

Extension of Time for Safe Harbor for Damaged Concrete Foundations

Cross References

- Rev. Proc. 2017-60
- Rev. Proc. 2018-14

Our news article dated 12/11/2017 entitled “Repairs for Deteriorating Concrete Foundations” reported on a new safe harbor for claiming a casualty loss deduction for taxpayer’s with damage to their residential concrete foundations. The damaged foundations are the result of pyrrhotite in the concrete mixture used to pour the foundations. Under the safe harbor, if certain requirements are met, taxpayers may use the cost to repair the damage as the casualty loss in the year the repairs are paid for. The IRS has issued additional guidance for claiming the casualty loss deduction under this safe harbor.

Rev. Proc. 2018-14. The new guidance modifies Revenue Procedure 2017-60 as follows:

- 1) If a taxpayer pays to repair the damage during the 2016 tax year or earlier, the taxpayer may treat the amount paid as a casualty loss on a timely amended return (Form 1040X) for the tax year of payment.
- 2) If a taxpayer pays to repair the damage during the 2017 tax year or prior to a timely filed (including extensions) original return (Form 1040) for the 2017 tax year, the taxpayer may treat the amount paid as a casualty loss on the 2017 Form 1040 return, or a timely filed Form 1040X for 2017.
- 3) If a taxpayer pays to repair the damage after filing an original 2017 tax return and prior to the last day for filing a timely Form 1040X for the 2017 tax year, the taxpayer may treat the amount paid as a casualty loss on a timely filed Form 1040X for the 2017 tax year.

Author’s Comment

A timely filed Form 1040X is one that is filed within three years from the date the original return was filed or within two years from the date the tax was paid, whichever is later. The extended due date for filing a 2017 tax return is October 15, 2018. Thus, a taxpayer potentially has until October 15, 2021 to file a timely Form 1040X for the 2017 tax year. Under this revenue procedure, a taxpayer could potentially have until October 15, 2021 to pay for the repairs and claim the casualty loss deduction on an amended 2017 tax return. It should be noted that the Tax Cuts and Jobs Act eliminated the casualty loss deduction for tax years after 2017 unless the casualty occurred in a federally declared disaster area. Taxpayers affected by this situation must pay for the cost of repairs by October 15, 2021 to claim a casualty loss.