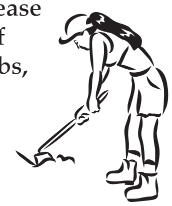
Landscaping. The cost of restoring landscaping to its original condition after a casualty may indicate the decrease in FMV. The loss may be measured by the cost of removing destroyed or damaged trees and shrubs, pruning and other measures taken to preserve damaged trees and shrubs, and replanting necessary to restore the property to its approximate value before the casualty, less any salvage value received.



Adjustments to basis. The basis of property affected by a casualty or theft loss may be decreased, increased, or both.
- Decrease basis by the amount of insurance or other reimbursement received and by any deductible loss.
- Increase basis by amount spent to repair or restore the property to its pre-casualty condition. See *Disaster relief,* page 4-22, for exceptions.

Deduction Limits

2% rule. The casualty and theft loss deduction for employee property, when added to other miscellaneous deductions, must be reduced by 2% of AGI. Employee property is property used in performing services as an employee.

$100 rule. Reduce each casualty or theft loss event by $100. If multiple pieces of property are damaged in a single event, a single $100 reduction applies.

10% rule. Reduce the total of all casualty or theft losses by 10% of AGI. Apply this rule after reducing each loss by $100.

Example: On January 15, John's guitar was stolen. He originally purchased the guitar for $2,000, and it had a FMV of $1,500. On April 28, a storm did $4,000 damage to the roof on his house and $500 damage to his car. He received no insurance reimbursements. John's AGI is $42,000.

His loss is computed as follows.

Theft loss, guitar	$1,500	
Per-event reduction	($100)	$1,400
Casualty loss, house	$4,000	
Casualty loss, car	$500	
Per-event reduction	($100)	$4,400
10% AGI reduction		(4,200)
Deductible amount		$1,600

Losses on business and income-producing property. Losses on business property (other than employee property) and income-producing property are not subject to the above limitations. However, if the loss involved a home used for business or rented out, the deductible loss may be limited.

When to Deduct a Casualty or Theft Loss

Casualty or theft losses are deductible in the later of:
- The tax year the casualty occurred or the theft was discovered.
- The tax year the reimbursement amount (if any) can reasonably be determined, or it is determined that no additional reimbursement will be received. [Reg. §1.165-1(d)]

Court Case: The taxpayer was the victim of a fraudulent investment scam. The individuals running the scam were convicted of criminal acts relating to the scam in 2001. The taxpayer claimed a theft loss deduction on an amended 2001 tax return. The Tax Court ruled that the taxpayer was not reasonably certain in 2001 that he would not be reimbursed and disallowed the deduction. *(Vincentini,* T.C. Memo 2008-271)

Gain on Reimbursement

The taxpayer has a gain from casualty or theft if he or she receives an insurance payment or other reimbursement that is more than the adjusted basis of the property that is destroyed or stolen. The gain is figured as follows:
- The amount received, minus
- The adjusted basis in the property at the time of casualty or theft.

Amount received. The amount received includes any money plus the value of any property received minus any expenses incurred in obtaining the reimbursement. It also includes any reimbursement used to pay off a mortgage or other lien on the damaged or stolen property.

Postponement of gain. Gain is not reported in the following situations:
- The taxpayer receives a reimbursement in the form of property similar or related in service or use to the destroyed or stolen property, or
- The taxpayer chooses to postpone reporting the gain by buying property that is similar or related in service or use to the destroyed or stolen property within a specified time period. The gain can also be postponed if the taxpayer acquires at least 80% of a corporation owning property that is similar or related in service or use.

Replacement period. The replacement property must be purchased within two years after the close of the first tax year in which any part of the gain is realized.

Gain cannot be postponed. Gain cannot be postponed if the replacement property is acquired from a related person. This rule applies to:
- C corporations.
- Partnerships owned more than 50% by a C corporation(s).
- Any other taxpayer it the total realized gain for the year on all destroyed or stolen properties is more than $100,000.

Replacement property. Replacement property must be purchased for the specific purpose of replacing the destroyed or stolen property.
- Replacement property must be similar, or related in service or use, to the property it replaces.
- Property acquired as a gift or inheritance does not qualify.
- Taxpayers do not have to use the same funds received as reimbursement for the old property to acquire the replacement property.

Basis in replacement property. If gain is postponed, the basis in the replacement property is the cost to acquire the replacement property less the amount of the postponed gain.

Example: Richard owns an auto repair shop. During the night, tools worth $10,000 were stolen. Richard's adjusted basis in the tools was $1,000. Insurance reimburses Richard for the value of the stolen tools, minus a $500 deductible. Richard uses the $9,500 insurance reimbursement, plus an additional $500 out of pocket, to purchase new tools. His theft loss deduction is zero (the $1,000 basis, minus the $9,500 of insurance proceeds). His gain of $8,500 ($9,500 less the adjusted basis of $1,000 in the stolen tools) is postponed. Richard's basis in the new tools is the $10,000 total cost less the $8,500 of postponed gain, or $1,500.

Federally-declared disaster area. Any tangible replacement property used for business is treated as similar property if it replaces business or investment property damaged or destroyed in a federally-declared disaster area.

Example: Aaron owned a carpet cleaning business in Grand Forks when his van carrying all his cleaning equipment was destroyed by floods in an area designated as a federally-declared disaster area. Aaron used insurance proceeds from the disaster to purchase a printing press for use in a new publishing business. The replacement property is considered similar property because it replaced business property destroyed in a federally-declared disaster area.

Reporting postponed gain on return. If a gain from a casualty or theft is postponed, attach a statement to the return with the following information. Do not complete Form 4684 for that year.

- Date and details of the casualty or theft.
- Insurance or other reimbursement received from the casualty or theft.
- How gain was calculated.
- Information on the replacement property.
- Information on the postponed gain.
- Basis adjustment that reflects the postponed gain.
- Any gain reported as income.

If the replacement property is acquired after the tax return is filed for the year of gain, substitute information on the replacement property with a statement saying the taxpayer chooses to replace the property within the required replacement period. Attach the details on the replacement property to the return for the year in which replacement property is acquired.

Federally-Declared Disaster Areas

A federally-declared disaster is a disaster determined by the President to warrant federal government assistance. See www.fema.gov/disasters for a current list of federally-declared disaster areas.

Disaster Relief Provisions

Casualty loss deduction.	• Taxpayers may elect to deduct a casualty loss in the year immediately prior to the disaster year.
Qualified disaster relief payments.	• Not included in income to the extent expenses not otherwise compensated by insurance.
Postponed tax deadlines.	• IRS may postpone deadlines for filing, paying taxes, and making IRA contributions.
Replacement property—main home.	• Replacement property must be purchased within four years. • Special recognition rules to avoid gain on insurance proceeds.
Replacement property—business or income-producing property.	• Any tangible replacement property acquired is treated as similar or related in service or use to the destroyed property.

Election to deduct loss in prior year. A taxpayer may elect to deduct a casualty loss from a federally-declared disaster in the tax year immediately prior to the disaster year. The election is made by filing an original or amended return for the prior year by the later of: Six months after the…

- ~~The~~ due date (without extensions) for filing the original return for the year in which the disaster loss occurred~~, or~~
- ~~The due date (including extensions) for filing the prior-year return.~~ Rev. Proc. 2016-53

Attach a statement specifying disaster date and location (city, county, and state) of damaged or destroyed property at the time of the disaster.

Example: A calendar-year taxpayer has until ~~April 18~~ October 16, 2017, to amend the 2015 return to claim a qualifying loss that occurred during 2016.

Revoking the election. The election to deduct a disaster loss in the prior year may be revoked within 90 days after making the election and by returning any refund or credit received due to making the election. If the election is revoked before receiving a refund, the refund must be returned within 30 days after receiving it.

Gain Realized on Home in Disaster Area

The following rules apply for taxpayers whose main home (including a rented home) is in a disaster area and the home or any of its contents were destroyed by the disaster.

- No gain is recognized on insurance proceeds received for unscheduled personal property that was part of the contents of the home (property not separately listed on the insurance policy).
- The home and scheduled property (personal property specifically listed on the insurance policy) are treated as one item of property under the rules for reporting gain. Gain from insurance reimbursement is recognized only to the extent that the proceeds exceed the cost of all replacement property, including a home and scheduled or unscheduled property, that is similar or related in use.
- In order to exclude gain from insurance reimbursement, the period in which the taxpayer must purchase replacement property is extended until four years after the end of the first tax year in which any part of the gain is realized.

Example: In 2016, Dave's main home and contents were destroyed by a tornado in a federally-declared disaster area. His homeowner's insurance policy covered the home, unscheduled property, and scheduled property including jewelry and a stamp collection. Dave received the following insurance proceeds.

Unscheduled property	$25,000	No gain recognized
Jewelry	$5,000	Considered one item of property. Replacement property can include scheduled or unscheduled property and a home. Any gain is postponed if at least $215,000 of replacement property is purchased by 2020.
Stamp collection	$10,000	
Home	$200,000	

Basis in the replacement property equals its cost decreased by the amount of any postponed gain.

See *Reporting postponed gain on return,* previous column.

Disaster Assistance Resource Guide

IRS Disaster Assistance	• 1-866-562-5227 • Explanations on filing and payment relief.
IRS Taxpayer Assistance Centers	• www.irs.gov/localcontacts/index.html • Locate local IRS centers where personnel may be able to provide face-to-face assistance.
The Disaster Assistance Portal	• www.disasterassistance.gov • Locate of 60 kinds of assistance from 17 agencies.
Federal Emergency Management Agency (FEMA)	• www.fema.gov • 1-800-621-3362 • Federal disaster aid programs.
Small Business Administration (SBA)	• www.sba.gov • Low interest disaster loans to homeowners, renters, and businesses.

Loss on Deposits

A loss on deposits can occur when a bank, credit union or other financial institution becomes insolvent or bankrupt. This type of loss can be deducted in one of the following ways.