

¶235 Personal Casualty and Theft Loss Deduction

NEW LAW EXPLAINED

Personal casualty and theft loss deduction limited in 2018 through 2025; special rules apply for net disaster losses in 2016 and 2017.—The personal casualty loss deduction is temporarily limited in tax years beginning after December 31, 2017, and before January 1, 2026, to losses attributable to federally declared disasters (Code Sec. 165(h)(5)(A), as added by the Tax Cuts and Jobs Act). A taxpayer may still claim personal casualty losses not attributable to federally declared disasters to offset any personal casualty gains during 2018 through 2025. However, any such personal casualty gains used to offset personal casualty losses attributable to a federally declared disaster are not taken into account in determining the taxpayer's 10 percent of AGI limitation (Code Sec. 165(h)(5)(B), as added by the 2017 Tax Cuts Act).

Additional relief for 2016 and 2017 disasters. If an individual has a net disaster loss for tax years beginning in 2016 or 2017, the \$100 limitation applicable to each casualty related to the disaster is increased to \$500 and the 10 percent AGI limitation is waived (Act Sec. 11028(c) of the 2017 Tax Cuts Act). For this purpose, a net disaster loss is the qualified disaster-related personal casualty losses, over any personal casualty gains. A qualified disaster-related personal loss means a personal casualty loss arising in a disaster area after on or after January 1, 2016, that is attributable to a federally declared disaster. For an individual who does not itemize deductions, his or her standard deduction is increased by the amount of the casualty loss attributable to the disaster.

Effective date. The amendment made by this section limiting personal casualty losses to federal disaster areas declared disaster areas applies to losses incurred in tax years beginning after December 31, 2017 (Act Sec. 11044(b) of the Tax Cuts and Jobs Act). The special rules related to personal casualty losses related to net disaster losses for 2016 and 2017 are effective on December 22, 2017, the date of enactment.