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Internal Revenue Code Section 165(d)

Losses

(a) General rule.
There shall be allowed as a deduction any loss sustained during the taxable year and not compensated for by insurance or otherwise.

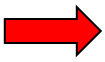
(b) Amount of deduction.
For purposes of subsection (a), the basis for determining the amount of the deduction for any loss shall be the adjusted basis provided in section 1011 for determining the loss from the sale or other disposition of property.

(c) Limitation on losses of individuals.
In the case of an individual, the deduction under subsection (a) shall be limited to

(1) losses incurred in a trade or business;

(2) losses incurred in any transaction entered into for profit, though not connected with a trade or business; and

(3) except as provided in subsection (h), losses of property not connected with a trade or business or a transaction entered into for profit, if such losses arise from fire, storm, shipwreck, or other casualty, or from theft.



(d) Wagering losses.
Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions. For purposes of the preceding sentence, in the case of taxable years beginning after December 31, 2017, and before January 1, 2026, the term "losses from wagering transactions" includes any deduction otherwise allowable under this chapter incurred in carrying on any wagering transaction.

(e) Theft losses.
For purposes of subsection (a), any loss arising from theft shall be treated as sustained during the taxable year in which the taxpayer discovers such loss.

(f) Capital losses.
Losses from sales or exchanges of capital assets shall be allowed only to the extent allowed in sections 1211 and 1212.

(g) Worthless securities.

(1) General rule.

If any security which is a capital asset becomes worthless during the taxable year, the loss resulting therefrom shall, for purposes of this subtitle, be treated as a loss from the sale or exchange, on the last day of the taxable year, of a capital asset.

(2) Security defined.
For purposes of this subsection, the term "security" means-

(A) a share of stock in a corporation;

(B) a right to subscribe for, or to receive, a share of stock in a corporation; or

(C) a bond, debenture, note, or certificate, or other evidence of indebtedness, issued by a corporation or by a government or political subdivision thereof, with interest coupons or in registered form.

(3) Securities in affiliated corporation.
For purposes of paragraph (1), any security in a corporation affiliated with a taxpayer which is a domestic corporation shall not be treated as a capital asset. For purposes of the preceding sentence, a corporation shall be treated as affiliated with the taxpayer only if-

(A) the taxpayer owns directly stock in such corporation meeting the requirements of section 1504(a)(2) , and

(B) more than 90 percent of the aggregate of its gross receipts for all taxable years has been from sources other than royalties, rents (except rents derived from rental of properties to employees of the corporation in the ordinary course of its operating business), dividends, interest (except interest received on deferred purchase price of operating assets sold), annuities, and gains from sales or exchanges of stocks and securities.

In computing gross receipts for purposes of the preceding sentence, gross receipts from sales or exchanges of stocks and securities shall be taken into account only to the extent of gains therefrom.

(h) Treatment of casualty gains and losses.

(1) Dollar limitation per casualty.
Any loss of an individual described in subsection (c)(3) shall be allowed only to the extent that the amount of the loss to such individual arising from each casualty, or from each theft, exceeds $500 ($100 for taxable years beginning after December 31, 2009).

(2) Net casualty loss allowed only to the extent it exceeds 10 percent of adjusted gross income.

(A) In general. If the personal casualty losses for any taxable year exceed the personal casualty gains for such taxable year, such losses shall be allowed for the taxable year only to the extent of the sum of-

(i) the amount of the personal casualty gains for the taxable year, plus

(ii) so much of such excess as exceeds 10 percent of the adjusted gross income of the individual.

(B) Special rule where personal casualty gains exceed personal casualty losses. If the personal casualty gains for any taxable year exceed the personal casualty losses for such taxable year-

(i) all such gains shall be treated as gains from sales or exchanges of capital assets, and

(ii) all such losses shall be treated as losses from sales or exchanges of capital assets.

(3) Definitions of personal casualty gain and personal casualty loss.
For purposes of this subsection-

(A) Personal casualty gain. The term "personal casualty gain" means the recognized gain from any involuntary conversion of property which is described in subsection (c)(3) arising from fire, storm, shipwreck, or other casualty, or from theft.

(B) Personal casualty loss. The term "personal casualty loss" means any loss described in subsection (c)(3) . For purposes of paragraph (2), the amount of any personal casualty loss shall be determined after the application of paragraph (1) .

(4) Special rules.

(A) Personal casualty losses allowable in computing adjusted gross income to the extent of personal casualty gains. In any case to which paragraph (2)(A) applies, the deduction for personal casualty losses for any taxable year shall be treated as a deduction allowable in computing adjusted gross income to the extent such losses do not exceed the personal casualty gains for the taxable year.

(B) Joint returns. For purposes of this subsection , a husband and wife making a joint return for the taxable year shall be treated as 1 individual.

(C) Determination of adjusted gross income in case of estates and trusts. For purposes of paragraph (2), the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income.

(D) Coordination with estate tax. No loss described in subsection (c)(3) shall be allowed if, at the time of filing the return, such loss has been claimed for estate tax purposes in the estate tax return.

(E) Claim required to be filed in certain cases. Any loss of an individual described in subsection (c)(3) to the extent covered by insurance shall be taken into account under this section only if the individual files a timely insurance claim with respect to such loss.

(5) Limitation for taxable years 2018 through 2025.

(A) In general. In the case of an individual, except as provided in subparagraph (B) , any personal casualty loss which (but for this paragraph) would be deductible in a taxable year beginning after December 31, 2017, and before

January 1, 2026, shall be allowed as a deduction under subsection (a) only to the extent it is attributable to a Federally declared disaster (as defined in subsection (i)(5)).

(B) Exception related to personal casualty gains. If a taxpayer has personal casualty gains for any taxable year to which subparagraph (A) applies-

(i) subparagraph (A) shall not apply to the portion of the personal casualty loss not attributable to a Federally declared disaster (as so defined) to the extent such loss does not exceed such gains, and

(ii) in applying paragraph (2) for purposes of subparagraph (A) to the portion of personal casualty loss which is so attributable to such a disaster, the amount of personal casualty gains taken into account under paragraph (2)(A) shall be reduced by the portion of such gains taken into account under clause (i).

(i) Disaster losses.

(1) Election to take deduction for preceding year.
Notwithstanding the provisions of subsection (a), any loss occurring in a disaster area and attributable to a federally declared disaster may, at the election of the taxpayer, be taken into account for the taxable year immediately preceding the taxable year in which the disaster occurred.

(2) Year of loss.
If an election is made under this subsection, the casualty resulting in the loss shall be treated for purposes of this title as having occurred in the taxable year for which the deduction is claimed.

(3) Amount of loss.
The amount of the loss taken into account in the preceding taxable year by reason of paragraph (1) shall not exceed the uncompensated amount determined on the basis of the facts existing at the date the taxpayer claims the loss.

(4) Use of disaster loan appraisals to establish amount of loss.
Nothing in this title shall be construed to prohibit the Secretary from prescribing regulations or other guidance under which an appraisal for the purpose of obtaining a loan of Federal funds or a loan guarantee from the Federal Government as a result of a federally declared disaster may be used to establish the amount of any loss described in paragraph (1) or (2).

(5) Federally declared disasters.
For purposes of this subsection-

(A) In general. The term 'Federally declared disaster' means any disaster subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(B) Disaster area. The term 'disaster area' means the area so determined to warrant such assistance.

(j) Denial of deduction for losses on certain obligations not in registered form.

(1) In general.

Nothing in subsection (a) or in any other provision of law shall be construed to provide a deduction for any loss sustained on any registration-required obligation unless such obligation is in registered form (or the issuance of such obligation was subject to tax under section 4701).

(2) Definitions.

For purposes of this subsection-

(A) Registration-required obligation. The term "registration-required obligation" has the meaning given to such term by section 163(f)(2).

(B) Registered form. The term "registered form" has the same meaning as when used in section 163(f).

(3) Exceptions.

The Secretary may, by regulations, provide that this subsection and section 1287 shall not apply with respect to obligations held by any person if-

(A) such person holds such obligations in connection with a trade or business outside the United States,

(B) such person holds such obligations as a broker dealer (registered under Federal or State law) for sale to customers in the ordinary course of his trade or business,

(C) such person complies with reporting requirements with respect to ownership, transfers, and payments as the Secretary may require, or

(D) such person promptly surrenders the obligation to the issuer for the issuance of a new obligation in registered form,

but only if such obligations are held under arrangements provided in regulations or otherwise which are designed to assure that such obligations are not delivered to any United States person other than a person described in subparagraph (A) , (B) , or (C).

(k) Treatment as disaster loss where taxpayer ordered to demolish or relocate residence in disaster area because of disaster.

In the case of a taxpayer whose residence is located in an area which has been determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, if-

(1) not later than the 120th day after the date of such determination, the taxpayer is ordered, by the government of the State or any political subdivision thereof in which such residence is located, to demolish or relocate such residence, and

(2) the residence has been rendered unsafe for use as a residence by reason of the disaster,

any loss attributable to such disaster shall be treated as a loss which arises from a casualty and which is described in subsection (i).

(l) Treatment of certain losses in insolvent financial institutions.

(1) In general.

If-

(A) as of the close of the taxable year, it can reasonably be estimated that there is a loss on a qualified individual's deposit in a qualified financial institution, and

(B) such loss is on account of the bankruptcy or insolvency of such institution,

then the taxpayer may elect to treat the amount so estimated as a loss described in subsection (c)(3) incurred during the taxable year.

(2) Qualified individual defined.

For purposes of this subsection, the term "qualified individual" means any individual, except an individual-

(A) who owns at least 1 percent in value of the outstanding stock of the qualified financial institution,

(B) who is an officer of the qualified financial institution,

(C) who is a sibling (whether by the whole or half blood), spouse, aunt, uncle, nephew, niece, ancestor, or lineal descendant of an individual described in subparagraph (A) or (B), or

(D) who otherwise is a related person (as defined in section 267(b)) with respect to an individual described in subparagraph (A) or (B) .

(3) Qualified financial institution.

For purposes of this subsection, the term "qualified financial institution" means-

(A) any bank (as defined in section 581),

(B) any institution described in section 591,

(C) any credit union the deposits or accounts in which are insured under Federal or State law or are protected or guaranteed under State law, or

(D) any similar institution chartered and supervised under Federal or State law.

(4) Deposit.

For purposes of this subsection, the term "deposit" means any deposit, withdrawable account, or withdrawable or repurchasable share.

(5) Election to treat as ordinary loss.

(A) In general. In lieu of any election under paragraph (1), the taxpayer may elect to treat the amount referred to in paragraph (1) for the taxable year as an ordinary loss described in subsection (c)(2) incurred during the taxable year.

(B) Limitations.

(i) Deposit may not be federally insured. No election may be made under subparagraph (A) with respect to any loss on a deposit in a qualified financial institution if part or all of such deposit is insured under Federal law.

(ii) Dollar limitation. With respect to each financial institution, the aggregate amount of losses attributable to deposits in such financial institution to which an election under subparagraph (A) may be made by the taxpayer for any taxable year shall not exceed $20,000 ($10,000 in the case of a separate return by a married individual). The limitation of the preceding sentence shall be reduced by the amount of any insurance proceeds under any State law which can reasonably be expected to be received with respect to losses on deposits in such institution.

(6) Election.

Any election by the taxpayer under this subsection for any taxable year-

(A) shall apply to all losses for such taxable year of the taxpayer on deposits in the institution with respect to which such election was made, and

(B) may be revoked only with the consent of the Secretary.

(7) Coordination with section 166.

Section 166 shall not apply to any loss to which an election under this subsection applies.

(m) Cross references.

(1) For special rule for banks with respect to worthless securities, see section 582.

(2) For disallowance of deduction for worthlessness of securities to which subsection (g)(2)(C) applies, if issued by a political party or similar organization, see section 271.

(3) For special rule for losses on stock in a small business investment company, see section 1242.

(4) For special rule for losses of a small business investment company, see section 1243.

(5) For special rule for losses on small business stock, see section 1244 .