



Federal Tax ADVISORY ■

JUNE 1, 2020

Disaster Losses

Section 165(i) is a little-known rule allowing a disaster loss to be reported on the prior year's return. Originally, it was limited to disaster casualty losses occurring before the tax return was due to allow an immediate out-of-pocket cash saving, mostly for individual taxpayers whose homes or other property was destroyed by flood or other casualty disasters.

Over the years, it was expanded and now applies to disasters at any time of the year, whether or not casualties as normally defined. It can apply to the disaster declared for the COVID-19 pandemic.

That disaster has caused the loss of many businesses. Stock has become worthless because of the pandemic and the declared disaster. Losses that otherwise will be reported for 2020 can be reported for 2019, when it is likely that the taxpayer had income and can obtain a refund. This is not a loss carryback but an actual relocation of the Section 165 loss deduction to the prior year.

Guidance may be coming from Treasury on the application of Section 165(i) to a non-natural disaster. Meanwhile, taxpayers should consider its use and availability.

For more information, please contact [Jack Cummings](#) at 919.862.2302.

Alston & Bird has formed a multidisciplinary [response and relief team](#) to advise clients on the business and legal implications of the coronavirus (COVID-19). You can [view all our work](#) on the coronavirus across industries and [subscribe](#) to our future webinars and advisories.

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