



State of California
Franchise Tax Board

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ftb.ca.gov

Disaster Loss How to Claim a State Tax Deduction

Taxpayers affected by any of the disasters listed below should write the name of the disaster in red ink at the top of their tax return the year they claim the loss.

What's New

- **Severe Winds 2011** – For California purposes, legislation was passed declaring a disaster in Los Angeles and San Bernardino Counties as a result of the severe winds that occurred in November 2011.
- **Severe Storms 2011** – For California purposes, legislation was passed declaring a disaster in Santa Cruz County as a result of severe storms that occurred in March 2011.
- **Disaster Loss Carryover Period** – The disaster loss carryover period for the Severe Winds 2011 and Severe Storms 2011 disasters qualify for the 20-year general net operating loss (NOL) carryover provision instead of the special excess 15-year carryover.

General Information

This publication is designed to help you with financial recovery and explains how you can claim your financial loss as a deduction on your California tax return. A disaster loss may be claimed if the taxpayer is affected by any of the disasters listed below.

- **Tsunami Waves 2011** – For California purposes, California legislation added Mendocino County to the list of areas affected by the tsunami wave surge that occurred in March 2011.
- **Tsunami Waves 2011** – The President declared a major disaster for Del Norte and Santa Cruz Counties as a result of the tsunami wave surge that occurred on March 11, 2011.
- **Severe Winter Storms, Flooding, and Debris and Mud Flows 2010 and 2011** – The President declared a major disaster for Inyo, Kern, Kings, Madera, Mariposa, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Tulare Counties as a result of the severe winter storms, flooding, and debris and mud flows that occurred during the period of December 17, 2010, to January 4, 2011.

For additional information specific to your disaster please see page 6 of this publication or form FTB 3805V, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations – Individuals, Estates, and Trusts and FTB 3805Q, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations – Corporations.

Casualty and Disaster Losses

California law generally follows federal law regarding the treatment of losses incurred as a result of a casualty or a disaster. To qualify as a disaster loss for federal purposes, the President of the United States must declare the area in which the disaster occurred as a disaster area, eligible for federal assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. This includes a major disaster or emergency declaration under

the Act. A pronouncement by the Governor of California declaring an area as a disaster or emergency area is not enough to qualify as a disaster loss for federal purposes.

A casualty loss occurs when your property is lost or damaged due to an earthquake, fire, flood, or similar event that is sudden, unexpected, or unusual. You usually qualify for a casualty loss deduction for tax purposes when insurance or other reimbursements do not repay you for damage to your property. For California purposes, your casualty loss becomes a disaster loss when both of the following occur:

- You sustain the loss in an area the President of the United States or the Governor of California designates as a disaster area. (**Note:** If only the Governor declares a disaster, subsequent state legislation is required to activate the disaster provision for California tax purposes.)
- You sustain the loss because of the declared disaster.

Special tax rules apply to disaster losses. You can claim a disaster loss in the taxable year the disaster occurred or in the taxable year immediately before the disaster occurred. The advantage of claiming a disaster loss in the prior year is that the loss will generally reduce the prior year tax liability generating a refund that the Franchise Tax Board (FTB) can quickly issue.

Claiming a Disaster Loss on an Amended Tax Return

You can claim a disaster loss either on an amended tax return filed for the preceding year or on the tax return filed for the year of the loss. If you have already filed your tax return for the preceding year, you can claim a disaster loss against that year's income by filing Form 540X, Amended Individual Income Tax Return. The due date for filing the Form 540X is April 15 following the year of the loss, unless extended.

For example, you sustained a disaster loss in July 2011. You can claim the loss on your 2011 tax return when you file it by April 17, 2012, or claim the loss immediately on your 2010 tax return. If you already filed your 2010 tax return, complete Form 540X. You must make the election to claim the loss on your 2010 tax return by April 17, 2012, the original due date for the 2011 tax return, unless California passes subsequent legislation extending the option to file an amended tax return until the October 15, 2012, extended due date. For more information, see page 4, When to Claim Your Disaster Loss.

Disaster Loss Carryover Rules

For disasters in Los Angeles and San Bernardino Counties as result of severe winds that occurred in November 2011, and in Santa Cruz County as a result of severe storms that occurred in March 2011, 100% of the excess disaster loss can be carried over for 20 years.

For prior disasters that occurred in taxable years 2004 through 2011, you are allowed to carryover 100% of the excess loss for up to 15 years. (**Exception:** Certain disasters that were Presidentially declared with no subsequent California legislation can be carried over for 20 years.)

See the “Recent Disaster Loss Relief” table on page 6 for a list of the disasters that qualify for the 15 or 20 year disaster loss carryover.

For disaster losses incurred in taxable years 1997 through 2003, you can deduct any excess loss that remains after the five-year period for up to 10 more years at the following percentage rates:

Percentage Allowed to Carry Over	For Disasters incurred in Taxable Year
60	2002 and 2003
55	2000 and 2001
50	1997, 1998, and 1999

You cannot use disaster losses in computing a net operating loss deduction under Internal Revenue Code (IRC) Section 172. If you have both disaster loss carryovers and net operating loss carryovers, you must use them in the order you incurred them.

Taxpayers should complete form FTB 3805V or form FTB 3805Q for the year of loss to compute the carryover.

How to Calculate a Disaster Loss

Compute your tax loss on your federal tax return and transfer that loss amount to your California tax return. In some cases, you may need to make adjustments between state and federal tax laws on your California tax return. For more information, get FTB Pub. 1001, Supplemental Guidelines to California Adjustments.

Individuals

Calculate your disaster loss by reporting California amounts on federal Form 4684, Casualties and Thefts, Section A - Personal Use Property, and submitting this form with your California tax return. You will also need to attach a statement providing the date and location of the disaster (city, county, and state.)

Determine your personal loss by using the smaller of the decrease in the fair market value of your property due to the casualty or the adjusted basis of the property. Fair market value means the amount at which property would change hands between a willing buyer and seller. Adjusted basis generally means what you paid for the property plus the cost of any improvements, less deductions such as depreciation. To determine your allowable loss, deduct insurance proceeds or other reimbursement you received or expect to receive. Next, subtract \$100 and then 10 percent of your federal adjusted gross income. Claim the remaining amount as your casualty or disaster loss.

Businesses

Calculate your disaster loss by reporting California amounts on federal Form 4684, Casualties and Thefts, Section B – Business and Income-Producing Property.

Determine your business loss by using the smaller of the decrease in the fair market value of your property due to the casualty or the adjusted basis of the property. To determine the allowable loss, deduct insurance or other reimbursement you received or expect to receive.

Federal Postponement Periods

California automatically follows federal postponement periods as announced by the Internal Revenue Service (IRS). The IRS may postpone for up to one year certain tax deadlines for taxpayers affected by a Presidentially declared disaster. Tax deadlines subject to postponement include those for filing tax returns, paying income taxes, and making contributions to a traditional Individual Retirement Arrangement (IRA) or Roth IRA. The IRS and the FTB may cancel the interest and penalties on underpaid income tax for the length of any postponement deadlines.

If the IRS postpones a tax deadline, the following taxpayers are eligible for the postponement:

- Any individual whose main home is located in a covered disaster area.
- Any business whose principal place of business is located in a covered disaster area.
- Any relief worker affiliated with a recognized government or philanthropic organization and who is assisting in a covered disaster area.
- Any individual or business whose records are needed to meet a postponed deadline, provided those records are maintained in a covered disaster area. **Note:** The main home or principal place of business does not have to be located in the disaster area.
- Any estate or trust that has tax records needed to meet a postponed tax deadline, provided those records are maintained in a covered disaster area.
- The spouse on a joint tax return with a taxpayer who is eligible for postponements.
- Any other person determined by the IRS to be affected by a Presidentially-declared disaster.

Disasters Outside of California

If you meet the qualifications to claim a disaster loss anywhere within the United States and have a California tax-filing requirement (resident or nonresident), the same disaster rules and postponement periods automatically apply to you. Be sure you indicate on your tax return the name and date (in red at the top of your tax return) of which disaster you are claiming a loss.

Documentation You Must Attach to your California Tax Return

To report your losses, you may need the following California forms:

- Schedule D-1, Sales of Business Property.
- Form FTB 3805V, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations – Individuals, Estates, and Trusts.
- Form FTB 3805Q, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations – Corporations.

You must also include these federal forms in your disaster loss documentation:

- A completed federal Form 4684, Casualties and Thefts (use California amounts).

- A copy of your federal Form 1040, U.S. Individual Income Tax Return, or 1040X, Amended U.S. Individual Income Tax Return.
- A copy of your federal Form 1120, U.S. Corporation Income Tax Return, or 1120X, Amended U.S. Corporation Income Tax Return.
- Any supporting federal schedules that verify your deduction.

You must attach a clearly written statement to your loss documentation that indicates:

- The date of the disaster.
- The location of the disaster (city, county, and state).
- Your decision to deduct the loss in the taxable year before the year the disaster occurred (optional).

It is a good idea to take and keep photos of the damaged property to document the loss.

For filing deadline dates specific to your disaster, refer to the table on this page under When to Claim Your Disaster Loss.

When to Claim Your Disaster Loss

The deadlines for electing a prior year deduction versus claiming your loss on the current year are:

Individual Tax Returns:

Year of Loss	Prior Year Tax Return	Current Year Tax Return
	2009	2010
2010	Claim on original or amended 2009 tax return by April 18, 2011.*	Claim on the 2010 tax return.
	2010	2011
2011	Claim on original or amended 2010 tax return by April 17, 2012.*	Claim on the 2011 tax return.
	2011	2012
2012	Claim on original or amended 2011 tax return by April 15, 2013.	Claim on the 2012 tax return.

*If subsequent California legislation passes extending the option, then the due date is extended until October 15th of the current year.

Corporation Tax Returns:

Year of Loss	Prior Year Tax Return	Current Year Tax Return
	2009	2010
2010	Claim on original or amended 2009 tax return by the current year's original due date, the 15th day of the third month after the close of the taxable year.*	Claim on the 2010 tax return.

	2010	2011
2011	Claim on original or amended 2010 tax return by the current year's original due date, the 15th day of the third month after the close of the taxable year.*	Claim on the 2011 tax return.
	2011	2012
2012	Claim on original or amended 2011 tax return by the current year's original due date, the 15th day of the third month after the close of the taxable year.*	Claim on the 2012 tax return.

*If subsequent California legislation passes extending the option, then the due date is extended until the 15th day of the tenth month after the close of the taxable year.

How to Replace California Tax Returns Lost or Damaged in a Disaster

If your tax returns are lost or damaged in a disaster, we can replace your California tax returns at no cost. Complete form FTB 3516, Request for Copy of Tax Return. Print the name of the disaster at the top of the form, and we will send you copies of your most recently filed tax return.

You can also request a copy of your lost or damaged tax return by writing us a letter that includes all of the following:

- Your name
- Your address
- Your social security number (for personal income tax returns)
- Your corporation number, California Secretary of State file number, or federal employer identification number (for business entity tax returns)
- The tax year requested
- Your signature

Please send your request to the address listed below.

DATA STORAGE
FRANCHISE TAX BOARD
PO BOX 1570
RANCHO CORDOVA CA
95741-1570

Where to Get Forms to Claim Your Loss

You can download and print California tax forms and publications at ftb.ca.gov. You can also order forms by calling 800.338.0505.

To order personal income tax forms, select the personal income tax forms option and any of the following form codes when prompted:

- **900** – California Resident Income Tax Booklet (includes Form 540 and 540A)
- **914** – California Nonresident Income Tax Booklet (includes Long and Short Form 540NR)

- **908** – Form 540X, Amended Individual Income Tax Return
- **909** – Schedule D-1, Sales of Business Property
- **926** – Form FTB 3805V, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations - Individuals, Estates, and Trusts
- **937** – Form FTB 3516, Request for Copy of Personal Income Tax or Fiduciary Return

To order business entity tax forms, select business entities tax forms option, and any of the following form codes when prompted:

- **816** – California S Corporation Tax Booklet (includes Form 100S)
- **817** – California Corporation Tax Booklet (includes Form 100)
- **816 and 817** – Form FTB 3805Q, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations – Corporations

Form 100X, Amended Corporation Income Tax Return, is available at ftb.ca.gov.

Refunds

Our commitment is to quickly issue refunds to disaster victims.

If you electronically file your disaster loss tax return, you will receive your refund within 7 days if you choose to have it deposited directly into your bank account or within 10 days by mail. Follow your tax software instructions to enter the disaster information.

Note: Taxpayers may e-file their original tax return only. Taxpayers that opt to amend the prior year's tax return must file via paper format.

Effective January 1, 2011, the FTB offers e-filing for Corporations filing Form 100X, for taxable years beginning on or after January 1, 2010.

You can also file paper tax returns. To help us process your refund quickly, use red ink to print the name of the disaster at the top of Side 1 of your California tax return (for example: DISASTER – SEVERE WINDS 2011). We give these tax returns top priority and will process them as quickly as possible.

Information and Assistance on Claiming a California Disaster Loss

Internet and Telephone Assistance

Telephone assistance is available year-round from 7 a.m. until 5 p.m. Monday through Friday, except holidays. Hours are subject to change.

Website: ftb.ca.gov
 Telephone: 800.852.5711 from within the United States
 916.845.6500 from outside the United States
 TTY/TDD: 800.822.6268 for persons with hearing or speech impairments

Asistencia Por Internet y Teléfono

Asistencia telefónica está disponible todo el año durante las 7 a.m. y las 5 p.m. lunes a viernes, excepto días festivos. Las horas están sujetas a cambios.

Sitio web: ftb.ca.gov
 Teléfono: 800.852.5711 dentro de los Estados Unidos
 916.845.6500 fuera de los Estados Unidos
 TTY/TDD: 800.822.6268 personas con discapacidades auditivas y del habla

Federal Forms and Information

Common casualty or disaster forms and publications:

- Form 4684, Casualties and Thefts
- Publication 547, Casualties, Disasters, and Thefts (Business and Nonbusiness)
- Publication 584, Casualty, Disaster, and Theft Loss Workbook (Personal-Use Property)
- Publication 584B, Business Casualty, Disaster, and Theft Loss Workbook

To get forms and other tax information from the IRS go to irs.gov. You can also call the IRS at **800.829.1040**.

To get federal forms by mail, call **800.TAX.FORM (800.829.3676)**.

Federal Emergency Management Agency (FEMA)

Call FEMA at **800.462.9029** to get a list of Disaster Recovery Centers in your area. You can access their website at fema.gov.

Recent Disaster Loss Relief						
Incident Period	Disaster	Counties	Federal Loss Throwback Election	State Loss Throwback Election	State Throwback Election Extension ¹	100% Disaster Loss Carryover Period
November 2011	Severe Winds	Los Angeles, San Bernardino	No	Yes	Yes	20 years
March 2011	Severe Storms	Santa Cruz	No	Yes	Yes	20 years
March 2011	Tsunami Wave Surge	Mendocino	No	Yes	Yes	15 years
March 2011	Tsunami Wave Surge	Del Norte, Santa Cruz	Yes	Yes	No	20 years
December 2010 January 2011	Severe Winter Storms, Flooding, and Debris and Mud Flows	Inyo, Kern, Kings, Madera, Mariposa, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Tulare	Yes	Yes	No	20 years
Sept 2010	San Bruno Explosion	San Mateo	No	Yes	Yes	15 years
July 2010	Kern Wildfires	Kern	No	Yes	Yes	15 years
April 2010	Baja California Earthquake	Imperial	Yes	Yes	Yes	15 years
January 2010 February 2010	CA Winter Storms	Calaveras, Imperial, Los Angeles, Riverside, San Bernardino, Siskiyou, Orange ² , San Francisco ²	Yes, with an exception ²	Yes	Yes	15 years
January 2010	Humboldt Earthquake	Humboldt	No	Yes	Yes	15 years
August 2009	CA Wildfires	Los Angeles, Monterey, Placer	No	Yes	Yes	15 years
May 2009	CA Wildfires	Santa Barbara	Yes	Yes	Yes	15 years
November 2008	Southern CA Wildfires	Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, Ventura	Yes	Yes	Yes	15 years
October 2008	Southern CA Wildfires	Los Angeles, Ventura	No	Yes	Yes	15 years
July 2008	Severe Rainstorms	Inyo	No	Yes	Yes	15 years
July 2008	CA Wildfires	Santa Barbara	No	Yes	Yes	15 years
May 2008 June 2008	CA Wildfires	Butte, Humboldt, Kern, Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz, Shasta, Trinity	Yes	Yes	Yes	15 years

1 The IRC Section 165(i) election is made by filing a tax return or an amended tax return on or before the later of:

- The due date of the tax return, without extensions, for the taxable year in which the disaster actually occurred.
- The due date of the tax return, including extensions, for the tax year immediately preceding the tax year of occurrence. (Treas. Regs. 1.165-11(e))

For example, calendar-year individuals generally have until April 17, 2012, to amend their 2010 tax return to claim a disaster loss that occurred during 2011.

However, if the California legislature passes legislation that extends the election date, by listing the disaster in R&TC the state throwback election may be made on or before the later of:

- The due date of the tax return, including extensions for the taxable year in which the disaster actually occurred.
- The due date of the tax return, including extensions, for the tax year immediately preceding the tax year of occurrence.

2 The President did not declare Orange and San Francisco counties as major disaster areas. Therefore, disaster victims in these counties do not qualify for a federal loss throwback election