

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.

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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

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## 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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