

117TH CONGRESS
1ST SESSION

S. 3173

To amend the Internal Revenue Code of 1986 to provide special rules for personal casualty losses arising from major disasters.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 4, 2021

Mr. KENNEDY introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide special rules for personal casualty losses arising from major disasters.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Claiming Losses After
5 Disasters Act”.

6 **SEC. 2. SPECIAL RULES FOR CASUALTY LOSSES ARISING**
7 **FROM MAJOR DISASTERS.**

8 (a) TREATMENT OF LOSSES.—

1 (1) IN GENERAL.—Section 165(h) of the Inter-
2 nal Revenue Code of 1986 is amended by adding at
3 the end the following new paragraph:

4 “(6) SPECIAL RULE FOR QUALIFIED DISASTER
5 LOSSES.—

6 “(A) IN GENERAL.—If an individual has a
7 qualified net disaster loss for any taxable year,
8 the amount determined under paragraph
9 (2)(A)(ii) shall be the sum of—

10 “(i) such net disaster loss, and

11 “(ii) so much of the excess referred to
12 in the matter preceding clause (i) of para-
13 graph (2)(A) (reduced by the amount in
14 clause (i) of this subparagraph) as exceeds
15 10 percent of the adjusted gross income of
16 the individual.

17 “(B) QUALIFIED NET DISASTER LOSS.—

18 For purposes of subparagraph (A), the term
19 ‘qualified net disaster loss’ means the excess of
20 qualified disaster-related personal casualty
21 losses over personal casualty gains.

22 “(C) QUALIFIED DISASTER-RELATED PER-
23 SONAL CASUALTY LOSSES.—

24 “(i) IN GENERAL.—For purposes of
25 this subsection, the term ‘qualified dis-

1 aster-related personal casualty losses’
2 means losses described in subsection (c)(3)
3 (determined after application of paragraph
4 (1)) which arise in a qualified disaster area
5 on or after the first day of the incident pe-
6 riod of the qualified disaster to which such
7 area relates, and which are attributable to
8 such disaster.

9 “(ii) QUALIFIED DISASTER AREA.—

10 “(I) IN GENERAL.—The term
11 ‘qualified disaster area’ means any
12 area with respect to which a major
13 disaster has been declared by the
14 President under section 401 of the
15 Robert T. Stafford Disaster Relief
16 and Emergency Assistance Act if the
17 incident period of the disaster with re-
18 spect to which such declaration is
19 made begins after December 27,
20 2020.

21 “(II) EXCEPTION.—Such term
22 shall not include any area which is a
23 qualified disaster area as defined in
24 section 301 of the Taxpayer Certainty
25 and Disaster Tax Relief Act of 2020.

1 “(iii) QUALIFIED DISASTER.—The
2 term ‘qualified disaster’ means, with re-
3 spect to any qualified disaster area, the
4 disaster by reason of which a major dis-
5 aster was declared with respect to such
6 area.

7 “(iv) INCIDENT PERIOD.—For pur-
8 poses of this paragraph, the term ‘incident
9 period’ means, with respect to any quali-
10 fied disaster, the period specified by the
11 Federal Emergency Management Agency
12 as the period during which such disaster
13 occurred.”.

14 (2) CONFORMING AMENDMENT.—Section
15 165(h)(5)(B)(ii) of such Code is amended by insert-
16 ing “or (6)” after “paragraph (2)(A)”.

17 (b) DOLLAR LIMITATION.—Section 165(h)(1) of the
18 Internal Revenue Code of 1986 is amended by striking
19 “\$500 (\$100 for taxable years beginning after December
20 31, 2009)” and inserting “\$100 (\$500 in the case of any
21 net disaster loss to which paragraph (3) applies)”.

22 (c) STANDARD DEDUCTION.—

23 (1) IN GENERAL.—Section 63(c)(1) of the In-
24 ternal Revenue Code of 1986 is amended by striking
25 “and” at the end of subparagraph (A), by striking

1 the period at the end of subparagraph (B) and in-
2 sserting “and”, and by adding at the end the fol-
3 lowing new subparagraph:

4 “(C) the disaster loss deduction.”.

5 (2) DISASTER LOSS DEDUCTION.—Section 63(c)
6 of such Code is amended by adding at the end the
7 following new paragraph:

8 “(8) DISASTER LOSS DEDUCTION.—For the
9 purposes of paragraph (1), the term ‘disaster loss
10 deduction’ means the excess of qualified net disaster
11 losses (as defined in section 165(h)(6)(B)) over the
12 amount of personal casualty gains (as defined in sec-
13 tion 165(h)(3)(A)) reduced by any portion of such
14 gains taken into account under section
15 165(h)(5)(B)(i).”.

16 (d) TREATMENT UNDER ALTERNATIVE MINIMUM
17 TAX.—Section 56(b)(1)(D) of the Internal Revenue Code
18 of 1986 is amended by inserting “(other than the disaster
19 loss deduction)” after “section 63(c)”.

20 (e) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to losses incurred in taxable years
22 beginning after December 31, 2019.

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