

Part I

Section 165.--Losses

26 CFR 1.165-11: Election in respect of losses attributable to a disaster.

(Also § 139, 1033; 1.1033(1)-1.)

Rev. Rul. 2003-29

Under § 165(i) of the Internal Revenue Code, if a taxpayer suffers a loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5204c (1988 & Supp. V 1993) (the Act), the taxpayer may elect to claim a deduction for that loss on the taxpayer's federal income tax return for the taxable year immediately preceding the taxable year in which the disaster occurred. For purposes of § 165(i), a disaster includes an event declared a major disaster or an emergency under the Act.

Section 1.165-11(e) of the Income Tax Regulations provides that the election to deduct a disaster loss for the preceding year must be made by filing a return, an amended return, or a claim for refund on or before the later of (1) the due date of the taxpayer's income tax return (determined without regard to any extension of time to file the return) for the taxable year in which the disaster actually occurred, or (2) the due date of the taxpayer's income tax return (determined with regard to any extension of time to file the return) for the taxable year immediately preceding the taxable year in which the disaster actually occurred.

The provisions of § 165(i) apply only to losses that are otherwise deductible under § 165(a). An individual taxpayer may deduct losses if they are incurred in a trade or business, if they are incurred in a transaction entered into for profit, or if they are casualty losses under § 165(c)(3).

A determination by the President that an area warrants assistance by the Federal Government under the Act is also

relevant to § 139(a) (regarding the exclusion from gross income of certain qualified disaster relief payments) and § 1033(h) (regarding the deferral of gain realized upon the involuntary conversion of certain property).

The President has determined that, during 2002, the areas listed below have been adversely affected by disasters of sufficient severity and magnitude to warrant assistance by the Federal Government under the Act.

A cumulative list of the areas warranting assistance each year under the Act (beginning in 1998) is available at the Federal Emergency Management Agency (FEMA) Internet site at www.fema.gov. Accordingly, the Internal Revenue Service requests comments regarding the need for future publication of this revenue ruling. Comments should be submitted by May 1, 2003 either to:

Internal Revenue Service
P. O. Box 7604
Ben Franklin Station
Washington, DC 20044
Attn: CC:PA:T:CRU(ITA)
Room 5041

or electronically via the Service internet site at: Notice.Comments@irs.counsel.treas.gov (the Service comments e-mail address). All comments will be available for public inspection and copying.

FURTHER INFORMATION

For further information regarding this revenue ruling, contact James R. Roy on (202) 622-4950 (not a toll-free call).

Disaster Area	Disaster Description	Disaster Date
Alabama		
Counties of Baldwin and Mobile	FEMA-1438-DR Tropical Storm Isidore	September 23- October 1
Counties of Barbour, Bibb, Blount, Calhoun, Cherokee, Cleburne, Cullman, Dale, DeKalb, Etowah, Fayette, Franklin, Greene, Hale, Henry, Houston, Jefferson, Lamar, Lawrence, Marion, Marshall, Morgan, Pickens, Shelby, St. Clair, Talladega, Tuscaloosa, Walker, and Winston	FEMA-1442-DR Severe Storms and Tornadoes	November 5-12
Alaska		
Fairbanks North Star Borough, McGrath and Lime Village in the Iditarod Regional Education Attendance Area (REAA), Aniak, Crooked Creek, Red Devil, and Sleetmute in the Kuspuk REAA, Kwethluk in the Lower Kuskokwim REAA, Alakanuk and Emmonak in the Lower Yukon REAA, and Ekwok and Stuyahok in the Southwest Region REAA.	FEMA-1423-DR Flooding	April 27-May 30
Fairbanks North Star Borough, Denali Borough, Matanuska-Susitna Borough; the Regional Education Attendance Areas of Delta Greely, Alaska Gateway, Copper River, and Yukon-Koyukuk; the cities of Tetlin, Mentasta Lake, Nothway, Dot Lake, Chistochina, and Tanacross; and the unincorporated communities of Slana and Tok.	FEMA-1440-DR Earthquake	November 3-10

Disaster Area	Disaster Description	Disaster Date
Kenai Peninsula Borough, Kodiak Island Borough and Chignik Bay Area, to include Chignik Lake and Chignik Lagoon	FEMA-1445-DR Severe Winter Storms, Flooding, Coastal Erosion, and Tidal Surge	October 23- December 20
Arizona		
Counties of Apache, Coconino, Gila, and Navajo; and the Fort Apache Indian Reservation	FEMA-1422-DR Wildfires	June 18-July 7
Arkansas		
Counties of Ashley, Clay, Cleburne, Columbia, Craighead, Crittenden, Franklin, Greene, Independence, Jackson, Lincoln, Little River, Logan, Monroe, Poinsett, Prairie, Scott, Stone, White, and Woodruff	FEMA-1400-DR Severe storms and flooding	December 15, 2002 - January 30, 2002
Colorado		
Counties of Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Broomfield, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Mesa, Mineral, Moffat, Montezuma, Montrose, Otero, Ouray, Park, Pitkin, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Summitt, Teller, Washington, Weld, and Yuma; the Southern Ute and Ute Mountain Reservations; and the Cities of Broomfield and Denver	FEMA-1421-DR Wildfires	April 23-June 6
Guam		

Disaster Area	Disaster Description	Disaster Date
Territory of Guam	FEMA-1426-DR Typhoon Chata'an	July 5-6
Territory of Guam	FEMA-1446-DR Super Typhoon Pongsona	December 8-16
Illinois		
Counties of Adams, Alexander, Bond, Brown, Calhoun, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Edwards, Effingham, Ford, Fayette, Franklin, Fulton, Gallatin, Greene, Hamilton, Hancock, Hardin, Iroquois, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Logan, McDonough, Macon, Macoupin, Madison, Marion, Mason, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Piatt, Pike, Perry, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Union, Vermillion, Wabash, Washington, Wayne, White, and Williamson	FEMA-1416-DR Severe Storms, Tornadoes, and Flooding	April 21-May 23
Indiana		
Counties of Brown, Crawford, Dearborn, Dubois, Franklin, Gibson, Greene, Hamilton, Jackson, Jefferson, Johnson, Knox, Marion, Martin, Montgomery, Ohio, Orange, Owen, Parke, Pike, Posey, Putnam, Sullivan, Switzerland, Union, Vermillion, Vigo, and Washington	FEMA-1418-DR Severe Storms, Tornadoes and Flooding	April 28-June 7

Disaster Area	Disaster Description	Disaster Date
Counties of Bartholomew, Blackford, Brown, Daviess, Decatur, Delaware, Fayette, Franklin, Gibson, Grant, Greene, Hamilton, Hancock, Hendricks, Henry, Jay, Johnson, Knox, Lawrence, Madison, Marion, Monroe, Morgan, Owen, Pike, Posey, Randolph, Rush, Shelby, Sullivan, Tipton, and Vanderburg	FEMA-1433-DR Severe Storms and Tornadoes	September 20
Iowa		
Counties of Allamakee, Benton, Buchanan, Cedar, Clayton, Clinton, Delaware, Des Moines, Dubuque, Fayette, Henry, Iowa, Jackson, Johnson, Jones, Lee, Linn, Louisa, Muscatine, Scott, and Winneshiek	FEMA-1420-DR Severe Storms and Flooding	June 3-25
Kansas		
Counties of Allen, Anderson, Barber, Bourbon, Butler, Chautauqua, Coffey, Cowley, Crawford, Douglas, Elk, Franklin, Greenwood, Johnson, Labette, Linn, Miami, Montgomery, Neosho, Osage, Sumner, Wilson, Woodson, and Wyandotte	FEMA-1402-DR Severe Winter Ice Storm	January 29-February 15
Kentucky		
Counties of Bath, Bell, Bourbon, Boyd, Breathitt, Carter, Clay, Elliott, Fleming, Greenup, Harlan, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, McCreary, Magoffin, Menifee, Montgomery, Morgan, Nicholas, Owsley, Perry, Powell, Rowan, Wayne, and Whitley	FEMA-1407-DR Severe Storms and Flooding	March 17-21

Disaster Area	Disaster Description	Disaster Date
Counties of Breathitt, Breckenridge, Crittenden, Edmondson, Floyd, Grayson, Green, Hancock, Hardin, Henderson, Hopkins, Laurel, Letcher, Marion, Martin, McLean, Meade, Ohio, Owsley, Pike, Rockcastle, Union, and Webster	FEMA-1414-DR Severe Storms, Tornadoes, and Flooding	April 27-May 10
Louisiana		
Parishes of East Baton Rouge, Iberia, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary, St. Tammany, Tangipahoa, and Terrebonne	FEMA-1435-DR Tropical Storm Isidore	September 21- October 1
Parishes of Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Calcasieu, Caldwell, Cameron, Catahoula, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Natchitoches, Orleans, Ouachita, Plaquemines, Pointe Coupee, Rapides, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermillion, Vernon, Washington, West Baton Rouge, and West Feliciana	FEMA-1437-DR Hurricane Lili	October 1-16
Mariana Islands, Northern		
Island of Rota	FEMA-1430-DR Typhoon Chata'an	July 4-5
Island of Rota	FEMA-1447-DR Super Typhoon Pongsona	December 8-16
Maryland		

Disaster Area	Disaster Description	Disaster Date
Counties of Calvert, Charles, and Dorchester	FEMA-1409-DR Tornado	April 28
Michigan		
Counties of Baraga, Gogebic, Houghton, Marquette, and Ontonagan	FEMA-1413-DR Flooding	April 10-May 9
Micronesia, Federated States of		
Yap State	FEMA-1417-DR Typhoon Mitag	February 27-March 3
Chuuk State	FEMA-1427-DR Tropical Storm Chata'an, including Flooding, Mudslides, and Landslides	July 2-4
Minnesota		
Counties of Becker, Beltrami, Clay, Clearwater, Goodhue, Hubbard, Itasca, Kittson, McLeod, Pennington, Polk, Roseau, and Wright	FEMA-1419-DR Severe Storms, Flooding, and Tornadoes	June 9-28
Mississippi		
Counties of Amite, Hancock, Harrison, Jackson, Lincoln, Pearl River, Pike, and Stone	FEMA-1436-DR Hurricane Isidore	September 23- October 6
Counties of Clay, Lafayette, Lowndes, Monroe, Noxubee, and Oktibbeha	FEMA-1443-DR Severe Storms and Tornadoes	November 10-11
Missouri		

Disaster Area	Disaster Description	Disaster Date
Counties of Adair, Audrain, Barton, Bates, Benton, Boone, Buchanan, Caldwell, Carroll, Cass, Cedar, Chariton, Clark, Clay, Clinton, Cooper, Daviess, Grundy, Henry, Howard, Jackson, Johnson, Knox, Lafayette, Lewis, Linn, Livingston, Macon, Marion, Monroe, Morgan, Pettis, Platte, Ralls, Randolph, Ray, Saline, Scotland, Shelby, St. Clair, Sullivan, and Vernon	FEMA-1403-DR Severe Winter Ice Storm	January 29-February 13
Counties of Adair, Barry, Barton, Bollinger, Boone, Butler, Camden, Cape Girardeau, Carroll, Carter, Cedar, Christian, Chariton, Clark, Cooper, Crawford, Dade, Dallas, De Kalb, Dent, Douglas, Dunklin, Greene, Grundy, Hickory, Howard, Howell, Iron, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lewis, Lincoln, Linn, Livingston, McDonald, Macon, Madison, Maries, Marion, Mercer, Miller, Mississippi, New Madrid, Newton, Oregon, Osage, Ozark, Pemiscot, Perry, Phelps, Pike, Polk, Pulaski, Ralls, Ray, Reynolds, Ripley, Schuyler, Scotland, Scott, Shannon, Shelby, St. Francois, St. Genevieve, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Washington, Wayne, Webster, and Wright	FEMA-1412-DR Severe Storms and Tornadoes	April 24-June 10
Montana		
Counties of Glacier, Hill, Liberty, Pondera, and Toole; and the Blackfeet Indian Reservation	FEMA-1424-DR Severe Storms and Flooding	June 8-21
New York		

Disaster Area	Disaster Description	Disaster Date
County of Erie	FEMA-1404-DR Severe Winter Storm	December 24-29, 2001
Counties of Cattaraugus, Chautauqua, Erie, Genesee, and Wyoming	FEMA-3170-EM Snowstorm	December 24-29, 2001
Counties of Clinton and Essex	FEMA-1415-DR Earthquake	April 20
North Carolina		
Counties of Alamance, Alexander, Anson, Burke, Cabarrus, Caldwell, Catawba, Chatham, Cleveland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Halifax, Harnett, Iredell, Lee, Lincoln, McDowell, Mecklenburg, Montgomery, Moore, Nash, Orange, Person, Randolph, Rowan, Rutherford, Stanly, Union, Vance, and Wake	FEMA-1448-DR Severe Ice Storm	December 4-6
North Dakota		
Counties of Grand Forks, Pembina, Stutsman, Traill, and Walsh; and the Fort Berthold Indian Reservation.	FEMA-1431-DR Severe Storms, Tornadoes, and Flooding	June 8-August 11
Ohio		
Counties of Hancock, Ottawa, Paulding, Putnam, Seneca, and Van Wert	FEMA-1444-DR Severe Storms and Tornadoes	November 10
Oklahoma		

Disaster Area	Disaster Description	Disaster Date
Counties of Alfalfa, Beaver, Becker, Beckham, Blaine, Caddo, Canadian, Cimarron, Cleveland, Comanche, Creek, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Kay, Kingfisher, Kiowa, Lincoln, Logan, Major, McClain, Noble, Nowata, Oklahoma, Osage, Pawnee, Payne, Pottawatomie, Roger Mills, Rogers, Stephens, Texas, Tillman, Tulsa, Washington, Washita, Woods, and Woodward	FEMA-1401-DR Ice Storm	January 30-February 11
Oregon		
Counties of Coos, Curry, Douglas, Lane, and Linn	FEMA-1405-DR Severe Winter Storm with High Winds	February 7-8
Tennessee		
Counties of Anderson, Bedford, Bledsoe, Blount, Cannon, Claiborne, Clay, Cocke, Cumberland, Decatur, DeKalb, Dickson, Fentress, Giles, Grainger, Hancock, Hardin, Hawkins, Jackson, Lauderdale, Lawrence, Lewis, Lincoln, Loudon, McNairy, Macon, Marshall, Maury, Meigs, Overton, Roane, Scott, Sevier, Van Buren, Warren, and Wayne	FEMA-1408-DR Severe Storms and Flooding	January 23- March 20
Counties of Anderson, Bedford, Carroll, Coffee, Crockett, Cumberland, Gibson, Henderson, Madison, Marshall, Montgomery, Morgan, Rutherford, Scott, Sumner, and Tipton	FEMA-1441-DR Severe storms, Tornadoes, and Flooding	November 9-12
Texas		

Disaster Area	Disaster Description	Disaster Date
Counties of Atascosa, Bandera, Bee, Bexar, Blanco, Brown, Burnet, Caldwell, Calhoun, Callahan, Coleman, Comal, Dimmit, Duval, DeWitt, Eastland, Frio, Gillespie, Goliad, Gonzales, Guadalupe, Hays, Jim Wells, Jones, Karnes, Kendall, Kerr, La Salle, Live Oak, McMullen, Medina, Nueces, Real, San Patricio, San Saba, Taylor, Travis, Uvalde, Victoria, Wilson, and Zavala	FEMA-1425-DR Severe Storms and Flooding	June 29-July 31
Counties of Brazoria, Frio, Galveston, Jim Wells, La Salle, Live Oak, Matagorda, Nueces, San Patricio, Webb, and Wharton	FEMA-1434-DR Tropical Storm Fay	September 6-30
Counties of Aransas, Hardin, Harris, Jefferson, Liberty, Montgomery, Nueces, Orange, and San Patricio	FEMA-1439-DR Severe Storms, Tornadoes, and Flooding	October 24- November 15
Vermont		
Counties of Caledonia, Essex, Franklin, Lamoille, and Orleans	FEMA-1428-DR Severe Storms and Flooding	June 5-13
Virginia		
Counties of Dickenson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe; and Independent City of Norton	FEMA-1406-DR Severe Storms and Flooding	March 17-20
Counties of Buchanan and Tazewell	FEMA-1411-DR Severe Storms and Tornado	April 28-May 3
West Virginia		
Counties of Logan, McDowell, Mercer, Mingo, and Wyoming	FEMA-1410-DR Severe storms, Flooding, and landslides	May 2-20

Disaster Area	Disaster Description	Disaster Date
Wisconsin		
Counties of Adams, Clark, Dunn, Marathon, Marinette, Portage, Waushara, and Wood	FEMA-1429-DR Severe Storms and Flooding	June 21-25
Counties of Barron, Burnett, Chippewa, Clark, Dunn, Langlade, Lincoln, Marathon, Polk, Portage, Price, Rusk, Sawyer, Shawano, St. Croix, Taylor, Washburn, Waupaca, and Wood	FEMA-1432-DR Severe Storms, Tornadoes, and Flooding	September 2-6