



[CLICK HERE to return to the home page](#)

## **Bipartisan Budget Act of 2018 Section 20104(b)**

### **Additional Disaster-Related Tax Relief Provisions**

#### **(a) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—**

(1) **IN GENERAL.**—Except as otherwise provided in paragraph

(2), subsection (b) of section 170 of the Internal Revenue Code of 1986 shall not apply to qualified contributions and such contributions shall not be taken into account for purposes of applying subsections (b) and (d) of such section to other contributions.

(2) **TREATMENT OF EXCESS CONTRIBUTIONS.**—For purposes of section 170 of the Internal Revenue Code of 1986—

(A) **INDIVIDUALS.**—In the case of an individual—

(i) **LIMITATION.**—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer's contribution base (as defined in subparagraph (H) of section 170(b)(1) of such Code) over the amount of all other charitable contributions allowed under section 170(b)(1) of such Code.

(ii) **CARRYOVER.**—If the aggregate amount of qualified contributions made in the contribution year (within the meaning of section 170(d)(1) of such Code) exceeds the limitation of clause (i), such excess shall be added to the excess described in the portion of subparagraph (A) of such section which precedes clause (i) thereof for purposes of applying such section.

(B) **CORPORATIONS.**—In the case of a corporation—

(i) **LIMITATION.**—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income (as determined under paragraph (2) of section 170(b) of such Code) over the amount of all other charitable contributions allowed under such paragraph.

(ii) **CARRYOVER.**—Rules similar to the rules of subparagraph (A)(ii) shall apply for purposes of this subparagraph.

(3) **EXCEPTION TO OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.**—So much of any deduction allowed under section 170 of the Internal Revenue Code of 1986 as does not exceed the

qualified contributions paid during the taxable year shall not be treated as an itemized deduction for purposes of section 68 of such Code.

**(4) QUALIFIED CONTRIBUTIONS.—**

**(A) IN GENERAL.—**For purposes of this subsection, the term “qualified contribution” means any charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) if—

(i) such contribution—

(I) is paid during the period beginning on October 8, 2017, and ending on December 31, 2018, in cash to an organization described in section 170(b)(1)(A) of such Code, and

(II) is made for relief efforts in the California wildfire disaster area,

(ii) the taxpayer obtains from such organization contemporaneous written acknowledgment (within the meaning of section 170(f)(8) of such Code) that such contribution was used (or is to be used) for relief efforts described in clause (i)(II), and

(iii) the taxpayer has elected the application of this subsection with respect to such contribution.

**(B) EXCEPTION.—**Such term shall not include a contribution by a donor if the contribution is—

(i) to an organization described in section 509(a)(3) of the Internal Revenue Code of 1986, or

(ii) for the establishment of a new, or maintenance of an existing, donor advised fund (as defined in section 4966(d)(2) of such Code).

**(C) APPLICATION OF ELECTION TO PARTNERSHIPS AND S CORPORATIONS.—**In the case of a partnership or S corporation, the election under subparagraph (A)(iii) shall be made separately by each partner or shareholder.

**(b) SPECIAL RULES FOR QUALIFIED DISASTER-RELATED PERSONAL CASUALTY LOSSES.—**

**(1) IN GENERAL.—**If an individual has a net disaster loss for any taxable year—

(A) the amount determined under section 165(h)(2)(A)(ii) of the Internal Revenue Code of 1986 shall be equal to the sum of—

(i) such net disaster loss, and

(ii) so much of the excess referred to in the matter preceding clause (i) of section 165(h)(2)(A) of such Code (reduced by the amount in clause (i) of this subparagraph) as exceeds 10 percent of the adjusted gross income of the individual,

(B) section 165(h)(1) of such Code shall be applied by substituting “\$500” for “\$500 (\$100 for taxable years beginning after December 31, 2009)”,



(c) of such Code shall be increased by the net disaster loss, and

(D) section 56(b)(1)(E) of such Code shall not apply to so much of the standard deduction as is attributable to the increase under subparagraph (C) of this paragraph.

(2) NET DISASTER LOSS.—For purposes of this subsection, the term “net disaster loss” means the excess of qualified disaster-related personal casualty losses over personal casualty gains (as defined in section 165(h)(3)(A) of the Internal Revenue Code of 1986).

(3) QUALIFIED DISASTER-RELATED PERSONAL CASUALTY LOSSES.—For purposes of this subsection, the term “qualified disaster-related personal casualty losses” means losses described in section 165(c)(3) of the Internal Revenue Code of 1986 which arise in the California wildfire disaster area on or after October 8, 2017, and which are attributable to the wildfires to which the declaration of such area relates.

(c) SPECIAL RULE FOR DETERMINING EARNED INCOME.—

(1) IN GENERAL.—In the case of a qualified individual, if the earned income of the taxpayer for the taxable year which includes any portion of the period from October 8, 2017, to December 31, 2017, is less than the earned income of the taxpayer for the preceding taxable year, the credits allowed under sections 24(d) and 32 of the Internal Revenue Code of 1986 may, at the election of the taxpayer, be determined by substituting—

(A) such earned income for the preceding taxable year, for

(B) such earned income for the taxable year which includes any portion of the period from October 8, 2017, to December 31, 2017.

(2) QUALIFIED INDIVIDUAL.—For purposes of this subsection, the term “qualified individual” means any individual whose principal place of abode during any portion of the period from October 8, 2017, to December 31, 2017, was located—

(A) in the California wildfire disaster zone, or

(B) in the California wildfire disaster area (but outside the California wildfire disaster zone) and such individual was displaced from such principal place of abode by reason of the wildfires to which the declaration of such area relates.

(3) EARNED INCOME.—For purposes of this subsection, the term “earned income” has the meaning given such term under section 32(c) of the Internal Revenue Code of 1986.

(4) SPECIAL RULES.— (A) APPLICATION TO JOINT RETURNS.—For purposes of paragraph (1), in the case of a joint return for a taxable year which includes any portion of the period from October 8, 2017, to December 31, 2017—

(i) such paragraph shall apply if either spouse

is a qualified individual, and

(ii) the earned income of the taxpayer for the preceding taxable year shall be the sum of the earned income of each spouse for such preceding taxable year.

(B) UNIFORM APPLICATION OF ELECTION.—Any election made under paragraph (1) shall apply with respect to both sections 24(d) and 32, of the Internal Revenue Code of 1986.

(C) ERRORS TREATED AS MATHEMATICAL ERROR.—For purposes of section 6213 of the Internal Revenue Code of 1986, an incorrect use on a return of earned income pursuant to paragraph (1) shall be treated as a mathematical or clerical error.

(D) NO EFFECT ON DETERMINATION OF GROSS INCOME, ETC.—Except as otherwise provided in this subsection, the Internal Revenue Code of 1986 shall be applied without regard to any substitution under paragraph (1).