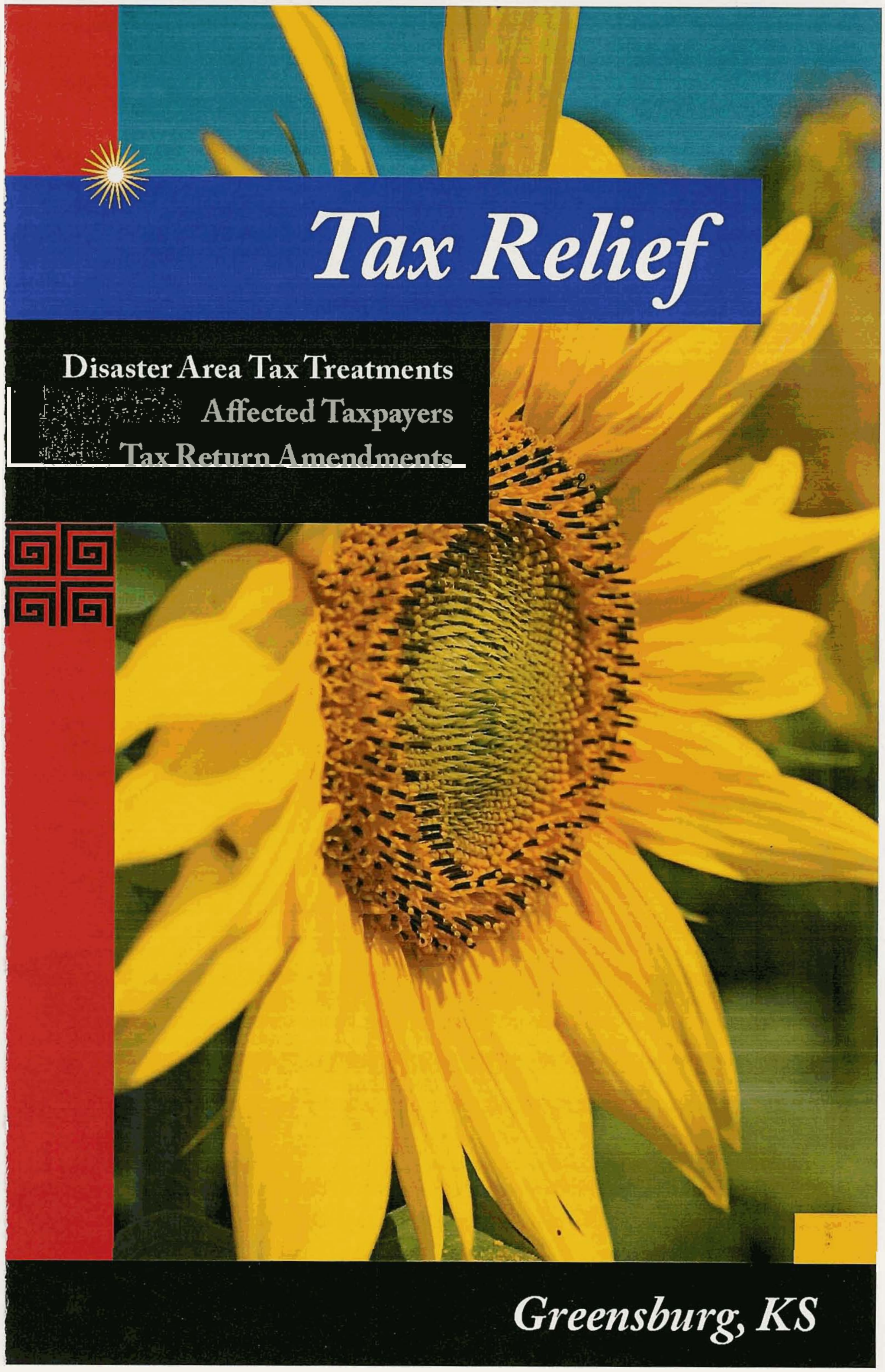
Tax Relief

Disaster Area Tax Treatments
[redacted] Affected Taxpayers
[redacted] Tax Return Amendments



Greensburg, KS

In the aftermath of a disaster taxes should be the last of your worries. To help you in this difficult time, we have provided a general summary of some tax information related to the Greensburg tornado. Please talk to a tax professional before using any information in this brochure.

Casualty Losses

The loss of property resulting from the tornado or subsequent condemnation is considered a casualty loss for income tax purposes. The amount of casualty loss deduction is based upon amount of loss and any insurance proceeds. Taxpayers with insurance on damaged property must file an insurance claim to qualify for casualty loss deductions. Because the tax rules for personal and non-personal use property differ, each type of property is discussed separately. All types of casualty losses and gains are reported on Form 4684 found at www.irs.gov.

Business, Rental and Investment Property:

For each business property that is *totally* destroyed, taxpayers have a loss for the amount of the property's adjusted basis (original purchase price increased for any improvements and decreased for prior depreciation expense) less insurance proceeds for the property.

If property is only *partially* destroyed, the loss is the smaller of 1) the adjusted basis or 2) the decline in fair market value (FMV) after the event. If FMV is not known, repair estimates may be used to estimate the decline in FMV. Any loss is then reduced by any actual or anticipated insurance reimbursements. If actual or anticipated insurance reimbursements are more than the adjusted basis, the result is a casualty gain.

All the Business and Rental casualty gains and losses for the year are totaled together. If taxpayers have an overall loss, this amount is a business deduction. If taxpayers have an overall gain, this amount may be taxable.

All the Investment casualty gains and losses for the year are totaled. Overall losses are reported on Schedule A as an itemized deduction and are not subject to the 2% limitation or the 3% phase-out of itemized deductions. A casualty gain on investment property is considered income but reporting gains for tax purposes may be postponed.

Taxpayers may postpone reporting gains by purchasing replacement property by December 31, 2011. The replacement property for business property must be held for productive use in a trade or business. Because this is a presidentially declared disaster area, the replacement property does not need to be similar in use to the original property.[1]

Personal Property:

Taxpayers who lost a home or other personal use property may be eligible for tax relief. Individual taxpayers calculate casualty losses for partially and totally destroyed property by taking the smaller of 1) the property's adjusted basis or 2) decline in FMV and reducing this amount by any reimbursements for the destroyed property. When the state or local government orders taxpayers to destroy their homes because they are no longer safe, this condemnation is treated as a casualty loss. The government must issue the order to tear down the home within 120 days after the area is declared a disaster area.[2]

All casualty losses are totaled for each separate casualty event. The total casualty losses for each event then reduced by $100. Specifically, for all property destroyed in the tornado, the total casualty losses are reduced by only $100. The taxpayer does not reduce each property by $100. Finally, all losses for the year are totaled and reduced by 10% of the taxpayer's adjusted gross income for the year.[3]

The excess of the losses over 10% of AGI are deducted on Schedule A of Form 1040. If your casualty or theft loss deduction causes your deductions for the year to be more your income for the year, you may have a net operating loss (NOL). You can use an NOL to get a refund for tax you already paid. Or, you can use it to lower your tax in a later year. You do not have to be in business to have an NOL from a casualty or theft loss.[2]

If reimbursements for the property exceed the adjusted basis, a gain occurs. However, gains from insurance reimbursements on unscheduled property (for example, clothing and personal use items) are not taxable. Gains on a main home can be postponed if replacement home is purchased or constructed for an amount equal to or greater than the insurance reimbursement by December 31, 2011. Taxpayers married filing jointly may also exclude a gain up to $500,000 ($250,000 for other filing status) without purchasing a replacement property if the home had been used as the taxpayer's primary residence for at least two years within the last five years.[2]

Reimbursements

Gifts of cash, food, medical supplies and other types of assistance (such as state and federal disaster relief programs) are not subject to income taxes, self-employment taxes, social security and Medicare taxes, and unemployment taxes. These payments are not considered a reimbursement for calculating casualty losses, even if the cash is used to purchase repairs or replacement property. Insurance payments for living expenses are not included in taxable income if you lost the use of your main home due to the casualty or if the government does not allow you to enter your home.

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Amending Last Year's Return

Affected taxpayers in Barton, Clay, Cloud, Comanche, Dickinson, Edwards, Ellsworth, Kiowa, Leavenworth, Lyon, McPherson, Osage, Osborne, Ottawa, Phillips, Pottawatomie, Pratt, Reno, Rice, Riley, Saline, Shawnee, Smith and Stafford counties have the option of claiming disaster-related casualty losses on their federal income tax return for either 2006 or 2007. Claiming the loss on an original or amended return for 2006 will result in an earlier refund, but waiting to claim the loss on 2007's return could result in a greater tax saving, depending on other income factors.[3]

Affected taxpayers claiming the disaster loss on last year's return should put the Disaster Designation "Kansas Storms/Tornadoes" at the top of the form in ***red ink*** so the IRS can expedite the processing of the refund.[3]

Replacing Missing Tax Records

The IRS will waive the usual fees and expedite requests for copies of previously filed tax returns for affected taxpayers who need them to apply for benefits or to file amended returns claiming casualty losses. Affected taxpayers who are contacted by the IRS on a collection or examination matter should explain how the disaster impacts them so that the IRS can provide appropriate consideration to their case.[3]

Most needs for tax return information can be met with a tax return transcript or a tax account transcript, rather than an actual copy of the return. The tax return transcript shows information from the return as it was originally filed. To request copies or transcripts of old tax returns call 1-800-829-1040 or complete Form 4506-T.

Sources

1. 2006 US Master Tax Guide ¶1715 citing Code Sec. 1033(h)(2). 2. IRS Publication 547. 3. http://www.irs.gov/newsroom/article/0,,id=169961, 00.html.

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