	50
CDTFA extensions for Los Angeles County wildfires .....	51
Property tax extensions for Los Angeles County wildfires.....	51
Los Angeles business license extensions.....	51
California casualty losses .....	51
Disaster losses.....	52
California carrybacks .....	52
Wildfire settlement exclusions .....	53
Butte, Camp, and North Bay wildfire settlements.....	54
All other wildfire settlements .....	54
Applicable dates .....	54
Retirement account distributions and loans.....	54
Property tax relief.....	55
Property tax reductions .....	55
Tax deferral .....	55
Exclusion for new construction.....	55
Reconstructed property limitations .....	56
Base-year value transfer to replacement property.....	56
Proposition 19 base-year value transfers .....	57
Damage test.....	57