

## Federal Disaster Tax Relief Act of 2023 Signed December 12, 2024

On December 12, 2024, President Biden signed the “Federal Disaster Tax Relief Act of 2023”, Public Law 118-148. Here are the provisions of this Act:

### Act Section 2 – Casualty loss deductions.

Instead of itemizing, a taxpayer can claim a “qualified disaster area loss” as an addition to the standard deduction, and those taxpayers who itemize deductions are allowed a higher loss due to the change in the computation of the allowed loss. This is effective for losses occurring in Federal declared disasters (found at FEMA.gov) during the period beginning on January 1, 2020, and appears to end on January 11, 2025.

A “qualified disaster area loss” is the casualty loss amount reduced by \$500. The normal “\$100 plus 10% of AGI” provisions do not apply to a “qualified disaster area loss.”

This provision last existed in 2020. IRS has not yet announced how to show this on amended returns, or on the current year’s return. In the 2020 instructions for the Schedule A, for a taxpayer who is ITEMIZING deductions, IRS said “List the amount from Form 4684, line 15, on (the dotted line next to line 16 (Schedule A), Other Itemized Deductions as ‘Net Qualified Disaster Loss’ and include with other Miscellaneous Deductions.”

If the taxpayer is NOT ITEMIZING, IRS says, “Step 1 - List the amount from Form 4684, line 15, on (the dotted line next to line 16 (Schedule A), Other Itemized Deductions as ‘Net Qualified Disaster Loss’. Step 2 - List the standard deduction on the dotted line next to line 16 as ‘Standard Deduction Claimed with Qualified Disaster Loss.’ Step 3 - Combine the two amounts on line 16 (Schedule A) and enter on Form 1040, line 12 (Standard Deduction). DO NOT ENTER AN AMOUNT ON ANY OTHER LINE OF SCHEDULE A.”

CAUTION – Watch for IRS directions, since the 2020 directions may not be the way IRS wants this done for the losses that fall under this new Act.

### Act Section 3 – Wildfire Relief Payments.

The Act excludes from gross income any compensation received by an individual as a qualified wildfire relief payment. This means any amount received by or on behalf of an individual to compensate for losses, expenses, or damages (including compensation for additional living expenses, lost wages (other than compensation for lost wages paid by the employer which would have otherwise paid such wages), personal injury, death, or emotional distress) incurred as a result of a qualified wildfire disaster, but only to the extent the losses, expenses, or damages compensation by such payment are not compensated for by insurance or otherwise.

A “qualified wildfire disaster” means any federal declared disaster declared, after December 31, 2014, as a result of any forest or range fire.

Taxpayers applying this exclusion cannot use the excluded amounts to increase the basis of any property, or receive double benefit by use of any credit or deduction based on the excluded amount.

Section 3 treatment only applies to any payments received during taxable years beginning after December 31, 2019, and before January 1, 2026.

The statute of limitations for applying for a refund for this provision is extended to one year after this Act was signed. Since this Act was signed on December 12, 2024, the statute expires December 12, 2025.

#### Act Section 4 – East Palestine Train Derailment.

The Act treats qualified payments related to the East Palestine train derailment on February 3, 2023, as qualified disaster relief payments under IRC Section 139. As such, they are not taxable if received as compensation for loss, damages, expenses, loss in real property value, closing costs with respect to real property (including realtor commissions), or inconvenience (including access to real property) resulting from the East Palestine train derailment if such amount was provided by:

- A Federal, State, or local government agency,
- Norfolk Southern Railway, or
- Any subsidiary, insurer, or agent of Norfolk Southern Railway or any related person.

This text has been shared courtesy of: David & Mary Mellem, EAs & Ashwaubenon Tax Professionals, 920-496-1065 (fax 920-496-9111).

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