

THE HURRICANE IAN

QUALIFIED LOSS DILEMMA



QUESTIONS

- Why is Hurricane Ian listed as a qualified federal disaster but not eligible for qualified disaster losses?
- Is the 10% limitation waiver automatically triggered upon the declaration of a qualified federal disaster?
- If not, who has the discretion to waive the 10% AGI limitation?

THE PROBLEM

- Major disasters listed on Form 4684 are the only disasters with the ability for taxpayers to deduct their Qualified Disaster Losses on their taxes without the 10% adjusted gross income and itemized deductions limitations. Hurricane Ian is not listed.
- Under the current tax code losses related to Hurricane Ian will be subject to a limitation of only the amount greater than 10% of adjusted gross income and the taxpayer must itemize their deductions.
 - [The IRS posted a notice in September of 2022 detailing tax relief for Hurricane Ian.](#)
- The confusion lies with the fact that Hurricane Ian was considered a “qualified federal disaster” but the qualified disaster has not been listed as one of the ones eligible to take “qualified disaster losses” for those impacted.

IRS RESPONSE

- “On September 29, 2022, the President declared the Hurricane Ian “incident period” to be September 23, 2022, through November 4, 2022. The most recent legislation providing casualty and theft relief was Public Law 116-260, enacted Sunday, December 27, 2020. The incident periods covered by this legislation is described in section 301, Title III, Division EE, and the law **is only applicable declared by the President between January 1, 2020, and February 25, 2021.** The disasters covered by this legislation must have incident periods that began between December 28, 2019, and December 27, 2020, and **ended no later than January 26, 2021.** Therefore, the Hurricane Ian disaster was not eligible for casualty and theft loss benefits as a qualified disaster loss because those benefits were not extended by more recent legislation as had occurred somewhat regularly over earlier years.”

MY OFFICE'S RESPONSE

- **Currently working on legislation to retroactively extend disaster tax relief to Hurricane Ian.**
- **Currently working on a bicameral solution to provide the same comprehensive relief from Hurricanes Harvey, Irma, and Maria to victims of Hurricane Ian.**