



Tax



Property



Taxpayer

Property casualty loss deduction for 2017 tax return

March 20, 2018

As a result of Hurricane Maria’s extensive damage to Puerto Rico’s infrastructure, particularly to residential and personal property, a key topic heading into the already-upon-us tax season has been how will taxpayers claim the property casualty loss deduction allowed under the Puerto Rico Internal Revenue Code of 2011, as amended (the “Code”), and comply with its documentation requirements within the confines of the Puerto Rico Treasury Department’s electronic filing obligation for the 2017 Puerto Rico Individual Income Tax Return (the “2017 Tax Return”).

To reconcile these, on March 5, 2018 the Puerto Rico Treasury Department issued Administrative Determination No. 18-05 (“AD 18-05”) to both confirm the requisite filing of documentation to properly claim the property casualty loss deduction, and to establish the process whereby this evidence will be submitted to the Puerto Rico Treasury Department for purposes of the 2017 Tax Return.

Deduction for property casualty losses under Section 1033.15(a)(10)

Section 1033.15(a)(10)(A) of the Code allows a deduction to individuals on the net loss of his/her principal residence sustained from fire, storm or other casualty, that was not compensated for by insurance.

Moreover, paragraph (B) allows for a maximum \$5,000 deduction or (\$2,500 in case of married filing separately) on losses from automobiles, furniture, household goods and other property, excluding the value of jewellery or cash, that were part of the main residential property of the taxpayer and which were not compensated for by insurance or otherwise. In order to claim the property casualty loss deduction under Section 1033.15(a)(10)(B) it is imperative that (i) the affected area has been designated as a disaster area by the

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Governor of Puerto Rico and (ii) the aggrieved taxpayer claim, within the appointed term and place, the assistance program benefits approved for disaster cases. Also, a duly filed and approved copy of the assistance program claim must be filed along with the 2017 Tax Return.

Property casualty loss deduction on taxpayer's principal residence

In addition to disclosing the amount of loss attributable to the principal residence on Schedule A, Part 1, Line 2, of the 2017 Tax Return, the taxpayer must file the following documents:

- 1) a certification from either the Federal Emergency Management Agency ("FEMA"), the Small Business Administration ("SBA"), the insurance company or an application for the "Tu Hogar Renace" program where the principal residence loss amount, that has not been compensated by insurance, is reported;
- 2) copy of the deed of sale for the principal residence or title study that proves that at the time of the hurricane, the taxpayer was the owner of the property;
- 3) evidence of the amount of loss incurred including cancelled checks or payment receipts on such cases where the main residence was repaired. In those cases where the property has not been repaired, a certification that shows the value of the property before and after the hurricane or a copy of the repairs estimate; and
- 4) duly completed AD 18-05 Worksheet

Property casualty loss deduction on taxpayer's personal property

In addition to disclosing the amount of loss attributable to personal property on Schedule A, Part 1, Line 5, of the 2017 Tax Return, the taxpayer must file the following documents:

- 1) copy of the claim duly filed with FEMA, SBA or any other similar program from the Government of Puerto Rico or the United States Government;
- 2) copy of the claim filed with the insurance company, as well as the evidence of the compensated amount;
- 3) cancelled checks or payment receipts and copy of the invoices that shows the cost of the personal property acquired in substitution of those personal property destroyed by the hurricane and
- 4) duly completed AD 18-05 Worksheet

Filing with 2017 Tax Return

Taxpayers that claim the property casualty loss deduction and are required to file their 2017 Tax Return through electronic means must submit the required documentation under AD 18-05 no later than three (3) days after the filing of the tax return to the following email address: perdidashuracanmaria@hacienda.pr.gov, as follows:

- 1) one pdf record not larger than 20 megabytes
- 2) include evidence of the 2017 income tax return electronic filing confirmation, and this should be the first page of your pdf record

The taxpayer must also include the last seven digits of the electronic filing confirmation number, as well as his/her complete name (including both last names) and the taxable year for which the deduction is being claimed. Example: (subject line) 1234567 – Juan del Pueblo Ortiz - 2017

It is important to highlight that any insurance compensation received by the individual in any taxable year subsequent to 2017 must be included as part of the taxpayer's gross income for that same year.

Please contact our Tax Department should additional information is required regarding this or any other tax issue. We will be glad to assist you.



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