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Casualties, Disasters, and Thefts (Business and Nonbusiness)

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Important Reminder

Insurance reimbursement. If you have insurance that covers your casualty or theft loss, you must file a timely insurance claim for reimbursement. Otherwise, you cannot deduct the loss. However, the portion of the loss that would not usually be covered by insurance (for example, a deductible) could be deducted. See *Insurance and Other Reimbursements*, later.

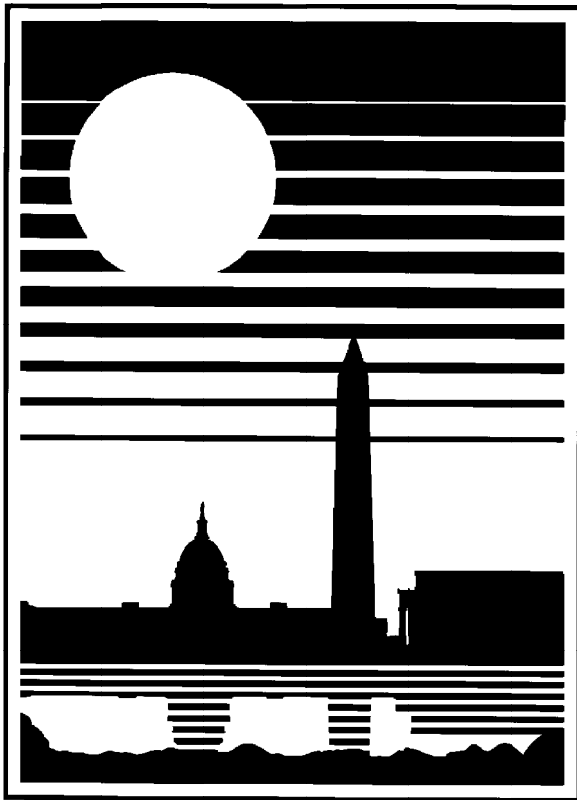
Important Changes

Business or income-producing property located in a federal disaster area. A special rule applies to property you acquire to replace destroyed business or income-producing property that was located in a federal disaster area. For details, see *Replacement property under Postponement of Gain*.

New rule for postponement of gain on casualties or thefts. If your property was destroyed or stolen after August 20, 1996, and you postpone gain by acquiring a controlling interest in a corporation owning similar or related property, the basis of the corporation's property must be reduced. See *Postponement of Gain* under *Figuring a Gain*.

Introduction

This publication explains how to treat casualty and theft losses for tax purposes. A casualty occurs when your property is damaged as a result of a disaster such as a hurricane, fire, car accident, or similar event. A theft occurs if someone steals your property. A casualty or theft may result in a deductible loss or taxable gain. How you figure and report the gain or loss depends upon whether the property is



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business, income-producing, or personal use property.

When determining your deductible loss on nonbusiness property, certain limits apply. See *Deduction Limits for Nonbusiness Property*, later.

Useful Items

You may want to see:

Publication


- 525** Taxable and Nontaxable Income
- 550** Investment Income and Expenses
- 551** Basis of Assets
- 584** Nonbusiness Disaster, Casualty, and Theft Loss Workbook

Form (and Instructions)

- Schedule A** (Form 1040) Itemized Deductions
- Schedule D** (Form 1040) Capital Gains and Losses
- 4684** Casualties and Thefts
- 4797** Sales of Business Property

See *How To Get More Information* near the end of this publication for information about getting these publications and forms.

Condemnations. For information on condemnations of property, see *Involuntary Conversions* in chapter 1 of Publication 544, *Sales and Other Dispositions of Assets*. Also see *Condemned property under Old Home* in Publication 523, *Selling Your Home*.

 **Publication 584 is available to help you make a list of your damaged personal use property and figure your loss. That publication can serve as an inventory of your personal goods. It includes schedules to help you figure the loss on your home and its contents, and your motor vehicles.**

Loss on Deposits

A loss on deposits can occur when a bank, credit union, or other financial institution becomes insolvent or bankrupt. If you incurred this loss, you may be able to deduct the loss in one of three ways:

- 1) As a nonbusiness bad debt,
- 2) As a casualty loss, or
- 3) As an ordinary loss.

For more information, see *Special Treatment for Losses on Deposits in Insolvent or Bankrupt Financial Institutions* in the instructions for Form 4684.

When To Choose

You can choose to deduct a loss on deposits as a **casualty loss** or as an **ordinary loss** for any year in which you can reasonably estimate how much of your deposits you have lost in an insolvent or bankrupt financial institution. The choice generally is made on the return you file

for that year. Once you treat the loss as a casualty or ordinary loss, **you cannot** treat the same amount of the loss as a nonbusiness bad debt when it actually becomes worthless. Also, the choice applies to all your losses on deposits for the year in that particular financial institution.

If you do not make a choice, you must wait until the actual loss is determined before you can deduct the loss as a **nonbusiness bad debt**. Once you make the choice, you cannot change it without permission from the Internal Revenue Service.

How To Report

The kind of deduction you choose for your loss on deposits determines how you report your loss. If you choose:

- Nonbusiness bad debt—report on Schedule D (Form 1040).
- Casualty loss—report on Form 4684 first and then on Schedule A (Form 1040).
- Ordinary loss—report on Schedule A (Form 1040).

Deducted Loss Recovered

If you recover an amount you deducted as a loss in an earlier year, you may have to include the amount recovered in your income for the year of recovery. If any part of the original deduction did not reduce your tax in the earlier year, you do not have to include that part of the recovery in your income. For more information, see *Recoveries* in Publication 525.

Casualty

A casualty is the damage, destruction, or loss of property resulting from an identifiable event that is sudden, unexpected, or unusual.

- A **sudden** event is one that is swift, not gradual or progressive.
- An **unexpected** event is one that is ordinarily unanticipated and unintended.
- An **unusual** event is one that is not a day-to-day occurrence and that is not typical of the activity in which you were engaged.

A casualty can also include a government-ordered demolition or relocation of a home that is unsafe to use because of a disaster. See *Disaster Area Losses*, later.

Casualty losses can result from a number of different causes, including:

- Earthquakes**
- Hurricanes**
- Tornadoes**
- Floods**
- Storms**
- Volcanic eruptions**
- Shipwrecks**
- Mine cave-ins**
- Sonic booms**
- Vandalism**

Fires. If you willfully set the fire, or pay someone else to set it, you cannot deduct the resulting loss.

Car accidents. The loss from an accident to your car is not a casualty loss if your willful negligence or willful act caused the accident. The same is true if the willful act or willful negligence of someone acting for you caused the accident.

Other accidents. A loss due to accidental breakage of china or glassware under normal conditions is not a casualty loss. Neither is a loss due to damage done by a family pet.

Nondeductible losses. There is no casualty loss deduction if the damage or destruction is caused by:

Termites or moths.

Disease, insects, etc. The progressive damage or destruction of trees, shrubs, or other plants by a fungus, disease, insects, worms, or similar pests is not a deductible casualty loss. But a sudden destruction due to an unexpected or unusual infestation by beetles or other insects may result in a casualty loss. If a storm, flood, or fire damages trees and shrubs, the loss is a casualty.

Progressive deterioration. If a steadily operating cause or a normal process damages your property, it is not considered a casualty. For example, the steady weakening of a building due to normal wind and weather conditions is not a casualty. But, the rust and water damage to rugs and drapes caused by the bursting of a water heater qualifies as a casualty. The deterioration and damage to the water heater itself does not qualify.

Drought. In most cases, when drought causes damage or loss through progressive deterioration, it is not a casualty loss. To be deductible, a drought-related loss generally must be incurred in a trade or business or in a transaction entered into for profit.

Theft

A theft is the unlawful taking and removing of money or property with the intent to deprive the owner of it. It includes, but it is not limited to, larceny, robbery, and embezzlement.

If money or property is taken as the result of extortion, kidnapping, threats, or blackmail, it can also be a theft. In these instances, you need only show that the taking of your property was illegal under the law of the state where it occurred, and that it was done with criminal intent.

Mislaid or lost property. The mere disappearance of money or property is not a theft. However, an accidental loss or disappearance of property can qualify as a casualty if it results

from an identifiable event that is sudden, unexpected, or unusual.

Example. A car door is accidentally slammed on your hand, breaking the setting of your diamond ring. The diamond falls from the ring and is never found. The loss of the diamond is a casualty.

Proof of Loss

To take a deduction for a casualty or theft loss, you must be able to show that there was a casualty or theft. You also must be able to support the amount you take as a deduction.

For a casualty loss, you should be able to show:

- The type of casualty (car accident, fire, storm, etc.) and when it occurred,
- That the loss was a direct result of the casualty, and
- That you were the owner of the property, or if you leased the property from someone else, that you were contractually liable to the owner for the damage.

For a theft loss, you should be able to show:

- When you discovered that your property was missing,
- That your property was stolen, and
- That you were the owner of the property.



It is important that you have records that will prove your deduction. If you do not have the actual records to support your deduction, you can use other satisfactory evidence that is sufficient to establish your deduction.

Related Expenses

Related expenses that are not deductible as part of a casualty or theft loss are discussed next.

The cost of protection. The cost of protecting your property against a casualty or theft is not part of a casualty or theft loss. What you spend on insurance or to board up your house against a storm is not part of your loss. If the property is business property, these expenses are deductible as business expenses.

If you make permanent improvements to your property to protect it against a casualty or theft, add the cost of these improvements to your basis in the property. An example would be the cost of a dike to prevent flooding.

Incidental expenses. The incidental expenses due to a casualty or theft, such as expenses for the treatment of personal injuries, for temporary housing, or for a rental car, are not part of your casualty or theft loss. However, they may be deductible as business expenses if the damaged or stolen property is business property.

Repair and replacement costs. The cost of repairing damaged property or replacing stolen or destroyed property is not part of a casualty or theft loss. Neither is the cost of cleaning up after a casualty. But see *Leased property*, later, and *Other measures*, later.

Example. You bought a new chair 4 years ago for \$300. In April, a fire destroyed the chair. You estimate that it would cost \$500 to replace it. If you had sold the chair before the fire, you estimate that you could have received only \$100 for it because it was 4 years old. The chair was not insured. Your loss is \$100, the FMV of the chair before the fire. It is not \$500, the replacement value.

Loss of inventory. You can claim a casualty or theft loss of inventory, including items you hold for sale to customers, through the increase in the cost of goods sold by properly reporting your opening and closing inventories. Do not claim this loss again as a casualty or theft loss. If you take the loss through the increase in the cost of goods sold, include any insurance or other reimbursement you receive for the loss in gross income.

You can choose to deduct the loss separately. If you deduct it separately, eliminate the items from cost of goods sold by a downward adjustment to opening inventory or purchases.

If you deduct the loss separately, reduce it by the reimbursement you received. Do not include the reimbursement in gross income. If you do not receive the reimbursement by the end of the year, you may not claim a loss to the extent you have a reasonable prospect of recovery.

Figuring a Loss

To determine your deduction for a casualty or theft loss, you must first figure your loss. If the damaged or stolen property is not business property, the deductible loss is limited. See *Deduction Limits for Nonbusiness Property*, later.

Amount of loss. Figure your casualty or theft loss by subtracting any insurance or other reimbursement you receive or expect to receive because of your loss from the smaller of the following two amounts:

- 1) The decrease in **fair market value** of the property as a result of the casualty or theft, or
- 2) Your **adjusted basis** in the property before the casualty or theft.

Fair market value (FMV). FMV is the price for which you could sell your property to a willing buyer, when neither of you has to sell or buy and both of you know all the relevant facts.

The decrease in fair market value is the difference between the property's value immediately before and immediately after the casualty or theft. See *Decrease in Fair Market Value*, later, for more information.

Theft. The FMV of property immediately after a theft is considered to be zero since you

no longer have the property. Figure your theft loss using the smaller of the stolen property's FMV or adjusted basis. Also see *Recovered property*, later.

Example. Several years ago, you purchased silver dollars at face value for \$150. This is your adjusted basis in the property. Your silver dollars were stolen this year. The FMV of the coins was \$1,000 when stolen, and insurance did not cover them. Your theft loss is \$150.

Adjusted basis. Adjusted basis is your basis (usually cost) increased or decreased by various events, such as improvements and previous casualty and theft losses. See *Adjusted Basis*, later.

Reimbursement greater than adjusted basis. If your reimbursement is more than your adjusted basis in the property, you have a gain. This is true even if the decrease in the FMV of the property is more than your adjusted basis. If you have a gain, you may have to pay tax on it, or you may be able to postpone reporting the gain. See *Figuring a Gain*, later.

Business or income-producing property. If you have business or income-producing property, such as rental property, and it is stolen or completely destroyed, your loss is:

Your adjusted basis in the property

MINUS

Any salvage value

MINUS

Any insurance or other reimbursement you receive or expect to receive

The decrease in FMV is not considered.

Recovered property. If you get your stolen property back, your loss is measured like a casualty loss from vandalism. That is, you must consider the actual FMV of the property when you get it back. Your loss is the smaller of:

- The decrease in the FMV of the property from the time it was stolen until the time it is recovered, or
- Your adjusted basis in the property.

Leased property. If you are liable for casualty damage to property you lease, your loss is the amount you must pay to repair the property minus any insurance or other reimbursement you receive or expect to receive.

Separate computations. Generally, if a single casualty or theft involves more than one item of property, you must figure the loss on each item separately. Then combine the losses to determine the total loss from that casualty or theft.

Exception for nonbusiness real property. In figuring a casualty loss on nonbusiness real property, the entire property (including any improvements, such as buildings, trees, and shrubs) is treated as one item. Figure the loss using the smaller of:

- The decrease in FMV of the entire property, or
- The adjusted basis of the entire property.

See the discussion for real property under *Figuring the Deduction*, later.

Decrease in Fair Market Value

To figure the decrease in FMV (defined earlier) because of a casualty or theft, you generally need a competent appraisal. But other measures can also be used to establish certain decreases. See *Appraisal* and *Other measures*, next.

Appraisal. The appraisal to determine the difference between the FMV of the property immediately before a casualty or theft and immediately afterwards should be made by a competent appraiser. The appraiser should be reliable and experienced. The appraiser must recognize the effects of any general market decline that may occur along with the casualty. This is necessary so that any deduction is limited to the actual loss resulting from damage to the property.

Several factors are important in evaluating the accuracy of an appraisal, including the appraiser's:

- Familiarity with your property before and after the casualty or theft,
- Knowledge of sales of comparable property in the area,
- Knowledge of conditions in the area of the casualty, and
- Method of appraisal.

Appraisal fees. You can deduct your appraisal fees as a miscellaneous deduction subject to the 2% of adjusted gross income limit on Schedule A (Form 1040). The appraisal fee is an expense in determining your tax liability. It is not a part of the casualty loss.

Other measures. You can use the **cost of cleaning up or of making repairs** after a casualty as a measure of the decrease in FMV if you meet all the following conditions.

- 1) The repairs are necessary to bring the property back to its condition before the casualty.
- 2) The amount spent for repairs is not excessive.
- 3) The repairs take care of the damage only.
- 4) The value of the property after the repairs is not, due to the repairs, more than the value of the property before the casualty.

Landscaping. The cost of restoring landscaping to its original condition after a casualty may indicate the decrease in FMV. You may be able to measure your loss by what you spend on the following:

- 1) Removing destroyed or damaged trees and shrubs, minus any salvage you receive,

- 2) Pruning and other measures taken to preserve damaged trees and shrubs, and
- 3) Replanting necessary to restore the property to its approximate value before the casualty.

Cars. Books issued by various automobile organizations may be useful in figuring the value of your car, if your car is listed in the books. You can use the books' retail values and modify them by factors such as the mileage and condition of your car to figure its value. The prices are not "official," but they may be useful in determining value and suggesting relative prices for comparison with current sales and offerings in your area. If your car is not listed in the books, you determine its value from other sources. A dealer's offer for your car as a trade-in on a new car is not usually a measure of its true value.

Photographs. Photographs taken after a casualty will be helpful in establishing the condition and value of the property after it was damaged. Photographs showing the condition of the property after it was repaired, restored, or replaced may also be helpful.

The cost of photographs obtained for this purpose is not a part of the loss. It is an expense in determining your tax liability. You can claim this cost as a miscellaneous deduction subject to the 2% of adjusted gross income limit on Schedule A (Form 1040).

Items not to be considered. You generally should not consider the following items when attempting to establish the FMV of your property.

Sentimental value. Do not consider sentimental value when determining your loss. If a family portrait, heirloom, or keepsake is damaged, destroyed, or stolen, you must base your loss only on its actual market value.

General decline in market value. A decrease in the value of your property because it is in or near an area that suffered a casualty, or that might again suffer a casualty, is not to be taken into consideration. You have a loss only for actual casualty damage to your property. However, if your home is in a federally declared disaster area, see *Disaster Area Losses*, later.

Adjusted Basis

The measure of your investment in the property you own is **basis**. For property you buy, your basis is usually its cost to you. For property you acquire in some other way, such as inheriting it, receiving it as a gift, or getting it in a tax-free exchange, you must figure your basis in another way, as explained in Publication 551.

Adjustments to basis. While you own the property, various events may take place that change your basis. Some events, such as additions or permanent improvements to the property, increase basis. Others, such as earlier casualty losses and depreciation deductions, decrease basis. When you add the increases to the basis and subtract the decreases from the basis, the result is your

adjusted basis. Get Publication 551 for more information on figuring the basis of your property.

Insurance and Other Reimbursements

If your property is covered by **insurance**, you should file a timely insurance claim for reimbursement of your loss. Otherwise, you cannot deduct this loss as a casualty or theft loss.

The portion of the loss usually not covered by insurance (for example, a deductible) is not subject to this rule.

Example. You have a car insurance policy with a \$500 deductible. Because your insurance did not cover the first \$500 of an auto collision, the \$500 would be deductible (subject to the \$100 and 10% rules discussed later). This is true, even if you do not file an insurance claim, because your insurance policy would never have reimbursed you for it.

Reduction of loss. If you receive insurance or another type of reimbursement, you must subtract the reimbursement when you figure your loss. You do not have a casualty or theft loss to the extent you are reimbursed.

If you expect to be reimbursed, but have not yet received payment, you must still subtract the expected payment. For more information, see *Reimbursement Claims*, later.

Other reimbursements. Insurance is the most common way to be reimbursed for a casualty or theft loss. But you may be reimbursed in some other way. See *Types of reimbursements* in the instructions for Form 4684.

If you receive money as an employee from your employer's emergency disaster fund, and you must use that money to rehabilitate or replace property on which you are claiming a casualty loss deduction, then you must take that money into consideration in computing the casualty loss deduction. You take it into consideration to the extent you used it to replace your destroyed or damaged property.

Example. Your home was extensively damaged by a tornado. Your loss after reimbursement from your insurance company was \$10,000. Your employer set up a disaster relief fund for its employees. Employees receiving money from the fund had to use it to rehabilitate or replace their damaged or destroyed property. You received \$5,000 from the fund and spent the entire amount on repairs to your home. In figuring your casualty loss, you must reduce your unreimbursed loss (\$10,000) by the \$5,000 you received from your employer's fund. Your casualty loss before applying the deduction limits discussed later is \$5,000.

Payments Not Considered Reimbursements

If you are a disaster victim who receives **excludable cash gifts**, and there are no limits on how you can use the money, you do not reduce your casualty loss deduction by the amount of the excludable cash gifts even if

Table 1. **Deduction Limit Rules for Personal-Use Property**

	\$100 Rule	10% Rule
Definition of Rule	You must reduce each casualty or theft loss by \$100 when figuring your deduction. Apply this rule <u>after</u> you reduce your loss by any reimbursement.	You must reduce your total casualty or theft loss by 10% of your adjusted gross income. Apply this rule <u>after</u> you reduce each loss by any reimbursement and by \$100 (the \$100 rule).
Single Event	Apply this rule only once, even if many pieces of property are affected.	Apply the rule only once, even if many pieces of property are affected.
More Than One Event	Apply this rule to the loss from <u>each</u> event.	Apply the rule to the <u>total</u> of all your losses from all events.
More Than One Person— With Loss From the Same Event (other than a married couple filing jointly)	Apply the rule <u>separately</u> to each person.	Apply the rule <u>separately</u> to each person.
Married Couple— With Loss From the Same Event		
Filing jointly	Apply this rule as if you were one person.	Apply this rule as if you were one person.
Filing separately	Apply this rule <u>separately</u> to each spouse.	Apply this rule <u>separately</u> to each spouse.
More Than One Owner (other than a married couple filing jointly)	Apply the rule separately to each owner of jointly owned property.	Apply the rule separately to each owner of jointly owned property.

you use the money to pay for repairs to property damaged in the disaster.

Example. Your home was damaged by a hurricane. Relatives and neighbors made cash gifts to you which were excludable from your income. You applied part of the cash gifts to the cost of repairing your home. There were no limits or restrictions on how you could use the cash gifts. The money you received as excludable gifts and used to pay for repairs to your home does not reduce the amount which you can deduct as a casualty loss on the damaged home.

Payments for living costs. If an insurance company pays you for any of your living expenses after you lose the use of your home because of a casualty, the insurance payments are not a reimbursement that reduces your deductible casualty loss.

You must report as income insurance payments covering your normal living expenses.

However, the part of insurance payments that pays you for a temporary increase in the living expenses you and your family have during this period does not have to be reported as income.

The same rules apply to insurance payments for living expenses if you are denied access to your home by government authorities due to a casualty or the threat of a casualty.

The increase in your living expenses is the amount of your actual living expenses minus your normal living expenses. Do not include in income the payment you received for your extra expenses for renting suitable housing and

for transportation, food, utilities, and miscellaneous services during the period you are unable to use your home because of the casualty.

Example. As a result of a fire, you vacated your apartment for a month and moved to a motel. You normally pay \$525 a month rent. None was charged for the month the apartment was vacated. Your motel rent for this month was \$1,200. You received \$1,100 reimbursement from your insurance company for rental expenses.

The part of the insurance payment that reimburses you for the amount of your actual rent minus your normal rent is \$675 (\$1,200 – \$525). You do not include the \$675 (the increase in your living expenses) in income. But you do include in income the balance of the insurance received, \$425 (\$1,100 – \$675).

Disaster relief. Food, medical supplies, and other forms of assistance you receive do not reduce your casualty loss, unless they are replacements for lost or destroyed property. They also are not taxable income to you.

Disaster unemployment assistance payments are unemployment benefits that are taxable.

Deduction Limits for Nonbusiness Property

After you have figured your casualty or theft loss, you must figure how much of the loss you can deduct.

The deduction for casualty and theft losses of income-producing and personal use

property is limited. A loss on income-producing property is subject to the 2% rule, discussed next. A loss on property you own for your personal use is subject to the \$100 and 10% rules discussed later. The \$100 and 10% rules are also summarized in Table 1.

A loss on business property is not subject to these rules.

2% Rule

The casualty and theft loss deduction for income-producing property, when added to your job expenses and most other miscellaneous itemized deductions on Schedule A (Form 1040), must be reduced by 2% of your adjusted gross income. Income-producing property is property held for investment, such as stocks, notes, bonds, gold, silver, and works of art.

\$100 Rule

The first \$100 of a casualty or theft loss on personal use property is not allowable. This rule applies after all reimbursements have been subtracted from your total casualty or theft loss.

Example. You have \$250 deductible collision insurance on your car. The car is damaged in a collision. The insurance company pays you for the damage minus the \$250 deductible. Your casualty loss for the collision is \$150 (\$250 – \$100) because the first \$100 of a casualty loss on personal use property is not allowable.

Single event. A single \$100 reduction applies to each casualty or theft, no matter how many pieces of property are involved.

Generally, events closely related in origin cause a single casualty. It is a single casualty when the damage is due to two or more closely related causes, such as wind and flood damage caused by the same storm. A single casualty may also damage two or more pieces of property, such as a hailstorm that damages both your home and your car parked in your driveway.

Example 1. A thunderstorm destroyed your pleasure boat. You also lost some boating equipment in the storm. Your loss was \$5,000 on the boat and \$1,200 on the equipment. Your insurance company reimbursed you \$4,500 for the damage to your boat. You had no insurance coverage on the equipment. Your casualty loss is from a single event and the \$100 rule applies once. Figure your loss before applying the 10% rule (discussed later) as follows:

	Boat	Equipment
1. Loss	\$5,000	\$ 1,200
2. Subtract insurance	<u>4,500</u>	<u>—</u>
3. Loss after reimbursement	<u>\$ 500</u>	<u>\$ 1,200</u>
4. Total loss		\$ 1,700
5. Subtract \$100.....		<u>100</u>
6. Loss before 10% rule ...		<u>\$ 1,600</u>

Example 2. Thieves broke into your home in January and stole a ring and a fur coat. You had a loss of \$200 on the ring and \$700 on the coat. This is a single theft. The \$100 rule applies to the total \$900 loss.

Example 3. In September, hurricane winds blew the roof from your home. Flood waters caused by the hurricane further damaged your home and destroyed your furniture and personal car. This is considered a single casualty. The \$100 rule is applied to your total loss from the flood waters and the wind.

More than one loss. If you have more than one casualty or theft loss during your tax year, you must reduce each loss by \$100.

Example. Your family car was damaged in an accident in January. Your loss after the insurance reimbursement was \$75. In February, your car was damaged in another accident. This time your loss after the insurance reimbursement was \$90. Apply the \$100 rule to each separate casualty loss. Since neither accident resulted in a loss of over \$100, you are not entitled to any deduction for these accidents.

More than one person. If two or more individuals (other than a husband and wife filing a joint return) have losses from the same casualty or theft, the \$100 rule applies separately to each.

Example. A fire damaged your house and also damaged the personal property of your house guest. You must reduce your loss by \$100. Your house guest must reduce his or her loss by \$100.

Married taxpayers. If you and your spouse have a casualty or theft loss and you file a joint return, you are treated as one individual in applying the \$100 rule. It does not matter whether you own the property jointly or separately.

If you and your spouse have a casualty or theft loss and you file separate returns, each of you must reduce your loss by \$100. This is true even if you own the property jointly. If one spouse owns the property, only that spouse can figure a loss deduction on a separate return.

If the casualty or theft loss is on property you own as tenants by the entirety, each of you can figure your deduction on only one-half of the loss on separate returns. Neither of you can figure your deduction on the entire loss on a separate return. Each of you must reduce the loss by \$100.

More than one owner. If two or more individuals (other than husband and wife filing a joint return) have a loss on property jointly owned, the \$100 rule applies separately to each. For example, if two sisters live together in a home they own jointly and they have a casualty loss on the home, the \$100 rule applies separately to each sister.

10% Rule

You must reduce the total of all your casualty or theft losses by 10% of your adjusted gross income. Apply this rule after you reduce each loss by any reimbursement and by \$100. If you have both gains and losses from casualties or thefts, see *Gains and losses*, later in this discussion.

Example. In June, you discovered that your house had been burglarized. Your loss after insurance reimbursement was \$2,000. Your adjusted gross income is \$29,500. Figure your theft loss as follows:

1. Loss after insurance	\$2,000
2. Subtract \$100.....	<u>100</u>
3. Loss after \$100 rule	\$1,900
4. Subtract 10% of \$29,500 AGI.....	<u>\$2,950</u>
5. Theft loss deduction.....	<u>\$ —</u>

When you apply the 10% rule, you find you do not have a theft loss deduction because your loss (\$1,900) is less than 10% of your adjusted gross income (\$2,950).

More than one loss. If you have more than one casualty or theft loss during your tax year, reduce each loss by any reimbursement and by \$100. Then you must reduce the total of all your losses by 10% of your adjusted gross income.

Example. In March, you had a car accident that totally destroyed your car. You did not have collision insurance on your car, so you did not receive any insurance reimbursement. Your loss on the car was \$1,200. In November, a fire damaged your basement and totally destroyed the furniture, washer, dryer, and

other items you had stored there. Your loss on the basement items after reimbursement was \$1,700. Your adjusted gross income is \$25,000. You figure your casualty loss deduction as follows:

	Car	Basement
1. Loss	\$1,200	\$ 1,700
2. Subtract \$100 per incident	<u>100</u>	<u>100</u>
3. Loss after \$100 rule	<u>\$1,100</u>	<u>\$ 1,600</u>
4. Total loss		\$ 2,700
5. Subtract 10% of \$25,000 AGI.....		<u>2,500</u>
6. Casualty loss deduction		<u>\$ 200</u>

Married taxpayers. If you and your spouse have a loss from the same casualty or theft and you file a joint return, you are treated as one individual in applying the 10% rule. It does not matter if you own the property jointly or separately.

If you file separate returns, the 10% rule applies to each return on which a loss is claimed.

More than one owner. If two or more individuals (other than husband and wife filing a joint return) have a loss on property that is owned jointly, the 10% rule applies separately to each.

Gains and losses. If you have casualty or theft gains as well as losses to personal use property, you must **compare your total gains to your total losses**. Do this after you have reduced each loss by any reimbursements and by \$100 but before you have reduced the losses by 10% of your adjusted gross income.

If your losses are more than your recognized gains, subtract your gains from your losses and reduce the result by 10% of your adjusted gross income. The rest, if any, is your deductible loss from personal use property.

Example. Your theft loss after reducing it by reimbursements and by \$100 is \$2,700. Your casualty gain is \$700. Because your loss is more than your gain, you must reduce your \$2,000 net loss (\$2,700 – \$700) by 10% of your adjusted gross income.

If your recognized gains are more than your losses, subtract your losses from your gains. The difference is treated as a capital gain and must be reported on Schedule D (Form 1040). The 10% rule does not apply to your losses.

Example. Your theft loss after reducing it by reimbursements and by \$100 is \$600. Your casualty gain is \$1,600. Because your gain is more than your loss, you must report the \$1,000 net gain (\$1,600 – \$600) on Schedule D.

Note. For information on how to figure recognized gains, see *Figuring a Gain*, later. Recognized gains do not include gains you choose to postpone. See *Postponement of Gain*, later.

Figuring the Deduction

Generally, you must figure your loss separately for each item stolen, damaged, or destroyed. However, a special rule applies to real property you own for personal use.

Real property. In figuring a loss to real estate you own for personal use, all improvements, such as buildings and ornamental trees, are considered together. The loss is the smaller of:

- 1) The decrease in the FMV of the entire property, or
- 2) The adjusted basis of the entire property.

From this amount subtract:

- 1) The insurance and other reimbursement you receive or expect to receive,
- 2) \$100, and
- 3) 10% of your adjusted gross income.

However, if you have more than one casualty or theft loss, subtract 10% of your adjusted gross income (AGI) from the total of all your losses for the year.

Deduction. Any amount remaining after you follow these steps is your personal casualty loss deduction.

Example 1. In June, a fire destroyed your lakeside cottage, which cost \$44,800 (including \$4,500 for the land) several years ago. (Your land was not damaged.) This was your only casualty or theft loss for the year. The FMV of the property immediately before the fire was \$80,000 (\$45,000 for the building and \$35,000 for the land). The FMV immediately after the fire was \$35,000 (value of the land). You collected \$30,000 from the insurance company. Your adjusted gross income is \$40,000. Your deduction for the casualty loss is \$10,700, figured in the following manner:

1. Adjusted basis of the entire property (cost in this example)	<u>\$44,800</u>
2. FMV of entire property before fire	\$80,000
3. FMV of entire property after fire	<u>35,000</u>
4. Decrease in FMV of entire property	<u>\$45,000</u>
5. Amount of loss (smaller of 1 or 4).....	\$44,800
6. Subtract insurance	<u>30,000</u>
7. Loss after reimbursement	\$14,800
8. Subtract \$100	<u>100</u>
9. Loss after \$100 rule	\$14,700
10. Subtract 10% of \$40,000 AGI	<u>4,000</u>
11. Casualty loss deduction	<u>\$10,700</u>

Example 2. You bought your home a few years ago. You paid \$50,000 (\$10,000 for the land and \$40,000 for the house). You also spent an additional \$2,000 for landscaping. This year a fire destroyed your home. The fire also damaged the shrubbery and trees in your yard. The fire was your only casualty or theft loss this year. Competent appraisers valued the property as a whole at \$75,000 before the fire, but only \$15,000 after the fire. Shortly after the fire, the insurance company paid you

\$45,000 for the loss. Your adjusted gross income is \$48,000. You figure your casualty loss deduction as follows:

1. Adjusted basis of the entire property (cost of land, building, and landscaping)	<u>\$52,000</u>
2. FMV of entire property before fire	\$75,000
3. FMV of entire property after fire	<u>15,000</u>
4. Decrease in FMV of entire property	<u>\$60,000</u>
5. Amount of loss (smaller of 1 or 4).....	\$52,000
6. Subtract insurance	<u>45,000</u>
7. Loss after reimbursement	\$ 7,000
8. Subtract \$100	<u>100</u>
9. Loss after \$100 rule	\$ 6,900
10. Subtract 10% of \$48,000 AGI	<u>4,800</u>
11. Casualty loss deduction	<u>\$ 2,100</u>

Personal property. Personal property is generally any property that is not real property. If your personal property is stolen or is damaged or destroyed by a casualty, you must figure your loss separately for each item of property.

The loss is the smaller of:

- 1) The decrease in the FMV of the property, or
- 2) The adjusted basis of the property.

From this amount subtract:

- 1) The insurance and other reimbursement you receive or expect to receive,
- 2) \$100, and
- 3) 10% of your adjusted gross income.

However, if you have more than one casualty or theft loss, subtract 10% of your adjusted gross income (AGI) from the total of all your losses for the year.

Any amount remaining after you follow these steps is your personal casualty loss deduction.

Example 1. In August, a storm destroyed your pleasure boat, which cost you \$8,500. This was your only casualty or theft loss for the year. Its FMV immediately before the storm was \$7,000. You had no insurance, but were able to salvage the motor of the boat and sell it for \$200. Your adjusted gross income is \$52,000.

Although the motor was sold separately, it is part of the boat and not a separate item of property. You figure your casualty loss deduction as follows:

1. Adjusted basis (cost in this example)	<u>\$8,500</u>
2. FMV before storm	\$7,000
3. FMV after storm	<u>200</u>
4. Decrease in FMV	<u>\$6,800</u>
5. Amount of loss (smaller of 1 or 4).....	\$6,800
6. Subtract insurance	<u>—0—</u>
7. Loss after reimbursement	\$6,800
8. Subtract \$100	<u>100</u>
9. Loss after \$100 rule	\$6,700
10. Subtract 10% of \$52,000 AGI	<u>5,200</u>
11. Casualty loss deduction	<u>\$1,500</u>

Example 2. In June, you were involved in an auto accident that totally destroyed your personal car and your antique pocket watch. You had bought the car for \$10,000. The FMV of the car just before the accident was \$7,500. Its FMV just after the accident was \$80 (scrap value). Your insurance company reimbursed you \$6,000.

Your watch was not insured. You had purchased it for \$250. Its FMV just before the accident was \$500. Your adjusted gross income is \$31,000. Your casualty loss deduction is zero, figured as follows:

	<u>Car</u>	<u>Watch</u>
1. Adjusted basis (cost)	<u>\$10,000</u>	<u>\$ 250</u>
2. FMV before accident	\$ 7,500	\$ 500
3. FMV after accident	<u>80</u>	<u>—0—</u>
4. Decrease in FMV	<u>\$ 7,420</u>	<u>\$ 500</u>
5. Loss (smaller of 1 or 4)	\$ 7,420	\$ 250
6. Subtract insurance	<u>6,000</u>	<u>—0—</u>
7. Loss after reimbursement	<u>\$ 1,420</u>	<u>\$ 250</u>
8. Total loss		\$1,670
9. Subtract \$100		<u>100</u>
10. Loss after \$100 rule		\$1,570
11. Subtract 10% of \$31,000 AGI		<u>3,100</u>
12. Casualty loss deduction		<u>\$ —0—</u>

Both real and personal properties. When a casualty involves both real and personal properties, you must figure the loss separately for each type of property, as shown in the previous examples. But you apply a single \$100 reduction to the total loss. Then you apply the 10% rule.

Example. In July, a hurricane damaged your home, which cost you \$64,000 including land. The FMV of the property (both building and land) immediately before the storm was \$70,000 and its FMV immediately after the storm was \$60,000. Your household furnishings were also damaged. You have separately figured the loss on each damaged household item and have arrived at a total loss of \$600.

You collected \$5,000 from the insurance company for the damage to your home, but your household furnishings were not insured. Your adjusted gross income is \$44,000. You figure your casualty loss deduction from the hurricane in the following manner:

1. Adjusted basis of real property (cost in this example)	<u>\$64,000</u>
2. FMV of real property before hurricane	\$70,000
3. FMV of real property after hurricane	<u>60,000</u>
4. Decrease in FMV of real property	<u>\$10,000</u>
5. Loss on real property (smaller of 1 or 4)	\$10,000
6. Subtract insurance	<u>5,000</u>
7. Loss on real property after reimbursement	<u>\$ 5,000</u>
8. Loss on furnishings	\$ 600
9. Subtract insurance	<u>—0—</u>
10. Loss on furnishings after reimbursement	<u>\$ 600</u>

11. Total loss (7 plus 10).....	\$ 5,600
12. Subtract \$100	100
13. Loss after \$100 rule	\$ 5,500
14. Subtract 10% of \$44,000 AGI	4,400
15. Casualty loss deduction	\$ 1,100

Property used partly for business and partly for personal purposes.

When property is used partly for personal purposes and partly for business or income-producing purposes, the casualty or theft loss deduction must be figured separately for the personal use portion and for the business or income-producing portion. You must figure each loss separately because the losses attributed to these two uses are figured in two different ways. The \$100 rule and the 10% rule apply only to the casualty or theft loss on the personal use portion of the property.

Example. You own a building that you constructed on leased land. You use half of the building for your business and you live in the other half. The cost of the building was \$40,000. You made no further improvements or additions to it.

A flood in March damaged the entire building. The FMV of the building was \$38,000 immediately before the flood and \$32,000 afterwards. Your insurance reimbursed you \$4,000 for the flood damage. Depreciation on the business part of the building before the flood totaled \$2,400. Your adjusted gross income is \$25,000.

You have a deductible business casualty loss of \$1,000. You do not have a deductible personal casualty loss because of the \$100 rule and the 10% rule. You figure your loss as follows:

	<u>Business</u> <u>Part</u>	<u>Personal</u> <u>Part</u>
1. Cost (total \$40,000)	\$20,000	\$20,000
2. Subtract depreciation	2,400	—
3. Adjusted basis	<u>\$17,600</u>	<u>\$20,000</u>
4. FMV before flood (total \$38,000).....	\$19,000	\$19,000
5. FMV after flood (total \$32,000).....	<u>\$16,000</u>	<u>\$16,000</u>
6. Decrease in FMV	<u>\$ 3,000</u>	<u>\$ 3,000</u>
7. Amount of loss (smaller of 3 or 6)	\$ 3,000	\$ 3,000
8. Subtract insurance	\$ 2,000	\$ 2,000
9. Loss after reimbursement	\$ 1,000	\$ 1,000
10. Subtract \$100 on personal use property	—	100
11. Loss after \$100 rule	\$ 1,000	\$ 900
12. Subtract 10% of \$25,000 AGI on personal use property	—	2,500
13. Deductible business loss	\$ 1,000	
14. Deductible personal loss		\$ —

Figuring a Gain

If you receive insurance or other reimbursement that is more than your adjusted basis in the destroyed, damaged, or stolen property, you have a gain from the casualty or theft. Your gain is:

- The amount you receive, less
- Your adjusted basis in the property at the time of the casualty or theft.

Even if the decrease in FMV of your property is smaller than the adjusted basis of your property, use your adjusted basis to figure the gain.

The amount you receive includes any money plus the value of any property you receive, minus any expenses you have in obtaining reimbursement. It also includes any reimbursement used to pay off a mortgage or other lien on the damaged, destroyed, or stolen property.

Example. A hurricane destroyed your personal residence and the insurance company awarded you \$45,000. You received \$40,000 in cash. The remaining \$5,000 was paid directly to the holder of a mortgage on the property. The reimbursement you received includes the \$5,000 paid on the mortgage.

Reporting a gain. You generally must report your gain as income in the year you receive the reimbursement. But you do not have to report your gain if you meet certain requirements and choose to postpone the gain according to the rules explained under *Postponement of Gain*.

You also do not report a gain if you receive reimbursement in the form of property similar or related in service or use to the destroyed or stolen property. Your basis in the new property is the same as your adjusted basis in the property it replaces.

For information on how to report a gain, see *How To Report Gains and Losses*, later.



If you have a casualty or theft gain on personal use property that you choose to postpone (as explained next) and you also have another casualty or theft loss on personal use property, do not consider the gain you are postponing when figuring your casualty or theft loss deduction. See 10% Rule, under Deduction Limits for Nonbusiness Property, earlier.

Postponement of Gain

You must ordinarily report the gain on your stolen or destroyed property if you receive money or unlike property as reimbursement. But you can choose to postpone reporting the gain if you purchase property that is similar or related in service or use to the stolen or destroyed property within a specified replacement period, discussed later. You can also choose to postpone reporting the gain if you purchase a controlling interest (at least 80%) in a corporation owning property that is similar or related in service or use to the property.

If you have a gain on damaged property, you can postpone the gain if you spend the reimbursement to restore the property.

To postpone all the gain, the cost of your replacement property must be at least as much as the reimbursement you receive. If the cost of the replacement property is less than the reimbursement, you must include the gain in your income up to the amount of the unspent reimbursement.

Example. In 1955, you bought an ocean-front cottage for your personal use at a cost of \$8,000. You made no further improvements or additions to it. When a storm destroyed the building this January, the cottage was worth \$250,000. You received \$146,000 from the insurance company in March. You had a gain of \$138,000 (\$146,000 – \$8,000).

You spent \$144,000 to rebuild the cottage. Since this is less than the insurance proceeds received, you must include \$2,000 (\$146,000 – \$144,000) in your income.

Buying replacement property from a related party. A C corporation cannot postpone reporting gain from a casualty or theft of its property occurring after February 5, 1995, if it buys the replacement property from a related party. This rule also applies to a partnership in which more than 50% of the capital or profits interest is owned by C corporations. However, this rule does not apply if the related party acquired the property from an unrelated party within the period of time allowed for replacing the stolen or destroyed property.

Under this rule, related parties include, for example, a corporation and an individual who owns more than 50% of the outstanding stock, and two partnerships in which the same C corporations own more than 50% of the capital or profits interests. For more information on related parties, see *Nondeductible Loss* under *Sales and Exchanges Between Related Parties* in chapter 2 of Publication 544.

Making the replacement. You must buy replacement property for the specific purpose of replacing your destroyed or stolen property. Property you acquire as a gift or inheritance does not qualify.

You do not have to use the same funds you receive as reimbursement for your old property to acquire the replacement property. If you spend the money you receive from the insurance company for other purposes, and borrow money to buy replacement property, you can still postpone the gain if you meet the other requirements.

Advance payment. If you pay a contractor in advance to replace your destroyed or stolen property, you are not considered to have bought replacement property unless it is finished before the end of the replacement period. See *Replacement period*, later.

Replacement property. Replacement property must be similar or related in service or use to the property it replaces.

Timber loss. You can treat qualified property bought with the proceeds from the sale of timber downed by a casualty (such as high

winds, earthquakes, or volcanic eruptions) as a replacement property. If you invest the proceeds in qualified replacement property (other standing timber) within the specified replacement period, you can postpone reporting the gain.

Owner-user. If you are an owner-user, similar or related in service or use means that replacement property must function in the same way as the property it replaces .

Example. Your home was destroyed by fire and you invested the insurance proceeds in a grocery store. Your replacement property is not similar or related in service or use to the stolen or destroyed property. To be similar or related in service or use, your replacement property must also be used by you as your home.

Main home in disaster area. Special rules apply to replacement property related to the damage to or destruction of your main home (or its contents) if located in a federally declared disaster area. See *Disaster Area Losses*, later.

Owner-investor. If you are an owner-investor, similar or related in service or use means that any replacement property must have the same relationship of services or uses to you as the property it replaces. You decide this by determining:

- 1) Whether the properties are of similar service to you,
- 2) The nature of the business risks connected with the properties, and
- 3) What the properties demand of you in the way of management, service, and relations to your tenants.

Example. You owned land and a building you rented to a manufacturing company. The building was destroyed by fire. During the replacement period, you had a new building constructed. You rented out the new building for use as a wholesale grocery warehouse. Because the replacement property is also rental property, the two properties are considered similar or related in service or use if there is a similarity in:

- 1) Your management activities,
- 2) The amount and kind of services you provide to your tenants, and
- 3) The nature of your business risks connected with the properties.

Business or income-producing property located in a federal disaster area. If your destroyed business or income-producing property was located in a federally declared disaster area, **any** tangible replacement property you acquire for use in a business is treated as similar or related in service or use to the destroyed property. This rule applies to property located in areas that were declared federal disaster areas after December 31, 1994, in tax years ending after that date. For more information, see *Disaster Area Losses*, later.

Controlling interest in a corporation. You can replace property by acquiring a controlling interest in a corporation that owns

property similar or related in service or use to your damaged, destroyed, or stolen property. You can postpone the tax on your entire gain if the cost of the stock that gives you controlling interest is at least as much as the amount realized (reimbursement) for your property. You have controlling interest if you own stock having at least 80% of the combined voting power of all classes of voting stock and at least 80% of the total number of shares of all other classes of stock.

Basis adjustment to corporation's property. For casualties or thefts after August 20, 1996, the basis of property held by the corporation at the time you acquired control must be reduced by the amount of your postponed gain, if any. You are not required to reduce the adjusted bases of the corporation's properties below your adjusted basis in the corporation's stock (determined after reduction by the amount of your postponed gain).

Allocate this reduction to the following classes of property in the order shown below.

- 1) Property that is similar or related in service or use to the destroyed or stolen property.
- 2) Depreciable property not reduced in (1) above.
- 3) All other property.

If two or more properties fall in class (1), (2), or (3), allocate the reduction to each property in proportion to the adjusted bases of all the properties in that class. The reduced basis of any single property cannot be less than zero.

Basis of replacement property. Your basis in replacement property is its cost minus any gain postponed. In this way, tax on the gain is postponed until you dispose of the replacement property.

Example. A fire destroyed your home. The insurance company reimbursed you \$67,000 for the property, which had an adjusted basis of \$62,000. You had a gain of \$5,000 from the casualty. If you have another home constructed for \$70,000 within the time limit, you can postpone reporting the gain. You will have reinvested all the reimbursement (including your entire gain) in your new home. Your basis for the new home will be \$65,000 (\$70,000 cost minus \$5,000 postponed gain).

Replacement period. To postpone reporting your gain, you must buy replacement property within a specified period of time. This is the "replacement period."

The replacement period begins on the date your property was damaged, destroyed, or stolen.

The replacement period ends 2 years after the close of the first tax year in which any part of your gain is realized.

Main home in disaster area. The replacement period is 4 years for your main home (or its contents) if located in a federally declared disaster area. See *Disaster Area Losses*, later.

Example 1. You are a calendar year taxpayer. A hurricane destroyed your home in

September 1996. In December 1996, the insurance company paid you \$3,000 more than the adjusted basis of your home. The area in which your home is located is not a federally declared disaster area. Because you first realized a gain from the reimbursement for the casualty in 1996, you have until December 31, 1998, to replace the property. If your home had been in a federally declared disaster area, you would have until December 31, 2000, to replace the property.

Example 2. You are a calendar year taxpayer. While you were on your vacation, a valuable piece of antique furniture that cost \$2,200 was stolen from your home. You discovered the theft when you returned home on August 11, 1996. Your insurance company investigated the theft and did not settle your claim until January 3, 1997, when they paid you \$3,000. Because you first realized a gain from the reimbursement for the theft during 1997, you have until December 31, 1999, to replace the property.

Extension. You may get an extension of the replacement period if you apply to the District Director for your area. Your application must contain all the details about the need for the extension. You should make the application before the end of the replacement period.

However, you can file an application within a reasonable time after the replacement period ends if you have a good reason for the delay. An extension may be granted if you can show that there is reasonable cause for not making the replacement within the regular period.

Ordinarily, requests for extensions are not made or granted until near the end of the replacement period, or the extended replacement period. Extensions are usually limited to a period of not more than 1 year. The high market value or scarcity of replacement property is not sufficient grounds for granting an extension. If your replacement property is being constructed and you clearly show that the replacement or restoration cannot be made within the replacement period, you may be granted an extension of the period.

How To Postpone a Gain

You postpone your gain from a casualty or theft by reporting your choice on your tax return for the year you have the gain. You have the gain in the year you receive insurance proceeds or other reimbursements that result in a gain.

Required statement. You should attach a statement to your return for the year you have the gain. This statement should include the following information:

- The date and details of the casualty or theft,
- The amount (insurance or other reimbursement) you received from the casualty or theft, and
- How you figured the gain.

If a partnership or a corporation owns the stolen or destroyed property, only the partnership or corporation can choose to postpone gain.

Replacement property acquired before return filed. If you acquire replacement property before you file your return for the year you have the gain, your statement should also include detailed information about:

- The replacement property,
- The postponed gain,
- The basis adjustment that reflects the postponed gain, and
- Any gain you are reporting as income.

Replacement property acquired after return filed. If you intend to acquire replacement property after you file your return for the year in which you have the gain, your statement should also state that you are choosing to replace the property within the required replacement period.

You should then attach another statement to your return for the year in which you acquire the replacement property. This statement should contain detailed information on the replacement property.

If you acquire part of your replacement property in one year and part in another year, you must make a statement for each year. The statement should contain detailed information on the replacement property bought in that year.

Substituting replacement property. Once you have acquired qualified replacement property that you designate as replacement property, you cannot later substitute other qualified replacement property. This is true even if you acquire the other property within the replacement period. The designation is made by the statement with your return reporting that you have acquired replacement property. However, if you discover that the original replacement property was not qualified replacement property, you can (within the replacement period) substitute the new qualified replacement property.

Amended return. You must file an amended return (Form 1040X) for the tax year you made the choice to postpone gain in either of the following situations:

- 1) You do not acquire replacement property within the required replacement period. On this amended return, you must report the gain and pay any additional tax due.
- 2) You acquire replacement property within the required replacement period but at a cost less than the amount you receive from the casualty or theft. On this amended return you must report the portion of the gain that cannot be postponed and pay any additional tax due.

Three-year limit. The period for assessing tax on any gain ends 3 years after the date you notify the IRS District Director for your area that:

- You replaced the property,

- You do not intend to replace the property, or
- You did not replace the property within the specified period of time.

Death of a taxpayer. If a taxpayer dies after having a gain but before buying replacement property, the gain must be reported for the year in which the decedent realized the gain. The executor of the estate or the person succeeding to the funds from the casualty or theft cannot postpone the gain by buying replacement property.

Changing your mind. You can change your mind about whether to report or to postpone your gain at any time before the end of the replacement period.

Example. Your property was stolen last year. Your insurance company reimbursed you \$10,000, of which \$5,000 was a gain. You reported the \$5,000 gain on your return for last year (the year you realized the gain) and paid the tax that was due. This year you bought replacement property within the replacement period. Your replacement property cost \$9,000. Since you reinvested all but \$1,000 of your reimbursement, you can now postpone \$4,000 (\$5,000 – \$1,000) of your gain.

To postpone your gain, file an amended return for last year, using Form 1040X, *Amended U.S. Individual Income Tax Return*. You should attach an explanation showing that you previously reported the entire gain from the theft but you now want to report only the part of the gain (\$1,000) equal to the part of the reimbursement not spent for replacement property.

When To Report a Gain or a Loss

Include a casualty or theft gain in your income in the year you receive the reimbursement, unless you choose to postpone the gain as explained earlier.

Generally, you can deduct a **casualty loss** only in the tax year in which the casualty occurred. This is true even if you do not repair or replace the damaged property until a later year. (But see *Disaster Area Losses*, later.)

If your loss is a **loss on deposits** at an insolvent or bankrupt financial institution, see *Loss on Deposits*, earlier.

You generally can deduct **theft losses** only in the year you discover your property was stolen. You must be able to show there was a theft, but you do not have to know when the theft occurred.

Lessee's loss. If your loss is on leased property and you were liable to the owner for the loss, you can deduct the loss only in the year in which the liability becomes fixed. This is true even if the loss occurred or the liability was paid in a different year.

Reimbursement Claims

If there is a reasonable prospect you will be reimbursed for part or all of your loss, you must subtract the expected reimbursement to figure your loss. You must reduce your loss even if you do not receive payment until a later tax year. You are believed to have a reasonable prospect of reimbursement if you have filed suit for damages.

If you later receive less reimbursement than you expected, include that difference as a loss with your other losses (if any) on your return for the year in which you can reasonably expect no more reimbursement.

Example. Your personal car had an FMV of \$2,000 when it was destroyed in a collision with another car last year. The accident was due to the negligence of the other driver. At the end of the year, there was a reasonable prospect that the owner of the other car would reimburse you in full. You did not have a deductible loss last year.

This January, the court awards you a judgment of \$2,000. However, in July it becomes apparent that you will be unable to collect any amount from the other driver. Since this is your only casualty or theft loss, you can deduct the loss this year that is more than \$100 and 10% of this year's adjusted gross income.

If you later receive more reimbursement than you expected, after you have claimed a deduction for the loss, you may have to include the extra reimbursement in your income for the year you receive it. However, if any part of the original deduction did not reduce your tax for the earlier year, do not include that part of the reimbursement in your income. You do not refigure your tax for the year you claimed the deduction. Publication 525 has a worksheet for you to use when only part of your original deduction reduced your tax in an earlier year.

Example. Last year, a hurricane destroyed your motorboat. Your loss was \$3,000, and you estimated that your insurance would cover \$2,500 of it. Since you did not itemize deductions on your return last year, you could not deduct the loss. When the insurance company reimburses you for the loss, you do not report any of the reimbursement as income. This is true even if it is for the full \$3,000 because you did not deduct the loss on your return. The loss did not reduce your tax.



If the total of all the reimbursements you receive is more than your adjusted basis in the destroyed or stolen property, you will have a gain on the casualty or theft. If you have already taken a deduction for a loss and you receive the reimbursement in a later year, you must include it in your income for the later year. Include the reimbursement as ordinary income to the extent your deduction reduced your tax for the earlier year.

You must also report your gain in the later year. But you may be able to postpone reporting your gain as explained under Postponement of Gain, earlier.

Table 2. When to Deduct a Loss

Type of Loss	Tax Year Deducted	Can You Choose Years?
Casualty losses	Year loss occurred	No
Loss on deposits • Casualty loss • Bad debt • Ordinary loss	Year a reasonable estimate can be made Year deposits are totally worthless Year a reasonable estimate can be made	No No No
Federal disasters	Year the disaster occurred or the year immediately before the disaster	Yes
Thefts	Year of discovery of the theft	No

If you receive exactly the reimbursement you expected to receive, you do not have any amount to include in your income or any loss to deduct.

Example. Last December, you had a collision while driving your personal car. Repairs to the car cost \$950. You had \$100 deductible collision insurance. Your insurance company agreed to reimburse you for the rest of the damage. As a result of your expected reimbursement from the insurance company, you did not have a casualty loss deduction last year.

Due to the \$100 rule, you cannot deduct the \$100 you paid as the deductible. When you receive the \$850 from the insurance company in this year, you do not report it as income.

Recovered property. Recovered property is your property that was stolen and later returned to you. If you recovered property after you had already taken a theft loss deduction, you must refigure your loss using the smaller of the property's adjusted basis (explained under *Figuring a Loss*, earlier) or the decrease in FMV from the time it was stolen until the time it was recovered. Use this amount to refigure your total loss for the year in which the loss was deducted.

This is your refigured loss. If this amount is less than the loss you deducted, you generally have to report the difference as income in the recovery year. But report the difference only up to the amount of the loss that reduced your tax.

Disaster Area Losses

If you have a casualty loss from a disaster that occurred in an area declared by the President to be eligible for federal assistance under the Disaster Relief and Emergency Assistance Act, you can choose to deduct that loss on your return or amended return for the tax year immediately preceding the tax year in which the disaster happened. If you make this choice, the loss is treated as having occurred in the preceding year.

Example. You are a calendar year taxpayer. A flood damaged your home this June. The flood damaged or destroyed a considerable amount of property in your town. The town

was declared a federal disaster area as the result of the flood. You can choose to deduct the flood loss on your home on last year's return.

Home made unsafe by disaster. If your home is located in a federal disaster area, your state or local government may order you to tear it down or move it because it is no longer safe to live in because of the disaster. If this happens, treat the loss in value as a casualty loss from a disaster. Your state or local government must issue the order for you to tear down or move the home within 120 days after the area is declared a disaster area.

Figure your loss in the same way as for casualty losses of personal use property. (See *Figuring a Loss*, earlier.) Use the value of your home before you move it or tear it down as its FMV after the casualty.

Unsafe home. Your home will be considered unsafe only if:

- 1) Your home is substantially more dangerous after the disaster than it was before the disaster, and
- 2) The danger is from a substantially increased risk of future destruction from the disaster.

You do not have a casualty loss if your home is unsafe due to dangerous conditions existing before the disaster. (For example, the location of your house is in an area known for severe storms.) This is true even if your home is condemned.

Example. Because of a severe storm, the county you live in is declared a federal disaster area. Although your home has only minor damage from the storm, a month later the county issues a demolition order. This order is based on a finding that your home is unsafe due to nearby mud slides caused by the storm. The loss in your home's value because the mud slides made it unsafe is treated as a casualty loss from a disaster. The loss in value is the difference between your home's FMV immediately before the disaster and immediately after the disaster.

How to deduct your loss in the preceding year. If you choose to deduct your loss on your return or amended return for the tax year immediately preceding the tax year in which

the disaster happened, include a statement saying that you are making that choice. The statement can be made on the return or can be filed with the return. The statement should specify the date or dates of the disaster and the city, town, county, and state where the damaged or destroyed property was located at the time of the disaster.

Time limit for making choice. You must make this choice to take your casualty loss for the disaster in the preceding year by the later of:

- The due date (without extensions) for filing your income tax return for the tax year in which the disaster actually occurred, or
- The due date (with extensions) for the return for the preceding tax year.

Example. If you are a calendar year taxpayer, you ordinarily have until April 15, 1997, to amend your 1995 tax return to claim a casualty loss that occurred during 1996.

Revoking your choice. You can revoke your choice within 90 days after making it by returning to the Internal Revenue Service any refund or credit you received from making the choice. However, if you revoke your choice before receiving a refund, you must return the refund within 30 days after receiving it for the revocation to be effective.

Figuring the loss deduction. You must figure the loss under the usual rules for casualty losses, as if it occurred in the year preceding the disaster.

Example. A disaster damaged your home, which cost \$34,000, including land. This was your only casualty loss for the year. The area was later determined to warrant federal assistance. The FMV of the property immediately before the disaster was \$47,500 and the FMV immediately afterwards was \$15,000. Your household furniture was destroyed.

You have separately figured the loss on each item of furniture (see *Figuring the Deduction*, earlier) and have arrived at a total loss for furniture of \$3,000. Your insurance did not cover this type of casualty loss and you expect no reimbursement for either your home or your furniture.

You choose to amend your previous year's return to claim your casualty loss for the disaster. Your adjusted gross income was \$40,000. You figure your casualty loss as follows:

	House	Furnishings
1. Cost	\$34,000	\$ 10,000
2. FMV before disaster	\$47,500	\$ 8,000
3. FMV after disaster	15,000	5,000
4. Decrease in FMV	\$32,500	\$ 3,000
5. Smaller of line 1 or 4	\$32,500	\$ 3,000
6. Subtract estimated insurance	-0-	-0-
7. Loss after reimbursement	\$32,500	\$ 3,000

8. Total loss	\$ 35,500
9. Subtract \$100	100
10. Loss after \$100 rule...	\$ 35,400
11. Subtract 10% of \$40,000 AGI	4,000
12. Casualty loss deduction	\$ 31,400

If you do not choose to deduct your loss on your return for the earlier year, deduct it on your return for the year in which the disaster occurred.

Why you may want to take the deduction in the earlier year. Claiming a qualifying disaster loss on the previous year's return may result in a lower tax for that year, often producing or increasing a cash refund.

Claiming a disaster loss on Form 1040X. If you have already filed your return for the preceding year, you can claim a disaster loss against that year's income by filing a Form 1040X, *Amended U.S. Individual Income Tax Return*.

How to report the loss. You should adjust your deductions on Form 1040X. Explain the reasons for your adjustment and attach Form 4684 to show how you figured your loss. See *Figuring a Loss*, earlier.

Note: You should keep the records that support your loss deduction. You do not have to attach them to the amended return.

If you itemized deductions on the original return, enter your net change in column B. Add this amount to your original deductions (column A) to arrive at the correct amount in column C.

If you did not itemize your deductions on your original return, you must first determine whether the casualty loss deduction now makes it advantageous for you to itemize. If so, attach Schedule A (Form 1040), along with Form 4684, to your amended return. Fill out Form 1040X to refigure your tax on the rest of the form to find your refund.

Disaster loss to inventory. If your inventory loss is from a disaster in an area declared by the President of the United States to be eligible for federal assistance, you may choose to deduct the loss on your return or amended return for the immediately preceding year. However, decrease your opening inventory for the year of the loss so that the loss will not show up again in inventories.

Grants. You do not have to include grants received under the Disaster Relief and Emergency Assistance Act in your gross income. However, you cannot deduct a casualty loss to the extent you are specifically reimbursed by the grant.

Federal loan canceled. If part of your federal disaster loan was canceled under the Disaster Relief and Emergency Assistance Act, it is considered to be reimbursement for the loss. The cancellation reduces your casualty loss deduction.

Special rules for main home in a disaster area. Special rules regarding gains may apply to insurance proceeds you receive because of the damage to or destruction of your main home or its contents. The rules apply if your home was located in an area the President declared a federal disaster area. For a discussion of these rules, see *Gains Realized on Homes in Disaster Areas* in the instructions for Form 4684.

Example. You rent an apartment which is your main home. Your apartment and its contents were completely destroyed by a hurricane. Because of this hurricane, the county in which your main home was located was declared a disaster area.

You received insurance proceeds of \$17,000 for unscheduled personal property in your apartment. Even though you do not own your main home, no gain is recognized on these proceeds because of the special rules.

How To Report Gains and Losses

How you report gains and losses depends on whether the property was business, income-producing, or nonbusiness property.

Nonbusiness property. If you have a **loss**, use:

- Form 4684, and
- Schedule A (Form 1040), *Itemized Deductions*.

If you have a **gain**, report it on:

- Form 4684, and
- Schedule D (Form 1040), *Capital Gains and Losses*.

Be sure to attach Form 4684 to your return.

Business and income-producing property. Use Form 4684 to report your casualty gains and losses. You will also have to report the gains and losses on other forms as explained next.

Property held 1 year or less. Individuals report losses from income-producing property on Schedule A (Form 1040). Gains from business and income-producing property are combined with losses from business property and the net gain or loss is reported on Form 4797. If you are not otherwise required to file Form 4797, only enter the net gain or loss on page 1 of Form 1040. Partnerships and corporations should see Form 4684 to find out where to report these gains and losses.

Property held more than 1 year. If your losses from business and income-producing property are **more than** gains from these types of property, combine your losses from business property with total gains from business and income-producing property. Individuals report the net gain or loss as an ordinary gain or loss on Form 4797, *Sales of Business Property*. If you are not otherwise required to file Form 4797, only enter the net gain or loss on page 1 of Form 1040. Individuals deduct

any loss of income-producing property on Schedule A (Form 1040). Partnerships and corporations should see Form 4684 to find out where to report these gains and losses.

If losses from business and income-producing property are **less than or equal to** gains from these types of property, report the net gain on Form 4797. Individuals may also have to report the gain on Schedule D depending on whether they have other transactions. Partnerships and corporations should see Form 4684 to find out where to report these gains and losses.

Depreciable property. If the damaged or stolen property was depreciable property held more than 1 year, you may have to treat all or part of the gain as ordinary income to the extent of depreciation allowed or allowable. You figure the ordinary income part of the gain in Part III of Form 4797. See chapter 4 in Publication 544 for more information about this rule.

Adjustments to Basis

If you have a casualty or theft loss, you must decrease your basis in the property by any insurance or other reimbursement you receive and by any deductible loss. The result is your adjusted basis in the property. Amounts you spend to restore your property after a casualty increase your adjusted basis. See *Adjusted Basis* in Publication 551 for more information.

If Loss Is More Than Income

If your casualty or theft loss deduction is more than your income for the year, you may have a **net operating loss**. You can use a net operating loss to lower your tax in an earlier year allowing you to get a refund for tax you already paid. Or, you can use it to lower your tax in a later year. You do not have to be in business to have a net operating loss from a casualty or theft. For more information, get Publication 536, *Net Operating Losses*.

How To Get More Information



You can get help from the IRS in several ways.

Free publications and forms. To order free publications and forms, call 1-800-TAX-FORM (1-800-829-3676). You can also write to the IRS Forms Distribution Center nearest you. Check your income tax package for the address. Your local library or post office also may have the items you need.

For a list of free tax publications, order Publication 910, *Guide to Free Tax Services*. It also contains an index of tax topics and related publications and describes other free tax information services available from IRS, including tax education and assistance programs.

If you have access to a personal computer and modem, you also can get many forms and publications electronically. See *Quick and Easy Access to Tax Help and Forms* in your income tax package for details. If space permitted, this information is at the end of this publication.

Tax questions. You can call the IRS with your tax questions. Check your income tax package or telephone book for the local number, or you can call 1-800-829-1040.

TTY/TDD equipment. If you have access to TTY/TDD equipment, you can call 1-800-

829-4059 to ask tax questions or to order forms and publications. See your income tax package for the hours of operation.

