

Houston April 2024 Tornadoes and Hurricane Beryl Casualty Losses
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August 20, 2024

Texas residents dealing with the aftermath of the Houston April 2024 Tornadoes and Hurricane Beryl are learning that the tax treatment of casualty losses from these weather events are not as expected, adding to the complexities and uncertainties associated with the recovery process.

Casualty losses are defined in Code Section 165. The tax treatment of disaster losses has been revised five times since 2017 as follows:

- Disaster Tax Relief and Airport Extension Act of 2017
- Tax Cut and Jobs Act
- Bipartisan Budget Act of 2018
- Taxpayer Certainty and Disaster Tax Relief Act of 2019
- Taxpayer Certainty and Disaster Tax Relief Act of 2020 (TCDTRA 2020), which passed as part of the Consolidated Appropriations Act of 2021 (CAA 2021).

Most Texas practitioners and taxpayers are familiar with the tax treatment allowed for Hurricane Harvey. This was special treatment allowed for casualty losses incurred *only for Hurricanes Harvey, Irma, and Maria in 2017*. The legislation was included in the FAA Reauthorization Act of 2018.

The Houston April 2024 Tornadoes and Hurricane Beryl casualty losses are governed by the most recent revision to the tax treatment of disaster losses, contained in the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (TCDTRA 2020), which passed as part of the Consolidated Appropriations Act of 2021 (CAA 2021). The provisions of TCDTRA 2020 are not part of the Internal Revenue Code, but are nonetheless Federal tax law. TCDTRA 2020 provides special rules for “qualified disaster losses.” The special rules include:

- Waiver of the 10% of AGI limitation.
- Increased per-casualty floor of \$500 (vs the standard \$100).
- Addition of a casualty loss deduction to the individual’s standard deduction.

Per [IRS Publication 547](#), a “qualified disaster loss” is an individual's casualty and theft loss of personal-use property that is attributable to:

- A major disaster declared by the President under section 401 of the Stafford Act in 2016;
- Hurricane Harvey;
- Tropical Storm Harvey;
- Hurricane Irma;
- Hurricane Maria;
- The California wildfires in 2017 and January 2018;
- A major disaster that was declared by the President under section 401 of the Stafford Act and that occurred in 2018 and before December 21, 2019, and continued no later than January 19,

2020 (except those attributable to the California wildfires in January 2018 that received prior relief); and

- A major disaster that was declared by Presidential Declaration that is dated between January 1, 2020, and February 25, 2021 (inclusive). However, in order to qualify under this expansion, the major disaster must have an incident period beginning between December 28, 2019, and December 27, 2020 (inclusive). Further, the major disaster must have an incident period ending no later than January 26, 2021. A qualified disaster does not include those losses attributable to any major disaster which has been declared only by reason of COVID-19.

The Houston April 2024 Tornadoes and Hurricane Beryl occurred **after** the TCDTRA 2020 window for the special rules; therefore, losses from these weather events do not meet the definition of “qualified disaster loss.” As a result, taxpayers with losses from the Houston April 2024 Tornadoes and Hurricane Beryl are currently subject to less favorable tax treatment, including the inability to: deduct casualty losses that do not exceed 10% of AGI, elect to claim the loss in the preceding tax year, or deduct the loss without itemizing other deductions on Schedule A (Form 1040).

Federal legislation is required to grant the “special rules” to disaster losses attributable to losses from the Houston April 2024 Tornadoes and Hurricane Beryl.

In addition, IRS allowed those affected by Hurricanes Harvey, Irma, and Maria to use safe harbor cost index tables in Revenue Procedure 2018-09 to compute casualty losses. No similar authority is available at this time for the Houston April 2024 Tornadoes and Hurricane Beryl. TXCPA has corresponded with IRS in an effort to receive similar treatment. No response has been received.

TXCPA members will be hearing about and asked to participate in Federal legislative initiatives seeking to secure tax relief for Texas taxpayers with losses from these events.