

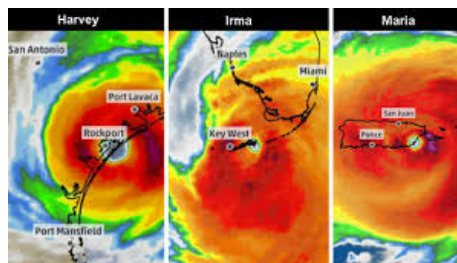


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UPDATE

Tax Provisions in the New 2017 Disaster Relief Bill

On September 29, President Trump signed into law P.L. 115-63, the "Disaster Tax Relief and Airport and Airway Extension Act of 2017." The Act, which had been passed by Congress the day before, provides temporary tax relief to victims of Hurricanes Harvey, Irma, and Maria. Businesses that qualify for relief may claim a new "employee retention tax credit" of up to \$2,400 for qualified wages paid to eligible employees. Relief for individuals includes, among other things, loosened restrictions for claiming personal casualty losses, tax-favored withdrawals from retirement plans, and the option of using current or prior year's income for purposes of claiming the earned income and child tax credits.

Eased Casualty Loss Rules

- 10% limitation removed. For taxpayers claiming a net disaster loss, the Act eliminates the current law requirement that personal casualty losses must exceed 10% of AGI to qualify for a deduction.

- Relief available to non-itemizers. The Act also eliminates the current law requirement that taxpayers must itemize deductions to access this tax relief for losses - it does so by increasing an individual taxpayer's standard deduction by the net disaster loss.
- No reduction for taxpayers subject to AMT. The Act provides that generally disallowed standard deduction for alternative minimum tax (AMT) purposes, does not apply for the portion of the standard deduction attributable to the net disaster loss.
- Increased floor. In addition, the Act increases the \$100 per-casualty floor to \$500 for qualified disaster-related personal casualty losses.

Eased Access to Retirement Funds

The Act eases a number of rules to allow victims to make "qualified hurricane distributions" (below) from their retirement plans of up to \$100,000 (less any prior withdrawals treated as "qualified hurricane distributions").

- **Penalty relief.** Significantly, the Act excepts qualified hurricane distributions from the 10% early retirement plan withdrawal penalty.
- **Eased inclusion rules.** The Act allows taxpayers to spread out any income inclusion resulting from such withdrawals over a 3-year period, beginning with the year that any amount is required to be included (or elect out).
- **Favorable re-contribution rule.** The Act also allows the amount distributed to be re-contributed at any time over a 3-year period beginning on the day after the distribution was received.

Eased rules for retirement plan loans. With respect to retirement plan loans, the Act:

- Increases the maximum amount that a participant or beneficiary can borrow from a qualified employer plan, from \$50,000 to \$100,000.

Charitable Deduction Limitations Suspended

For qualifying charitable contributions associated with qualified hurricane relief, the Act:

- Temporarily suspends the majority of the limitations on charitable contributions.
- Provides that such contributions will not be taken into account for purposes of applying the code to other contributions.
- Provides eased rules governing the treatment of excess contributions.
- Provides an exception from the overall limitation on itemized deductions for certain qualified contributions.

Employee Retention Tax Credit for Employers

In general, the credit is be treated as a credit, and equals 40% of up to \$6,000 of "qualified wages" with respect to each "eligible employee" of such employer for the tax year. Thus, the maximum credit per employee is \$2,400 ($\$6,000 \times 40\%$).

For additional information, please refer to last weeks Tax Alert "[Tax Relief for those Impacted by Hurricane Irma, Harvey and Maria](#)".

Our thoughts are with you and your family at this difficult time as many of you are recovering from the effects of Hurricanes Irma, Harvey and Maria. We are available to assist you throughout the process.

If you have any questions about how these rules apply to your particular situation, contact our office so we can assist you.

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