

Claim Your Flood Loss in 2010 or 2011

A Tax Guide for 2011 Flood/Storm Victims - Issue 9

Do you live in a Disaster Relief County? 26 Tennessee counties have been declared disaster relief counties areas. Need the list? Go to www.las.org on the internet. Look under "News you can use" and click on the link to the Tax Guide. **Special tax rules** apply to everyone living in these disaster counties. This is true even if you didn't have storm or flood damage. Don't live in one of these counties? Then you may want to talk to a tax expert. Or go to the IRS web site at www.irs.gov.

Disaster Area Flood Losses Can be Claimed in 2010 or 2011

Normally damage from a storm, a fire or a flood can only be claimed the year it happens. But once a county



is a federal disaster area, you have a choice of 2 years to claim the loss. For the 2011 floods/storms, you can claim the loss in 2010 **OR** 2011.

Does It Make Any Difference?

Yes, it can make a lot of difference. Here are some things to think about.

If you paid a lot of taxes in 2010, it may be a good idea to claim the loss in 2010. Example: You had more income in 2010. You paid taxes of \$7,000 to the IRS. In 2011, you have less income and will pay less taxes. Then you may benefit by claiming the flood loss in 2010. This will help you get back part or all of the \$7,000 paid in 2010 taxes. Each case is different. Talk to your accountant or return preparer to see what is best for you.

Choosing 2010 or 2011

Many things should be looked at in choosing what year to claim the flood loss. Here are some things to think about:

1. Need the cash now to help with repairs? Then you may want to claim the loss on your 2010 tax return? Already filed your 2010 tax return? You can file a changed (amended) 2010 tax return.
2. Paid little or no taxes in 2010 or earlier years? Then it may not make sense to claim the loss in 2010. When you claim a loss you are trying to get back taxes you already paid to the IRS. If you didn't pay any taxes, then you won't have anything to get back. **Don't know if you paid taxes in earlier years?** See Issue 2 of this Tax Guide called "**Ask for tax records now.**" You can order tax transcripts (Form 4506-T) for earlier years. These will show all of your tax payments.
3. Paid a lot of taxes in 2007 and 2008 but not in 2010? You may be able to get those tax payments back plus interest. This is called **the carry back of a net operating loss**. Ask the person who does your taxes about this.
4. Going to earn more money in years after 2011? Perhaps you are out of work now but will be working in 2012 and after.
5. Retired and planning to take funds from your 401K? Most of the time, you have to



pay taxes on the money you take out. But claiming the flood loss the same year may lower your tax bill.

6. Think you will have more income in 2012 and later years? Then claim part of the loss in 2011. You can claim the rest in future years.



Before deciding when to claim the loss, talk to your return preparer.

Legal Aid Society

of Middle Tennessee and the Cumberland

1-800-238-1443 It's a free call.

On the internet at **www.las.org**

NOTE: This information was written by Robert B. Nadler, a lawyer with Legal Aid Society in Nashville, TN. It cannot take the place of advice from a lawyer. Each case is different and needs individual legal advice.