Guidelines for Claiming Citrus Casualty Loss Due to Freeze, Hurricane or Other Natural Disasters

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The information presented below for claiming a citrus casualty loss are guidelines that are intended to assist taxpayers when discussing their specific casualty loss situation with their tax advisor.

1. In order to be deducted, the loss must have arisen as a direct result from a freeze, hurricane or other disaster caused by an identifiable event that is sudden, unexpected or unusual. If the trees in question were in a declining or deteriorating situation before the disaster, due to disease or other reasons, no casualty loss can be claimed. The property owner must be able to provide documentation to substantiate the casualty loss. The documentation of the loss includes description of the property, records of the cost or other tax basis, photographs and/or video recording of the damage losses (including 3rd parties in photographs is recommended) and news articles documentation.

2. No loss can be claimed based on the fact that the property value has declined due to the possibility of future freezes reoccurring on the subject property.

3. The **Amount Deductible** as a loss is the lesser of:
   - the fair market value of the property immediately before the disaster less the fair market value immediately after the disaster. Immediately after with respect to damaged citrus trees should be interpreted as a reasonable time by which damage can be assessed. A reasonable time for a freeze or hurricane damaged citrus tree may be several weeks, or months, after the freeze or hurricane occurred; **OR**
   - the adjusted basis (remaining book value) of the property as used for determining gain or loss. The adjusted basis will usually be the capitalized cost less the amount of depreciation previously allowed or allowable.

4. Where a taxpayer has expensed the cost of the trees and the planting cost (including the full depreciation of the trees), there will be no tax basis in the trees and, therefore, no deductible loss. This includes the costs associated with trees replanted by taxpayers after the freezes of the 1980's and reset/replacement trees where the replanting costs were expensed rather than capitalized. Costs for removing dead trees, filling holes left by the trees removed and pruning of damaged trees are not considered part of a casualty loss and should be deductible as ordinary business expenses.

5. When determining the loss to a citrus property, the total loss must be allocated to its components: equipment, buildings, trees, and land. Only the portion of the loss attributed to the land would not be eligible for a casualty loss deduction.

6. The **Fruit Crop** lost due to the disaster is not deductible since the costs of growing the crop - fertilizer, spraying, cultivation, etc. - have already been expensed. The exception is when the fruit lost had been purchased; recent grove purchase with fruit crop or harvester purchased a crop, say, in a “bulk cash” situation. In both instances, the value loss attributed to the fruit crop would be deductible.
7. If any insurance claims have been received due to the disaster damage loss, then the amount of insurance payment received must be subtracted from the total deductible casualty loss claimed. If no deductible casualty loss is claimed, then the insurance payment must be treated as ordinary income to offset operating expenses.

8. The casualty loss is to be reported as a deduction during the year the disaster occurred. The exception to this rule is when the President proclaims an area a “disaster” at which time the taxpayer can elect to deduct the casualty loss in the year that the disaster occurs or in the tax year immediately preceding the tax year in which the disaster occurs. The benefit to amending the prior year return would be to get a tax refund quicker.

Note: Business or investment property that is compulsorily or involuntarily converted as a result of a presidentially declared disaster need not be replaced with similar or related property. An involuntary conversion occurs when property is destroyed, stolen, condemned or disposed of under the threat of condemnation and the taxpayer receives other property or money in payment (e.g., insurance proceeds or condemnation award). The replacement property will be deemed to be similar or related in service or use provided it is tangible property held for productive use in a trade or business. The replacement property must be acquired within two years. [Excerpted from CCH 2004 U.S. Master Tax Guide – IRS Code Sec. 1033 (h) (2)].

Sources


