

The following Headliner is being distributed to tax professional groups, business organizations, and others for their dissemination to their members who may be other tax professionals and/or taxpayers. The headliner provides some guidance around several issues:

- Records retention
- Records reconstruction
- Use of a substitute W-2

These guidelines are intentionally broad in nature and are not intended to answer every question and/or situation that may arise as we move into the 2006 filing season.

**These guidelines are directed to those tax professionals who have been victims of Hurricanes Katrina, Rita and/or Wilma or who have clients who have been victims.** The guidelines provide procedures to all tax professionals concerning the preparation of returns for those clients who are unable to obtain a W-2 because they and/or their employers were **victims of the hurricane(s)**. Tax professionals and EROs that use the Form 4852 will need to ensure that they have exercised necessary diligence in determining the figures they enter in 7(A) and/or 7(B). They also need to document on line 8 their efforts in obtaining information and the methods used in determining the income and other data reported on the form. Line 9 must document what efforts were taken by the taxpayer to obtain a W-2, 1099-R, or W-2c. The W-2 records submitted in these situations with e-file returns must be marked as **non standard** in the Indicator field.

Returns, e-filed using these guidelines should have an entry in the “Disaster Designation” field (0098) of Form 1040, 1040A, or 1040EZ; i.e. Hurricane Katrina, RITA, Wilma, etc. **These guidelines are not intended to automatically nullify the general prohibition against e-filing returns based on wage information from sources other than W-2s but only to provide an exception for taxpayers impacted by hurricane Katrina, Rita and/or Wilma.**

## **IRS Continues to Offer Assistance to Taxpayers Affected by Hurricanes Katrina, Rita, and Wilma**

Many taxpayers who were affected by hurricanes Katrina, Rita or Wilma face special challenges this coming filing season.

These challenges may include retrieving copies of prior year tax returns, claiming a casualty loss, or reconstructing destroyed records. Whatever the issue, the Internal Revenue Service offers a number of assistance channels.

For hurricane victims and tax professionals who need help with tax matters, the IRS has a dedicated toll free number to call, 1-866-562-5227. This number offers help on multiple issues that arise for disaster victims.

IRS.gov features a special section with the new tax laws and resources, including answers to frequently asked questions. Check *Tax Relief in Disaster Situations* on IRS.gov for details.

In addition, the IRS has a new publication in development. Publication 4492, *Information for Taxpayers Affected by Hurricanes Katrina, Rita and Wilma*, is scheduled to be available in February 2006.

The IRS has received extensive inquiries about substitute Form W-2 issues and records retention and reconstruction. Guidance follows on these topics:

### **Substitute Forms W-2**

IRS recognizes some taxpayers affected by the hurricanes may have difficulty obtaining 2005 Forms W-2, *Wage and Tax Statement*, and other 2005 information documents. Taxpayers are encouraged to attempt contact with employers or former employers and other payors to secure copies of W-2s and other information documents, but if unable to obtain after reasonable attempts, they should use [Form 4852, Substitute for Form W-2, Wage and Tax Statement, or Form 1099R, Distribution From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.](#) .

While the IRS generally does not accept Forms 4852 until after February 15, 2006, those affected by Hurricanes Katrina, Rita and Wilma may use the form prior to February 15, 2006.

Taxpayers will need to use pay stubs, bank records, prior year forms, or other information to estimate the 2005 Form W-2 data and other information return data.

Those taxpayers, who have all information required on the Form 4852, including the employer's federal identification number, are eligible to electronically file individual income tax returns. Preparers who e-file returns based on the completion of Form 4852 must ensure that the W-2 record be marked as non-standard. Taxpayers who have their

wage information, other than their employer's federal identification number, and worked for the same employer in 2004 can contact the disaster toll free number above and request the federal identification number from their previous year's W-2. If the taxpayer needs last year's information document in order to try and determine the current year's income, they can request from the toll free assister for a copy of the prior year document be faxed to their tax preparer's office. Those who do not have access to the employer's federal identification number should still use Form 4852 but will be required to file a paper return.

## **Records Guidance**

### Records Retention

From a legal standpoint, taxpayers and tax professionals are required to maintain tax records to establish the proper reporting of their tax and/or proper handling of e-file requirements. However, the law also recognizes that tax records are sometimes unavoidably damaged or destroyed, including situations where the records are no longer legible or pose a threat to health or safety. The same rules apply whether the destruction occurs as a result of a fire or plumbing leak that affects only one taxpayer, or a regional disaster like a hurricane that may have destroyed tax records of hundreds of thousands of taxpayers.

On a case-by-case basis, taxpayers and tax professionals should use diligence in deciding what records to retain based on whether the records pose a threat, how seriously the records were damaged, what information they can still extract, if any, and the significance of the information the records may contain. Preparers who have been holding on to damaged records and based on this guidance intend to destroy the documents are cautioned to ensure the destruction does not result in disclosures of taxpayer information.

When records are damaged or destroyed, taxpayers still have the burden to establish the proper reporting of their tax, but they may use secondary sources and even personal recollection when that is all that is available.

### Records Reconstruction

Reconstructing records after a disaster may be essential for tax purposes, getting federal assistance or insurance reimbursement.

Records needed to prove a loss may have been damaged or destroyed in a casualty. While it may not be easy, reconstructing records may be essential for:

- Tax purposes

Taxpayers may need to reconstruct records to prove a casualty loss and the amount of the loss. To compute a casualty loss, determine: 1) the decrease in

value of the property as a result of the casualty and 2) the adjusted basis of the property (usually the cost of the property and improvements). The deduction is limited to the smaller of these two amounts, minus insurance or other reimbursement. See [Publication 547, Casualties, Disasters, and Thefts](#), for further information on figuring a casualty loss deduction.

Taxpayers who repair damage caused by a casualty, or spend money for cleaning up, should keep the repair bills and any other records of what was done and how much it cost. These costs are not deductible but can be used as a measure of the decrease in fair market value caused by the casualty if the repairs are actually made, are not excessive, are necessary to bring the property back to its condition before the casualty, take care of the damage only, and do not cause the property to be worth more than before the casualty.

- Insurance reimbursement
- Federal Emergency Management Agency (FEMA) and Small Business Administration aid

The more accurately a loss is estimated, the more loan and grant money there may be available.

The following tips may help to reconstruct records to prove loss of personal-use or business property:

#### Personal Residence/Real Property

- Be sure to take photographs as quickly as possible after the casualty to establish the extent of the damage.
- Contact the title company, escrow company, or bank that handled the purchase to obtain copies of escrow papers. The original real estate broker may also be able to help.
- Use the current property tax statement for land vs. building ratios, if available; if not available, get copies from the county assessor's office.
- Check with appraisal companies to locate a library of old multiple listing books. These can be used for "comps" to establish a basis or fair market value. "Comps" are comparable sales within the same neighborhood.
- Check with mortgage companies for copies of any appraisals or other information they may have about cost or fair market value.
- **Tax records:** Immediately after the casualty, affected taxpayers should file [Form 4506, Request for Copy of Tax Return](#), to request copies of the previous four years of income tax returns. To obtain copies of the previous four years of

transcripts, file a [Form 4506-T, Request for Transcripts of a Tax Return](#). Write the appropriate disaster designation, such as “HURRICANE KATRINA”, in red letters across the top of the forms to expedite processing and to waive the normal user fee.

- **Insurance Policy:** Most policies list the value of the building to establish a base figure for replacement value insurance. For those unsure how to reach their insurance company, information is available from state insurance departments at [http://www.naic.org/state\\_web\\_map.htm](http://www.naic.org/state_web_map.htm).
- **Improvements:** Call contractor(s) to see if records are available. If possible get statements from the contractors verifying their work and cost.
  - Get written accounts from friends and relatives who saw a house before and after any improvements. See if any have photos taken at get-togethers.
  - If a home improvement loan was obtained, obtain paperwork from the institution issuing the loan. The amount of the loan may help establish the cost of the improvements.
- **Inherited Property:** Check court records for probate values. If a trust or estate existed, contact the attorney who handled the estate or trust.
- **No other records are available:** Check the county assessor’s office for old records about the property. Look for assessed valued and ask for the percentage of assessment to value at the time of purchase. This is a rough guess, but better than no records at all.

### Vehicles

- Kelley’s Blue Book, NADA and Edmunds are available on-line and at most libraries. They are good sources for the current fair market value of most vehicles on the road.
- Call the dealer and ask for a copy of the contract. If not available, give the dealer all the facts and details and ask for a comparable price figure.
- Use newspaper ads for the period in which the vehicle was purchased to determine cost basis. Use ads for the period when it was destroyed for fair market value. Be sure to keep copies of the ads.
- If still making payments, check with the lien holder.

### Personal Property

The number and types of personal property may make it difficult to reconstruct records. One of the best methods is to draw pictures of each room. Draw a floor plan showing where each piece of furniture was placed. Then show pictures of the room looking

toward any shelves or tables. These do not have to be professionally drawn — just functional. Take time to draw shelves with memorabilia on them. Do the same with kitchens and bedrooms. Reconstruct what was there, especially furniture that would have held items — drawers, dressers, shelves. Be sure to include garages, attics, and basements.

- Get old catalogs. These catalogs are a great way to establish cost basis and fair market value.
- Check the prices on similar items in local thrift stores to establish fair market value. Walk through the stores and look at comparable items, especially items such as kitchen gadgets. Look for odds and ends that may have been forgotten because of infrequent use.
- Use local “advertisers” as a source for fair market value. Keep copies of the issues handy and copy pages used for specific items to put with tax records on the disaster.
- Check local newspaper want ads for similar items. Again keep a copy of any used for comparison with the tax file.
- If items were bought using a credit card, check with the credit card company for old statements.
- Check with local libraries for back issues of newspapers. Most libraries keep old issues on microfilm. The sale sections of these back issues may help establish original costs on items such as appliances.
- Go to a used bookstore with a tape measure and the diagram of the destroyed property. Measure several rows of used books and count the number of books per shelf. Add up the prices of those books and determine an average cost per shelf. Then count the number of shelves had in a home and multiply by the average cost per shelf. This will help determine the value of books before the loss.

### Business Records

- **Inventories:** Get copies of invoices from suppliers. Whenever possible, the invoices should date back at least one calendar year.
- **Income:** Get copies of bank statements. The deposits should closely reflect what the sales were for any given time period.
  - Obtain copies of last year’s federal, state and local tax returns including sales tax reports, payroll tax returns and business licenses (from city or county). These will reflect gross sales for a given time period.

- **Furniture & fixtures:** Sketch an outline of the inside and outside of the business location. Then start to fill in the details of the sketches. (Inside the building, what equipment was where; if a store, where were the products/inventory located. Outside the building, shrubs, parking, signs, awnings, etc.)
  - For those who purchased an existing business, go back to the broker for a copy of the purchase agreement. This should detail what was acquired.
  - For those who had a building constructed, contact the contractor for building plans, or the county/city planning commissions for copies of any plans.

### **Additional assistance and information**

- IRS Disaster Assistance Hotline — 1-866-562-5227 (Monday-Friday from 7 a.m. to 10 p.m. local time)
- [Help for Hurricane Victims](#) page on IRS.gov – Updated frequently as new information is available.
- [Help for Tax Professionals](#) page on IRS.gov – Updated frequently as new information is available.
- [IRS Publication 2194, Disaster Losses Kit for Individuals](#) – Includes Publications 547 and 584
- [IRS Publication 2194B, Disaster Losses Kit for Businesses](#) – Includes Publications 547 and 584B
- [IRS Publication 547, Casualties, Disasters, and Thefts](#)
- [IRS Publication 584, Casualty, Disaster, and Theft Loss Workbook](#) – Can help taxpayers make a list of stolen or damaged personal-use property and figure the loss. It has a room-by-room listing to help re-create an inventory and figure the loss on a home and its contents, and motor vehicles.
- [IRS Publication 584B, Business Casualty, Disaster, and Theft Loss Workbook](#) – Available to help businesses list stolen or damaged business or income-producing property and to figure a loss.
- IRS Publication 4492, Information for Taxpayers Affected by Hurricanes Katrina, Rita and Wilma – Scheduled to be available in February 2006