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IN FOCUS

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The Nonbusiness Casualty Loss Deduction

The Internal Revenue Code generally allows taxpayers to deduct certain unreimbursed losses caused by recent disasters from their income subject to the income tax. Lawmakers have adjusted aspects of this deduction over time. Congress temporarily limited the deduction as part of the 2017 tax law (P.L. 115-97, sometimes known as the Tax Cuts and Jobs Act or TCJA), generally to only losses resulting from federally declared disasters for tax years 2018-2025. For these purposes, "federally declared disasters" are those declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 100-707, as amended) and occurring in the disaster area identified in that declaration. P.L. 119-21 made this change permanent, and also expanded the deduction to cover losses resulting from disasters recognized by state governments from 2026 onward.

The deduction offers financial relief to some taxpayers who suffer unexpected monetary damage. In doing so, it reduces federal revenue and subsidizes uninsured losses without offering similar benefits to insured losses or loss-mitigation expenses, potentially distorting taxpayers' incentives to insure themselves for losses or spend money on disaster loss mitigation expenses. This In Focus discusses the structure of the deduction and analyzes its potential impact on the federal budget and taxpayer decisionmaking.

Overview

Prior to 2018, households who itemized their deductions could deduct their unreimbursed net personal (i.e., nonbusiness) losses that "arise from fire, storm, shipwreck, or other casualty, or from theft" from their income. Under permanent law, taxpayers can only deduct such losses to the extent each loss exceeds $100, and their total exceeds 10% of the taxpayer's adjusted gross income (AGI). The damaged item does not need to be repaired or replaced for the taxpayer to claim the deduction. Taxpayers can claim this deduction regardless of their income, and there is no cap on the size of the deduction a taxpayer can claim. Those whose deductions exceed their taxable income can carry the deduction forward to subsequent tax years.

The restriction of eligibility to unreimbursed losses means that losses compensated by insurance do not compensate qualify. Additionally, the deduction applies only to personal losses—losses on business property are subject to different rules. Taxpayers can claim the deduction on personal property regardless of type.

Since 2018, the deduction is limited to losses that result from federally declared disasters. This narrowed the scope of disasters for which taxpayers could claim the deduction, and eliminated eligibility due to losses from theft in most cases. An exception applies when a taxpayer incurs a nonbusiness casualty gain, meaning the taxpayer receives compensation for a loss that exceeds the value of the loss itself. Nonbusiness casualty gains are always considered taxable income and are not limited to casualties resulting from federally declared disasters. Taxpayers can deduct losses unrelated to a federally declared disaster, but only to the extent such losses offset nonbusiness casualty gains.

Taxpayers can generally choose to take the loss in the year prior to the casualty. Casualties are considered to have occurred in the year in which the taxpayer discovers the loss, even if that differs from the year in which the event causing the casualty took place.

P.L. 119-21 expanded qualified losses to include those resulting from disasters recognized by both the governor of a state (or the mayor of the District of Columbia) and the Secretary of the Treasury, starting in 2026. The change applies to the 50 states, the District of Columbia, Puerto Rico, Guam, American Samoa, and the U.S. Virgin Islands.

Qualified Disaster Losses

Congress has passed several pieces of legislation declaring certain losses to be "qualified disaster-related personal casualty losses." This legislation has applied this distinction to losses resulting from specific disasters or occurring during a specific period of time. Taxpayers with qualified disaster losses can claim a more generous casualty and theft loss deduction than others. They can deduct qualified disaster losses even if they also claim the standard deduction. Their per-event limitation is generally $500 instead of $100, and they are not limited to deducting losses that exceed 10% of their AGI in sum.

This designation generally applies either to specific disasters or to federally declared disasters that occurred during a specific period. Among others, the disasters in this category have included federally declared major disasters (a subset of federally declared disasters) that began between 2016 and December 21, 2019, as well as those that began between December 28, 2019, and July 4, 2025.

Legislative History

The Revenue Act of 1913 (P.L. 63-16), which created the modern federal income tax, also created the modern deduction for casualty losses, without distinction between business-related and nonbusiness-related losses. Theft losses were eligible by 1916.

The Revenue Act of 1964 (P.L. 88-272) placed a $100-per-event floor on the deduction, corresponding to the $100 deductible provision common in property insurance coverage at that time. The limitation to losses that, in sum,

exceed 10% of the taxpayer's AGI was created by the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248).

Congress has at times expanded the deduction in response to specific disasters. The Katrina Emergency Tax Relief Act of 2005 (P.L. 109-73) eliminated the per-casualty and AGI floors for deductible losses arising from the consequences of Hurricane Katrina. Congress removed the floors for losses arising from several other disasters in subsequent years. The Emergency Economic Stabilization Act of 2008 (P.L. 110-343) expanded the deduction similarly for all federally declared disasters occurring in 2008 and 2009, but imposed a $500 per-casualty limitation and let taxpayers claim the deduction in addition to the standard deduction.

Subsequent legislation offered similar tax benefits to those impacted by other disasters. Most recently, P.L. 119-21 extended a prior expansion through the date of enactment (July 4, 2025), provided the President declares the disaster by September 2, 2025.

The TCJA limited the deduction to casualties and thefts resulting from federally declared disasters from 2018 through 2025. It also raised the standard deduction for tax years 2018 through 2025, meaning fewer taxpayers would claim any given itemized deduction.

P.L. 119-21 made both of these changes permanent. The law also made eligible expenses resulting from state-declared disasters recognized by the Secretary of the Treasury.

Analysis

General

The nonbusiness casualty and theft loss deduction provides financial assistance to some taxpayers who suffer substantial casualties.

To the extent nonbusiness casualty and theft losses represent a loss of wealth but do not represent consumption, they could be considered a form of lost income. If so, deducting such losses could be seen as an appropriate adjustment when computing one's income. The tax code's definition of income often deviates from such theoretical definitions.

This deduction shifts part of the loss from the property owner to the federal government, and thus serves as a form of government coinsurance. Economists have theorized that when uninsured losses are deductible but insurance premiums are not, it may make more financial sense for taxpayers to risk incurring a loss (for which they can claim a tax benefit) than to pay for insurance (for which they cannot). If so, this could discourage taxpayers from purchasing insurance. A similar principle could apply to the cost of mitigation activities to prevent losses, which are not currently deductible (although other subsidies may be available). There has not been substantial research into whether the casualty and theft loss deduction has these effects.

As with all deductions, a dollar of deductible casualty or theft losses is worth more to taxpayers in higher-income tax brackets because of their higher marginal tax rates.

Recent Changes

In 2018, the first year the TCJA took effect, 77% fewer taxpayers claimed the deduction than in the three years prior. Claims continued to decline through 2020, the most recent year for which data are available. This decline may have resulted partly from the expansion of the standard deduction, which made itemizing deductions appealing to fewer taxpayers. While about 31% of filers itemized their deductions for tax year 2017, about 11% did for tax year 2018. However, the share of itemizers who claimed the casualty and loss deduction also fell, from 0.24% in 2017 to 0.15% in 2018 (**Table 1**).

Table 1. Average Casualty and Theft Loss Itemized Deduction Claims by Three-Year Period

	Households Claiming	Average Claim
2012-2014	115,573	$26,947
2015-2017	113,325	$26,921
2018-2020	14,528	$38,940

Source: IRS Statistics of Income and CRS analysis.

Notes: Among returns with itemized deductions only. Data are averaged by three-year period to account for the annual variation in claims for the casualty and theft loss deduction.

Use of the deduction has always fluctuated meaningfully from year to year. This may be because disasters happen sporadically, Congress often expands the deduction in the wake of specific disasters, and taxpayers can carry any unused deduction forward and backward.

The Joint Committee on Taxation estimated prior to enactment of P.L. 119-21 that the deduction would reduce federal revenues by $0.2 billion in FY2025. After enactment of that law, the Committee estimated that revenue losses from the deduction would grow by $1.3 billion from FY2025 to 2034.

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