LOUISIANA DEPARTMENT of REVENUE | Policy Services Division
Revenue Information Bulletin

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Individual Income Tax

Requirement to File Amended Louisiana Returns Due to Federal Disaster Relief

On December 22, 2017, Public Law 115-97, more commonly referred to as the Tax Cuts and Jobs Act ("TCJA"), was enacted into federal law. The TCJA amended Internal Revenue Code Section 165 to provide for special rules for personal casualty losses related to qualified major disasters occurring in 2016. As a result of this change, individual income taxpayers may amend their 2015 or 2016 federal income tax returns to take advantage of the federal relief provisions.

As a general rule, if a Louisiana individual income taxpayer amends his or her federal income tax return, the taxpayer is required to amend the Louisiana income tax return. The reason for the requirement to amend the Louisiana income tax return is because the Louisiana income tax return largely piggybacks the federal income tax return. For instance, a change in federal income tax liability as a result of an amended federal income tax return changes the Louisiana income tax deduction for federal income tax liability. Specific to personal casualty losses, an amended federal income tax return that increases the deduction for personal casualty losses related to a 2016 qualified major disaster reduces federal income tax liability. This reduction in federal income tax liability results in a reduced Louisiana income tax deduction for federal income tax liability. As the Louisiana income tax deduction for the federal income tax liability decreases, the Louisiana income tax liability increases.

To avoid this result, Act 1 of the 2018 First Extraordinary Session of the Louisiana Legislature provided state specific relief to accompany the federal relief. Based on Act 1 and the guidance set forth in this bulletin, Louisiana individual income taxpayers are generally not required to file amended 2015 or 2016 Louisiana income tax returns if the reason for the amended federal income tax return was limited to application of the federal relief provisions for personal casualty losses related to qualified disasters occurring in 2016.

Federal Law Change and Tax Relief

In general, Internal Revenue Code Section 165 allows as a deduction any qualifying loss sustained during the taxable year and not compensated for by insurance or otherwise. Prior to the enactment of the TCJA, taxpayers could deduct personal casualty losses (losses arising from fire, storm, flood, or other casualty) as a federal itemized deduction; however, the personal casualty loss was deductible only to the extent the loss exceeded 10% of federal adjusted gross income and was greater than $100. A deductible personal casualty loss must have also exceeded personal casualty gains. Generally, a casualty loss deduction is available only in the year in which the loss occurred. In the case of federally declared disasters, taxpayers may elect to deduct a personal casualty loss for the taxable year immediately preceding the taxable year in which the disaster occurred.

The TCJA contained a relief provision relative to qualified 2016 disasters. To qualify for this treatment, this disaster must have been presidentially declared as a major disaster under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Taxpayers may choose to deduct net disaster losses as either an increased federal standard deduction or as an increased federal itemized deduction. Qualifying losses must be greater than $500 in order to claim the increased federal standard deduction or the increased federal itemized deduction. Additionally, the TCJA removed the limitation that the deductible portion of the loss is limited to the amount of the loss that exceeds 10% of federal adjusted gross income.

Taxpayers affected by the historic August 2016 flooding may avail themselves of these federal relief provisions provided the taxpayer meets the requirements of Section 11028(c) of Public Law 115-97. Taxpayers may amend their 2016 federal individual income tax return by completing Form 1040X, Schedule A, and Form 4684 as appropriate. Alternatively, taxpayers that elected to amend their 2015 return to claim losses in the year preceding the disaster are eligible for disaster relief as well and should follow the guidance issued by the IRS. A link to available IRS guidance is provided in the "Additional Resources" section below.

Based on this guidance, four scenarios exist for amended federal returns. These scenarios are important because of the effect on the Louisiana individual income tax return, specifically the excess federal itemized personal deduction ("EID") allowed by LA R.S. 47:293(3). If an individual itemizes his or her deduction for federal purposes, the individual is allowed an EID in the amount that the federal itemized deductions exceed the federal standard deduction. For example, for 2017, if a Louisiana individual has $10,000 in federal itemized deductions and has a filing status of single, the individual may claim a $3,650 EID ($10,000 - $6,350) on his or her Louisiana individual income tax return.

The federal relief allows an increased standard deduction in order to claim the net disaster loss. An increase to the standard deduction is not considered an itemized deduction for federal purposes, and by extension, does not qualify as an EID.

The four scenarios for the federal amended return are as follows:

Scenario No.	Original or Amended Return Prior to TCJA	Amended Federal Return to Claim Relief from TCJA
1	Taxpayer claims standard deduction.	Taxpayer claims increased standard deduction for net disaster losses.
2	Taxpayer claims standard deduction.	Taxpayer claims itemized deductions which include net disaster losses.
3	Taxpayer claims itemized deductions.	Taxpayer claims itemized deductions which include net disaster loss.
4	Taxpayer claims itemized deductions.	Taxpayer claims increased standard deduction for net disaster losses and no itemized deductions.

Depending on the taxpayer's specific circumstances, the taxpayer may owe additional tax or may receive an additional refund from the Department of Revenue. For instance, in Scenarios 2 and 3, the taxpayer either has itemized deductions for the first time or has increased his or her itemized deductions. In either case, the new or increased EID will result in lower Louisiana tax table income and lower Louisiana income tax. However, in Scenario 4, the taxpayer may have additional tax due because of the effect of the increased standard deduction on the EID. The following section will discuss the Louisiana amended return procedures in more detail.

Act 1 and Amended Return Considerations

Act 1 of the 2018 First Extraordinary Session of the Louisiana Legislature enacts R.S. 47:293(4)(d) which provides that the Louisiana individual income tax deduction for federal income tax liability is increased by the amount by which an individual's federal income tax due was decreased as a result of claiming either the federal standard deduction or federal itemized deduction for qualified net disaster losses pursuant to Section 11028 of United States Public Law 115-97. The provisions of Act 1 are applicable to the 2015, 2016, and 2017 tax periods and were Act 1 was effective upon the Governor Edwards' signature on March 26, 2018.

Pursuant to the enactment of Act 1, Louisiana individual income taxpayers that amend their 2015, 2016, or 2017 federal individual income tax return, as appropriate, to take advantage of the federal relief provisions for personal casualty losses related to qualified disasters occurring in 2016 and 2017 are not required to file amended 2015, 2016, or 2017 Louisiana individual income tax returns. However, as previously discussed, taxpayers may amend their Louisiana individual income tax returns to claim a larger EID based on Scenarios 2 and 3. In Scenario 4, if the taxpayer owes additional Louisiana income tax, the taxpayer must pay the additional tax and interest. Refer to Scenario 4 for more information.

The following scenarios, which incorporate the above four scenarios, are intended to provide guidance to Louisiana individual income taxpayers in applying Act 1:

Scenario 1 – Taxpayer A

An individual income taxpayer ("Taxpayer A") files an original 2016 federal income tax return on April 15, 2017, and claims the standard deduction. In August 2016, Taxpayer A's home was flooded by the 2016 flood. Based on the relief provisions of the TCJA, Taxpayer A files an amended 2016 federal income tax return (Federal Form 1040X) on April 1, 2018, and increases his standard deduction by adding his net disaster losses caused by the 2016 flood using Federal Schedule A and Form 4684.

As a result of the amended 2016 federal tax return, Taxpayer A's 2016 federal income tax liability is reduced. Prior to Act 1, Taxpayer A would likely owe additional Louisiana income tax because of the reduced Louisiana income tax deduction for federal income tax liability. However, because of Act 1, Taxpayer A's Louisiana deduction for federal income tax liability remains at the original amount shown on Taxpayer A's 2016 federal income tax return, as originally filed. Therefore, Taxpayer A is not required to file an amended 2016 Louisiana income tax return to reflect a lower deduction for federal income tax liability. Taxpayer A has no excess federal itemized personal deduction because, although Taxpayer A's standard deduction increased, Taxpayer A has no federal itemized deductions.

Scenario 2 – Taxpayer B

In August 2016, an individual income taxpayer's ("Taxpayer B") home was flooded by the 2016 flood. On the original 2015 federal tax return, Taxpayer B claimed the standard deduction. Instead of claiming the losses on the 2016 federal tax return due on April 15, 2017, Taxpayer B amended his original 2015 federal tax return on December 1, 2016. Based on the relief provisions of the TCJA, Taxpayer B itemizes his deductions which include net disaster losses caused by the August 2016 flood using Federal Schedule A and Form 4684 on amended 2015 federal income tax return (Federal Form 1040X).

As a result of the amended 2015 federal tax return, Taxpayer B's 2015 federal income tax liability is reduced. Prior to Act 1, Taxpayer B would likely owe additional Louisiana income tax because of the reduced Louisiana income tax deduction for federal income tax liability. However, because of Act 1, Taxpayer B's Louisiana deduction for federal income tax liability remains at the original amount shown on Taxpayer B's 2015 federal income tax return, as originally filed. Therefore, Taxpayer B is not required to file an amended 2015 Louisiana income tax return to reflect a lower deduction for federal income tax liability.

However, because Taxpayer B itemizes his deductions on his amended federal individual income tax return, Taxpayer B may amend his 2015 Louisiana individual income tax return to claim the excess federal itemized personal deduction allowed pursuant to R.S. 47:293(9)(a)(xi). On Taxpayer B's amended 2015 Louisiana individual income tax return, Taxpayer B should report the original federal income tax liability and excess federal itemized personal deduction.

Scenario 3 – Taxpayer C

In August 2016, an individual income taxpayer's ("Taxpayer C") home was flooded by the 2016 flood. Taxpayer C files an original 2016 federal tax return on April 15, 2017, and itemizes her deductions. Based on the relief provisions of the TCJA, Taxpayer C files an amended 2016 federal income tax return (Federal Form 1040X) on April 1, 2018, and increases her original itemized deductions by adding her net disaster losses caused by the 2016 flood using Federal Schedule A and Form 4684.

As a result of the 2016 amended federal tax return, Taxpayer C's 2016 federal income tax liability is reduced. Prior to Act 1, Taxpayer C would likely owe additional Louisiana income tax because of the reduced Louisiana income tax deduction for federal income tax liability. However, because of Act 1, Taxpayer C's Louisiana deduction for federal income tax liability remains at the original amount shown on Taxpayer C's 2016 federal income tax return, as originally filed. Therefore, Taxpayer C is not required to file an amended 2016 Louisiana income tax return to reflect a lower deduction for federal income tax liability.

However, because Taxpayer C has increased her itemized deductions on her amended federal return, Taxpayer C may amend her 2016 Louisiana income tax return to increase her excess federal itemized personal deduction allowed pursuant to R.S. 47:293(9)(a)(xi). On Taxpayer C's 2016 amended Louisiana individual income tax return, Taxpayer C should report the original federal income tax liability and the increased excess federal itemized personal deduction.

Scenario 4 – Taxpayer D

In August 2016, an individual income taxpayer's ("Taxpayer D") home was flooded by the 2016 flood. On the original 2015 federal tax return, Taxpayer B claimed the standard deduction. Instead of claiming the losses on the 2016 federal tax return due on April 15, 2017, Taxpayer D amended his original 2015 federal tax return on December 1, 2016. Taxpayer D claims itemized deductions which include state income tax paid and disaster losses as a result of the August 2016 flooding. Taxpayer D was able to itemize on the amended 2015 federal tax return because of the large disaster losses; otherwise, Taxpayer D does not generally itemize federal deductions because the state income tax paid does not exceed the federal standard deduction.

Based on the relief provisions of the TCJA, Taxpayer D files a second amended 2015 federal income tax return (Federal Form 1040X) on April 1, 2018. On the amended return, Taxpayer D reports the disaster losses on Form 4684. The losses are then reported on Schedule A with the increased standard deduction amount. Taxpayer D's state income tax paid does not exceed the federal standard deduction. Therefore, Taxpayer D no longer itemizes her federal deductions; instead, she claims the disaster losses as an increased standard deduction.

As a result of the amended federal tax return, Taxpayer D's federal income tax liability is reduced. Prior to Act 1, Taxpayer D would likely owe additional Louisiana income tax because of the reduced Louisiana income tax deduction for federal income tax liability. However, because of Act 1, Taxpayer D's federal income tax liability remains at the original amount shown on Taxpayer D's original federal income tax return.

As distinguished from the other scenarios, Taxpayer D may no longer claim the EID because the 2015 amended federal return only claims an increased standard deduction. The EID may only be claimed when the federal itemized deductions exceed the federal standard deduction. In Taxpayer D's case, the state income tax paid does not exceed the federal standard deduction and Taxpayer D no longer has an EID. Therefore, in this one scenario, Taxpayer D must file an amended 2015 Louisiana income tax return. The amended 2015 Louisiana income tax return must reflect zero for the EID, but should report the original federal income tax liability prior the amended federal return which claims federal tax relief. As a result of the decrease in the EID, Taxpayer D will likely owe additional tax and interest to the Department of Revenue. Refer to the "Waiver of Delinquency Penalty" in the following section for more information.

The chart below is based on the preceding scenarios and the guidance provided by this bulletin:

Scenario No.	Original or Amended Federal Return Prior to TCJA	Amended Federal Return to Claim Relief from TCJA	Amended Louisiana Return Effect
Scenario 1 Taxpayer A	Standard deduction	Increased standard deduction	No refund or tax due. Do not file an amended Louisiana return.
Scenario 2 Taxpayer B	Standard deduction	Itemizes deductions which includes net disaster losses	Only file an amended Louisiana return to claim an additional refund due to new EID. Original federal income tax liability remains the same on the amended Louisiana return.
Scenario 3 Taxpayer C	Itemized deductions	Increases itemized deductions which includes net disaster losses	Only file an amended Louisiana return to claim an additional refund for increased EID. Original federal income tax liability remains the same on the amended Louisiana return.
Scenario 4 Taxpayer D	Itemized deductions	Increased standard deduction	File an amended Louisiana return. Original federal income tax liability remains the same on the amended Louisiana return. Report EID as zero. If additional tax due, see next section for waiver of delinquency penalty.

Waiver of Delinquency Penalty

In the Scenario 4 situation, a taxpayer originally itemizes for federal purposes and claims the EID for Louisiana purposes. By amending to claim federal tax relief pursuant to the TCJA, the taxpayer claims the increased standard deduction and must amend the Louisiana individual income tax return to report zero for the EID.

Taxpayers in this situation will receive waiver of delinquency penalty if all for the following are satisfied:

1. Taxpayer submits the amended Louisiana return within thirty days of submitting the amended federal return or thirty days from the publication of this bulletin, whichever is later.
2. Taxpayer amends solely to take advantage of the TCJA relief provisions. Amended returns that include changes to other items do not qualify for penalty waiver.
3. Taxpayer submits Form R-20128 requesting waiver of delinquency penalty with the amended Louisiana return. Taxpayer must stipulate on Form R-20128 the reasons for amending the return.
4. Taxpayer pays all tax and interest due at the time of filing the amended return or within 15 days of the Department's mailing of a notice indicating outstanding tax or interest due.

Additional Resources

For general information on federal disaster relief, visit the IRS's website at https://www.irs.gov/newsroom/tax-relief-in-disaster-situations.

For information on the updated Form 4684 and other recent development, visit the IRS's website at https://www.irs.gov/forms-pubs/form-4684-casualties-and-thefts.

For information on the safe harbor methods to determine the amount of casualty and theft losses, refer to IRS Revenue Procedure 2018-08 and visit the IRS's website at https://www.irs.gov/forms-pubs/rda-2017-12-14-2018-rev-proc-08.

Questions concerning this publication may be submitted by e-mail to Policy.Publications@La.gov.

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