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Final regulations: Timing of losses related to federally declared disasters

The U.S. Treasury Department and IRS this afternoon released for publication in the Federal Register final regulations (T.D. 9878) setting forth the rules and procedures for making and revoking the election to accelerate the timing of a loss sustained by a taxpayer attributable to a federally declared disaster.

Today's [final regulations](#) [PDF 145 KB] adopt October 2016 proposed regulations "substantially without change." Additionally, the October 2016 temporary regulation is removed.

Background

Section 165(i) allows a taxpayer who has sustained a loss attributable to a federally declared disaster in a taxable year to elect to deduct that disaster loss in the preceding year.

A [temporary regulation \(T.D. 9789\)](#) [PDF 201 KB] in October 2016 was published in the Federal Register setting forth the rules and procedures for making and revoking a Section 165(i) election. A notice of [proposed rulemaking \(REG-150992-13\)](#) [PDF 217 KB] cross-referencing the temporary regulation was also published in the Federal Register in October 2016. Finally, [Rev. Proc. 2016-53](#) [PDF 42 KB] was published in the Internal Revenue Bulletin on October 31, 2016.

The final regulations retain the extended the deadline to make the section 165(i) election as well as the deadline to revoke the section 165(i) election. The final regulations also retain the requirement that the election is made on either an original federal income tax return for the preceding year or an amended federal income tax return for the preceding year.

No public comments were received and no public hearing was requested or held.

Effective date

The final regulations are scheduled to be effective October 16, 2019 (the date of publication in the Federal Register).

The purpose of this report is to provide text of the final regulations.

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