

Income Tax Deduction for Loss of Yard Trees (Update)

If your yard trees (for personal use) are damaged by wildfires, you may be able to recover the loss as a casualty loss on your federal income tax returns. As defined by IRS, a casualty is the damage or loss of property resulting from an identifiable event that is sudden, unexpected, and unusual. Generally, yard tree damage caused by fires, hurricanes, tornadoes and earthquakes is eligible for casualty loss deductions. However, the loss of yard tree caused by drought, insects, diseases (e.g. oak wilt, SPB), or natural mortality generally is not eligible because these events are not sudden and the loss is a result of progressive deterioration.

The IRS regulations specifically reject the use of valuation of damaged trees for determining casualty loss. The IRS suggests to treat the whole property (land, house, and trees) as a unit to determine the casualty loss. Casualty loss is the smaller of 1) the difference in fair market value (FMV) of the whole property before and immediately after the event; or 2) the basis of the property (normally its acquisition costs). Subtract any insurance or other reimbursement you may receive due to the damage. The loss is further reduced by \$100 and 10% of your adjusted gross income (AGI). The remaining amount is deductible casualty loss. You may need a competent appraiser to help you estimate the FMVs. Due to limitation on deductible loss and the costs of getting professional help, normally this appraisal method is worthwhile only if the loss is substantial.

The IRS suggests another way to approach this. The IRS rules that although the costs of restoring, cleaning up, and repairing are not part of a casualty loss, it could be a good measure of the decrease in FMV if these costs are actually made, necessary to bring the property back to its previous condition, and not excessive. Therefore, you could use your actual costs of restoring, cleaning up, and repairing to estimate the amount of casualty loss without appraisal of the whole property.

On September 9th, President Obama signed a federal disaster declaration for the Bastrop County area affected by the recent wildfire. The IRS has special rules regarding to casualty loss deduction in federal disaster area. First, it's not subject to the 10% AGI limit rule. Second, property owners can choose to report the loss on the previous year's return or this year.

To claim the casualty loss, you need to file Form 4684, Section A (personal-use) and then transfer the loss to Form 1040, Schedule A.

Note this is for the loss of yard trees for personal-use. If the shade trees hold by business or income-producing property are damaged by casualties, the deductible loss is only limited to the basis in the shade tree account.

For more information:

- www.timbertax.org. Search *Shade Trees*.
- IRS Publication 547, Casualties, Disasters, and Theft.