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IRA Provides Additional Help to Taxpayers Suffering Property Losses from Hurrianes

Tax Advisory Group

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HBK Tax Advisory Group

As part of a wider effort to help victims of the 2017 hurricanes, the IRS recently issued guidance providing safe harbor methods for individual taxpayers determining the amount of their casualty losses for their homes and personal belongings. The safe harbor provides additional help to taxpayers who may also benefit from the 2017 Disaster Tax Relief Bill.

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CASUALTY LOSS RULES

The amount of any casualty loss is the lessor of: (1) the difference in the property's fair market value (FMV), immediately before and immediately after the casualty, resulting from the casualty, or (2) the adjusted basis for determining loss from the sale or other disposition of the property.

These rules can be difficult to apply because taxpayers do not often have an opportunity to have their property appraised prior to the casualty, and an appraisal following the event to determine both values can be costly. To simplify the calculation, the IRS provided safe harbor methods for determining the amount of an individual's casualty loss for their personal residence and belongings in Revenue Procedures 2018-8 and 2018-9.

SAFE HARBOR METHODS UNDER REVENUE PROCEDURE 2018-8

An individual who suffered a casualty loss to their personal residence or personal property may use one of the following safe harbor methods provided by Revenue Procedure 2018-8. However, the costs of any improvements or additions that increase the value of the personal-use residential real property above its pre-casualty value, such as the cost to elevate the personal residence to meet new construction requirements, must be excluded from the estimate for purposes of this safe harbor.

Estimated Repair Cost Safe Harbor Method. Under the Estimated Repair Cost Safe Harbor Method, an individual may use the lesser of two repair estimates prepared by two separate and independent contractors, licensed or registered in accordance with state or local regulations. This method is generally available for casualty losses of $20,000 or less.

De Minimis Safe Harbor Method. Under the De Minimis Safe Harbor Method, an individual may estimate the cost of repairs required to restore the individual›s personal residence to the condition existing immediately prior to the casualty. An individual's estimate must be a good-faith estimate, and the individual must maintain records detailing the methodology used for estimating the loss. The De Minimis Safe Harbor Method is generally available for casualty losses of $5,000 or less.

Insurance Safe Harbor Method. Under the Insurance Safe Harbor Method, an individual may use the estimated loss determined in reports prepared by the individual›s homeowner's or flood insurance company.

Safe Harbor Methods for Federally Declared Disasters. An individual who suffered a casualty loss to their personal residence due to a Federally declared disaster may use one of the following safe harbor methods:

- Contractor Safe Harbor Method. Under the Contractor Safe Harbor Method, an individual generally may use the contract price for the repairs specified in a contract prepared by an independent contractor, licensed or registered in accordance with state or local regulations, setting forth the itemized costs to restore the individual's personal residence to the condition existing immediately prior to the federally declared disaster. To use the Contractor Safe Harbor Method, the contract must be a binding contract signed by the individual and the contractor.
- Disaster Loan Appraisal Safe Harbor Method. Under the Disaster Loan Appraisal Safe Harbor Method, an individual may use an appraisal prepared for the purpose of obtaining a loan of federal funds or a loan guarantee from the federal government setting forth the estimated loss the individual sustained as a result of the damage to or destruction of the individual's personal residence from a federally declared disaster.

An individual who suffered a casualty loss to their personal belongings may use one of the following safe harbor methods:

De Minimis Safe Harbor Method. Under the De Minimis Safe Harbor Method, an individual may make a good faith estimate of the decrease in the fair market value of the individual›s personal belongings. An individual using the De Minimis Safe Harbor Method must maintain records describing the personal belongings affected and detailing the methodology used for estimating the loss. The De Minimis Safe Harbor Method is available for casualty or theft losses of $5,000 or less.

Replacement Cost Safe Harbor Method. If an individual chooses to use the Replacement Cost Safe Harbor Method for a Federally declared disaster, the individual must apply that method to all personal belongings for which a loss is claimed. To use this safe harbor method, an individual must first determine the current cost to replace the personal belonging with a new one and reduce that amount by 10 percent for each year the individual owned the personal belonging.

SAFE HARBOR METHODS UNDER REVENUE PROCEDURE 2018-9

An individual who suffered a casualty loss to their personal-use residential real property due to a Federally declared disaster may use a Cost Index Safe Harbor Method to determine the decrease in the fair market value of personal-use residential real property, including the personal residence, detached structures, and decking. Revenue Procedure 2018-9 provides cost indexes three size categories of personal residences based on the square footage of the personal residence and for seven geographic areas.

Under the Cost Index Safe Harbor Method, the taxpayer generally multiplies the square footage of their damaged property by the amount from the appropriate index to determine their loss. There are separate indexes for a total loss, a near total loss, interior flooding over one foot, damage to a detached structure, damage to decking, and structural damage from wind, rain or debris. The Revenue Procedure also provides seven examples to assist taxpayers in the calculation of their loss.

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Ben is a Principal in the Tax Advisory Group (TAG) of HBK and works in the Youngstown, Ohio, office. He has been with the firm since 2009 and has focused extensively on entity tax issues, entity planning and flow-through taxation. Additionally, he has experience with many of our real estate and manufacturing clients.

As a member of TAG, Ben frequently teaches tax-related training courses both internally for the firm and externally for clients and the public. Ben provides research and expert counsel on complex tax issues for our clients. He also regularly appears on the mid-day news broadcast of Youngstown's NBC affiliate station in a segment called "Smart Money," which highlights personal financial planning tips.

Ben earned a Bachelor of Science in Accounting from Duquesne University and obtained his Juris Doctor from University of Pittsburgh School of Law.

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Paul joined HBK in 2017. He works in the firm's Blue Bell, Pennsylvania office after earning a Bachelor of Science in International Business degree from Franciscan University of Steubenville, Ohio, and a Juris Doctor from Temple University in Philadelphia, Pennsylvania, where he also completed a Business Law Certification. He currently is pursuing and expects to complete an LL.M. in Taxation in the spring of 2018.

Paul has experience in tax law, working at a low income taxpayer clinic with Community Legal Services — a Philadelphia non-profit, and V.I.T.A. the volunteer income tax assistance program of the Taxpayer Advocate Service — an independent organization within the IRS. Paul also has experience in insurance litigation at White and Williams LLP and most recently Wealth and Fiduciary Planning Services at Wilmington Trust Company.