Disaster Tax Relief Taskforce
October 2019

I. Introduction

As part of the Senate Finance Committee's (SFC) effort to address temporary tax policy, the Committee formed bipartisan taskforces to examine 40 temporary tax provisions as well as the standard disaster tax relief provisions passed by Congress in recent years. The Disaster Tax Relief Taskforce (the Taskforce) has an opportunity to evaluate whether a core package of disaster tax relief provisions should be available to taxpayers following certain natural disasters.

Since 2001, Congress has passed eight bills to provide targeted tax relief to individuals and businesses recovering from certain major natural disasters and the September 11 terrorist attacks. During this time, the temporary tax relief provided has varied and legislation has not been enacted in response to each disaster subject to a Major Disaster Declaration by the President. While some have suggested the Congress should add a limited set of disaster tax relief provisions to the Internal Revenue Code of 1986 (the Code), which could take effect upon a Major Disaster Declaration by the President, others have suggested that each disaster is unique and affects taxpayers and local economies differently.

The last time tax relief was provided to victims of a major disaster was in the Bipartisan Budget Act of 2018 (P.L. 115-123) for the 2017 California wildfires. Identical tax relief was provided to victims of Hurricanes Harvey, Irma and Maria in the Disaster Tax Relief and Airport Runway Extension Act of 2017 (P.L 115-63). The tax reform law of 2017 (P.L. 115-97) provided more limited tax relief for victims of major disasters occurring in 2016. Each aforementioned disaster tax relief provision is explained in Part G of publication JCX-22R-19 prepared by the Joint Committee on Taxation (JCT), as seen in the Appendix. Prior to P.L. 115-63, legislation providing disaster tax relief had not been enacted since 2008 even though major disasters occurred during this time.

The Taskforce met with stakeholders to examine previously enacted disaster tax relief provisions since 2002 and to discuss whether selected provisions might merit being added to the Code. Also, stakeholders urged such relief take effect upon a Presidential disaster declaration made under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act). The Taskforce considered comments and proposals from stakeholders, other interested parties, and Senators regarding a set of temporary tax policies. A summary of stakeholder meetings can be found in Part VII and stakeholder comments submitted to the Finance Committee can be found in the Appendix.

The Taskforce did not review disaster relief provided by the Federal Emergency Management Agency (FEMA), U.S. Department of Agriculture (USDA), U.S. Department of Housing and Urban Development (HUD), U.S. Small Business Administration (SBA) or other disaster relief programs outside of the jurisdiction of the Finance Committee.

II. Previously Enacted Temporary Disaster Tax Relief Provisions

The Taskforce was charged with examining a core set of temporary, disaster tax relief policies identified by the SFC and explained by the JCT in JCX-22R-19. These provisions from the Code include:

- Special disaster-related rules for use of retirement funds (Secs. 72(t), 165, 401-403, 408, 457, and 3405)
- Employee retention credit for employers affected by qualified disasters (Sec. 38)
- Temporary increase in limitation on qualified charitable contributions (Sec. 170)
- Special rules for disaster-related personal casualty losses (Sec. 165)
- Special rule for determining earned income for the child tax credit (CTC) and the earned income tax credit (EITC)(Secs. 24(d) and Sec. Sec. 32)

In addition to the core set of disaster tax relief provisions identified by the SFC, the Taskforce reviewed provisions enacted between 2002 and 2008. A list of these provisions can be found in the Memorandum prepared by the Congressional Research Service (CRS) in the Appendix.

III. Taskforce Membership

Senator Burr (R-NC)*
Senator Bennet (D-CO)*
Senator Isakson (R-GA)
Senator Cantwell (D-WA)

*co-leads

IV. Overview of the Taskforce's Work

The Taskforce had five meetings with stakeholders to discuss previously enacted disaster tax relief provisions and tax administration. Some stakeholders urged making permanent one of the provisions described in JCX-22R-19. Additionally, some stakeholders urged making permanent certain provisions in the Memorandum prepared by the CRS.

Additionally, the Taskforce met with the Internal Revenue Service (IRS) to discuss general tax administration challenges following natural disasters. This discussion included types of administrative relief the IRS is currently authorized to provide to taxpayers, including filing relief for individuals, businesses, tax-exempt organizations and tax practitioners. This discussion also included the criteria and process for issuing state-specific Cost Indexes Safe Harbor Method used by taxpayers for determining personal casualty losses similar to Revenue Procedure 2018-09.[1]

[1] https://www.irs.gov/pub/irs-drop/rp-18-09.pdf

V. Summary of Comments Received from Senators

The Taskforce received a June 26, 2019, letter from Senator Fischer, Senator Ernst and Senator Sasse. The letter urges the Taskforce to consider targeted, temporary tax relief for victims of disasters occurring in 2018 and 2019. Specifically, the letter highlights the following provisions from the Disaster Tax Relief Act of 2019 (S. 1133):

- Eliminate the early withdrawal penalty from IRAs for taxpayers in affected areas
- Eliminate the cap on charitable deductions for certain donations
- Expand the casualty loss deduction by waiving the requirement to itemize
- Provide the employee retention credit to businesses in affected areas
- Protect recipients of EITC and CTC living in affected areas who experience a decrease in income

The provisions in S. 1133 mirror the provisions in Title II of the Tax Extender and Disaster Relief Act of 2019 (S. 617), introduced by Chairman Grassley and Ranking Member Wyden. For additional information, see Senate bills listed in Part VI and the comment letter in the Appendix.

VI. Senate bills brought to the attention of the Disaster Taskforce

	Bill	Title	Sponsor	Cosponsors
	S. 617	Tax Extender and Disaster Relief Act of 2019	**Senator Grassley**	**Senator Wyden**
Summary:	The bill provides disaster tax relief benefits to individuals and businesses affected by major disasters occurring in 2018. These benefits include special rules allowing access to retirement funds, a special credit for employee retention during business interruption, suspension of limits on deductions for certain charitable contributions, special rules for deductions for disaster-related personal casualty losses, and special rules for measurement of earned income for purposes of qualification for tax credits.			
	S. 1000	Disaster Opportunity Zones Act	Senator Rubio	Senator R. Scott
Summary:	The bill allows Governors to designate additional areas as Opportunity Zones in 2018 disaster areas. Governors would be allowed to select no more than the greater of 25-percent of the disaster area or 25 qualified low-income census tracts affected by a natural disaster as an opportunity zone.			
	S. 1032	RURAL Act	Senator Portman	Senator Smith
Summary:	The bill would ensure that tax-exempt cooperative organizations do not lose their tax-exempt status when they use of certain government grants, contributions, and assistance, including FEMA reimbursements for disaster recovery.			
	S. 1058	Earthquake Mitigation and Tax Parity Act	Senator Harris	Senator Feinstein
Summary:	The bill modifies the requirements for calculating taxable income to exclude from gross income any earthquake loss mitigation received by a residential property owner or occupant under a state-based earthquake loss mitigation program. "Earthquake loss mitigation" is any property or service that reduces seismic risks to a residential structure or its contents. The term includes any payment, reimbursement, loan, loan forgiveness, grant, credit, rebate, voucher, or other financial incentive for the property or service. The bill applies to earthquake loss mitigation programs established by a state (including an agency, instrumentality, or political subdivision of the state) or by a state with a tax-exempt organization or public instrumentality of the state.			
	S. 1133	Disaster Tax Relief Act of 2019	Senator Fischer	Senators Ernst, Grassley, Sasse
Summary:	The bill provides disaster tax relief provisions to individuals and businesses affected by major disasters occurring between January 1, 2019 and April 15, 2019. These benefits include special rules allowing access to retirement funds, a special credit for employee retention during business interruption, suspension of limits on deductions for certain charitable contributions, special rules for deductions for disaster-related personal casualty losses, and special rules for measurement of earned income for purposes of qualification for tax credits.			
	S. 1677	Filing Relief for Natural Disasters Act	Senator Perdue	Senators Cortez-Masto, Blunt
Summary:	The bill provides the IRS the authority to grant filing extensions based on state-declared disasters upon the request of the governor of such state, or mayor in the case of the District of Columbia.			
	S. 1687	Forest Recovery Act	Senator Hyde-Smith	Senators Boozman, Cotton, Isakson, Rubio, Wicker
Summary:	The bill modifies the tax deduction for casualty losses to establish special rules for losses of uncut timber. In the case of the loss of uncut timber from fire, storm, other casualty, or theft, the basis used for determining the amount of the deduction may not be less than the excess of (1) the fair market value of the uncut timber determined immediately before the loss was sustained, over (2) the salvage value of the timber. The rule applies only if (1) the timber was held for the purpose of being cut and sold, and (2) the uncut timber subject to the loss is reforested within five years of the loss. The bill also exempts casualty losses from uncut timber from the rule restricting the deduction for personal casualty losses to losses attributable to a federally declared disaster.			
	S. 1958	SHELTER Act	Senator Bennet	Senator Cassidy
Summary:	The bill provides up to a 25-percent tax credit of qualifying mitigation expenses. The tax credit has an annual limit of up to $5,000 per taxpayer. Eligible properties include homes or businesses in or adjacent to an area that the federal government has declared a disaster within the past 10 years. Taxpayers who rent a property in eligible areas are also eligible to receive the credit.			
				As of June 30, 2019

VII. Summary of Comments Received from Stakeholders

A brief summary of comments from stakeholder letters and views expressed in meetings can be found below. For additional detail, see stakeholder letters in the Appendix.

Stakeholder comments do not reflect a consensus view of the Taskforce or the view of any specific taskforce member.

"Permanence"

Some stakeholders suggested that Congress should enact disaster tax relief provisions on a permanent basis that could take effect for taxpayers in an area covered by a Major Disaster Declaration issued by the President under section 401 of the Stafford Act. According to stakeholders, such provisions in the Code could provide taxpayers with more certainty following major disasters.

Filing Extensions

Under 26 U.S.C. 7508A, the Treasury Department has the authority to postpone certain deadlines by reason of a presidentially declared disaster. According to the IRS, while the agency has the authority to extend filing deadlines for up to one year, extensions are typically granted for 6 months once FEMA declares a county eligible for "Individual Assistance" or "Individual and Public Assistance" under the Stafford Act.

Some stakeholders suggested that the IRS should have the authority to automatically extend filing deadlines sooner, or prior to a disaster, so taxpayers and tax preparers could have more time to prepare for certain natural disasters or focus on recovery efforts immediately following a natural disaster. For additional detail, see comments by the AICPA, the National Council on Nonprofits, and the North Carolina Center for Nonprofits in the Appendix.

Enhanced Casualty Loss Deduction

Stakeholders urged making "permanent" an enhanced casualty loss deduction, similar to what has previously been enacted following certain major disasters. Stakeholders noted that following certain disasters Congress has temporarily waived the requirement to itemize and allowed taxpayers to deduct without regard to the net losses exceeding 10-percent of a taxpayer's AGI. For additional detail, see comments by the AICPA in the Appendix.

Employer Retention Credit

Stakeholders urged this credit be made "permanent." According to stakeholders, the employer retention credit can provide a boost to local economies and could encourage employers to continue to pay employees even when a business is inoperable due to a disaster. For additional detail, see comments by the AICPA and First Advantage Corporation in the Appendix.

Other stakeholders commented that this credit is not available to nonprofit organizations, but that it should be. Specifically, they urged expanding eligibility of the credit to nonprofits by allowing the credit to be used to offset payroll tax liability. The nonprofit organizations' rationale for this change was that certain organizations continue to operate in times of disaster to provide relief and thus should be eligible for a similar employer tax credit. For additional detail, see comments by the National Council on Nonprofits and the North Carolina Center for Nonprofits in the Appendix.

Penalty-free hardship distributions from retirement accounts

Some stakeholders urged creating a permanent safe-harbor to waive the 10-percent, early withdrawal, penalty for distributions from retirement accounts in certain situations. For additional detail, see comments by the AICPA in the Appendix.

Other stakeholders suggested the aforementioned recommendation might not be the best policy on a "permanent" basis because it could encourage leakage.

Some stakeholders also suggested that the IRS should finalize regulations (REG–107813–18) that propose an additional disaster-related safe harbor for plan administrators under "Deemed Immediate and Heavy Financial Need."[2] Stakeholders commented that the proposed exception would not require plans to offer a disaster-related hardship, nor would the safe harbor waive the 10-percent penalty as Congress has occasionally done after certain major disasters.

JCT notes that there are several federal disaster relief programs designed to address short-term liquidity constraints on individuals and businesses following natural disasters, such as FEMA's "Individual Assistance" program and the low-interest disaster loans provided by the Small Business Administration to homeowners and business owners. For additional detail, see Part G of JCX-22R-19.

[2]The IRS published the final regulation in the Federal Register (TD 9875) on September 23, 2019.

Earned Income Tax Credit (EITC) and Child Tax Credit (CTC) computation

Following certain natural disasters, legislation was enacted to allow for "income smoothing" for purposes of calculating the EITC and the CTC. Generally, the provision allowed individuals to use their earned income for the taxable year prior to the disaster if their earned income for the year in which the disaster occurred is less. The provision may benefit taxpayers who live or work in a disaster-affected area and experience a reduction of income due to the disaster, particularly those who experience no income in the year of a disaster. Stakeholders urged this provision be made "permanent" and affected taxpayers should be able to use either their current year or previous year's income, whichever is more beneficial to the taxpayer. For additional information, see comments by the AICPA in the Appendix.

Tax-preferred bonds

Stakeholders commented that previously enacted temporary provisions between 2002 and 2008 could be helpful, particularly when Federal relief may not be immediately available following a natural disaster. Stakeholders commented that disaster recovery often include long-lived capital assets, such as sewer, water, transportation, and other assets that provide municipal services. Stakeholders noted that previously enacted provisions included an additional allocation of exempt facility bonds, qualified mortgage revenue bonds, and tax credit bonds with a maximum maturity of two years to assist with payments of principal and interest on outstanding qualified state or local bonds. For additional detail, see comments provided by the National Association of Bond Lawyers in the Appendix.

Discharge of indebtedness

Stakeholders noted that after some major disasters, Congress provided tax relief for cancelled, non-business debts that were the direct result of loss, property damage or other factors directly related to a major disaster. Stakeholders urged this relief be made "permanent." For additional detail, see comments by the AICPA in the Appendix.

Involuntary Conversions (Sec. 1033)

Section 1033 of the Code allows taxpayers to replace certain property involuntarily converted with similar property, without recognizing gain. Under current law, replacement property must be acquired within two to four years, after the close of the first taxable year in which any part if the gain is realized. The replacement period varies depending on the type of property and whether the property was involuntarily converted due to a disaster.

The Taskforce received comments urging the replacement period for involuntary conversions directly related to disasters be extended to five years. Stakeholders noted that following certain major disasters, more time than normal might be needed to receive insurance proceeds or receive a local building permit. For additional detail, see comments by the AICPA in the Appendix

Net Operating Loss

Stakeholders noted that following certain major disasters, Congress allowed businesses impacted by disasters to carryback NOLs for up to five years. Stakeholders urged this provision be made "permanent." For additional detail, see comments by the AICPA in the Appendix.

Enhanced charitable deductions

Stakeholders commented that a new, temporary, universal, charitable deduction, or above the line deduction, could be beneficial to certain nonprofit organizations. Stakeholders indicated such a provision could apply only to contributions made to organizations involved in relief and recovery efforts in the disaster area. For additional detail, see comments by the National Council on Nonprofits, the North Carolina Center on Nonprofits, and Inperium in the Appendix.

Mitigation tax credit (SHELTER Act)

Stakeholders commented that pre-disaster mitigation could help to minimize damages resulting from natural disasters. Specifically, stakeholders commented, "encouraging mitigation is essential in minimizing damages from natural disasters and saving communities and the government money after a disaster strikes." Stakeholders urged the Taskforce to consider the SHELTER Act (S. 1958), introduced by Senator Bennet and Senator Cassidy, which would create a new tax credit of up to 25-percent of the cost of qualifying disaster mitigation expenditures. For additional detail, see comments by the Insurance Institute in the Appendix.

VIII. Conclusion

The Taskforce would like to thank stakeholders for taking the time to submit comments and provide feedback on ways to improve disaster tax relief for taxpayers.

IX. Appendix of Stakeholder Submissions

DISASTER RECOVERY BOND FINANCING

CONSIDERATIONS FOR CONGRESS

National Association of Bond Lawyers

September 5, 2018

NOTICE

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DISASTER RECOVERY BOND FINANCING

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APPENDIX A – SUMMARY OF PRIOR DISASTER RECOVERY LEGISLATION

APPENDIX B – LIST OF WORKING GROUP MEMBERS

OVERVIEW

A major disaster—whether a flood, earthquake, hurricane, wildfire or terrorist attack—leaves any community in disarray: families are left homeless, businesses are saddled with crippling casualty losses, first responders are stretched to or past the limits of their ability to impactfully respond, and public infrastructure is damaged and destroyed. The economic impacts of these major disasters can be profound. For example, in addition to the physical damage caused in New York City on September 11, 2001, the terrorist attacks are estimated to have caused economic losses of up to $123 billion.[1] In the 10 months immediately following Hurricane Katrina, researchers estimated the loss of over 95,000 jobs and $2.9 billion in lost wages for New Orleans residents alone, with 76% of the lost wages attributable to the private sector.[2] And the effects of the widespread and severe 2008 floods across the Midwest just on the city of Cedar Rapids, Iowa, are estimated to have caused a $447 million reduction in GDP.[3] More recently, in the immediate aftermath of Hurricane Harvey, overall economic loss estimates initially ranged between $70 and $190 billion.[4,5]

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[1] Carter, Shan and Amanda Cox, "One 9/11 Tally: $3.3 Trillion," New York Times (published 9/8/2011, available at http://www.nytimes.com/interactive/2011/09/08/us/sept-11-reckoning/cost-graphic.html, last visited August 7, 2018).
[2] Dolfman, Michael L. et al., "The Effects of Hurricane Katrina on the New Orleans Economy," pg. 7, Monthly Labor Review (June 2007, available at https://www.bls.gov/opub/mlr/2007/06/art1full.pdf (last visited August 7, 2018)).
[3] Robinson, Dennis P., "Regional Impacts of the 2008 Cedar Rapids Flood", p. 9 (published May 17, 2010, available at http://www.cedar-rapids.org/Public%20Works/Flood%20Control%20System/Cedar%20Rapids%20RED%20 Report,%205-17-10.pdf (last visited August 7, 2018).
[4] Holmes, Frank. "We Looked Into the Effects of Hurricane Harvey and Here's What We Found," Forbes.com Sept. 5 2017 (available at https://www.forbes.com/sites/greatspeculations/2017/09/05/we-looked-into-the-effects-of-hurricane-harvey-and-heres-what-we-found/#673956cb76f1, last accessed August 7, 2018).
[5] The economic impacts are not limited to the disaster area: actual fuel shortages or fears thereof can cause spikes nationwide. After both 9/11 and Hurricane Katrina, gas prices increased across the nation. See Gasoline Prices Skyrocket in Some Parts of the Country, CNN (September 12, 2001, 8:10 AM), http://www.cnn.com/2001/US/09/12/gas.prices/, last accessed August 7, 2018, and Kent Bernhard Jr., Pump Prices Jump Across U.S. after Katrina, NBC NEWS (September 1, 2005, 8:54 AM), http://www.nbcnews.com/id/9146363/ns/business-local_business/t/pump-prices-jump-across-us-after-katrina/#.VWeMC010zbg, last accessed August 7, 2018.

In every community, however, local businesses generally rely on local workers, local workers rely on available housing and utilities, and local governments rely on tax and other revenues from local businesses, property owners and rate payers to fund the basic services—clean water, police and fire protection, schools, etc.—necessary to keep businesses and residents in place. During and immediately after the disaster, law enforcement agencies and other first responders often need additional personnel and resources in order to provide basic services to the community. [6] Damage to infrastructure, interruptions in communications systems,[7] damaged and destroyed equipment,[8] and widespread debris[9] add to the challenges for law enforcement.

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[6] After Hurricane Katrina, an increased demand for law enforcement when local enforcement agencies were struggling with a reduced "operating capacity due to destroyed equipment and facilities" led to the highway patrol, state police, and other investigative agencies providing assistance, but with only modest effects. Michael R. Smith & Jeff Rojek, Law Enforcement Lessons Learned from Hurricane Katrina, 24 REV. OF POL'Y. RES. 596 (2007).

[7] Because of communication breakdowns after the 9/11 attacks, "rescuers were forced to make rapid-fire, life-and-death decisions based on poor communications, contributing to the World Trade Center death toll." Joel Roberts, Communication Breakdown on 9/11, CBS NEWS (May 18, 2004, 8:59 PM), http://www.cbsnews.com/news/communication-breakdown-on-9-11/, last accessed on August 7, 2018. Further, a bipartisan commission on the 9/11 attacks concluded that many firefighters lost their lives because of the breakdown in communication between the fire department and the police department. Communication breakdowns also created obstacles in search and rescue efforts following Hurricane Katrina. Smith & Rojek, Law Enforcement at 4.

[8] The attacks of 9/11 caused $600 million in vehicle and equipment damages for the New York City Police and Fire Departments. FEMA provided approximately $643 million as aid to the New York City Police and Fire Departments to pay benefits and wages to emergency workers and to replace vehicles and equipment damaged by the disaster. See U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-03-926, DISASTER ASSISTANCE: INFORMATION OF FEMA'S POST 9/11 PUBLIC ASSISTANCE TO THE NEW YORK CITY AREA, 18 (2003), available at http://www.gao.gov/assets/240/239484.pdf, last accessed August 7, 2018.

[9] For example, as a result of fallen trees and debris, and no with means to remove the debris, "a one- and-a-half-hour trip from Hattiesburg, Mississippi, to the coast took Mississippi Highway Patrol officials nine hours on the afternoon after Hurricane Katrina struck." Smith & Jeff Rojek, Law Enforcement at 3. After 9/11, over $700 million was spent "removing, screening, and disposing of 1.6 million tons of debris." U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-03-926, supra note 8. Post-Katrina debris removal in Biloxi, Mississippi cost $70 million for the disposal of three million cubic yards of debris, and the project took over 18 months to complete. Vincent Creel, From City of Biloxi: Answers to Five-Year Questions, GULFCOASTNEWS.COM (Aug. 28, 2010), http://www.gulfcoastnews.com/gcnarchive/2010/gcnnewsbiloxikatrinarecovery5years082810.htm, last accessed August 7, 2018.

Disasters also frequently leave environmental and health concerns in their wake that can impact the ability of families to rebuild their homes.[10]

Despite containing a useful guide for designating disaster areas, the federal aid which follows such a designation, provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act")[11] and other sources, may not be immediately available for local governments to use to address emergency issues.

Against this backdrop of extraordinary expenses and the need for immediate action, local governments must address a host of issues that stress all phases of the relationships among businesses, residents, and government. These issues frequently not only fall far afield from the budget categories typically considered by local governments, but demand rapid resource deployment to mitigate immediate negative and ongoing economic impacts. As Congress has recognized on multiple occasions,[12] even where local governments have a "rainy day fund" to pay a portion of these costs, the resources available to local governments to address other challenges may not be sufficient to manage disaster emergencies, and in the case of a major disaster, these funds are unlikely to provide sufficient cash flow to cover costs until other aid can arrive.

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[10] A post-Katrina report on environmental and related health concerns noted issues related to power, natural gas, food safety, drinking water, wastewater, solid waste removal, and chemical contaminants. See ENVIRONMENTAL HEALTH NEEDS AND HABITABILITY ASSESSMENT, https://nepis.epa.gov/Exe/ZyPURL.cgi?Dockey=P1005YTG.TXT.

[11] 42 U.S.C. § 5121, et seq. The Stafford Act establishes two different levels of federal response: an "emergency" and the declaration of a "disaster" by the President. A disaster declaration opens the door to a wide variety of forms of assistance by the federal government. The declaration of a disaster is "based on a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary." Section 401 of the Stafford Act describes the conditions necessary for intervention by the President. Declaration of a disaster by the President could be the result of any "major disaster," which encompasses all natural catastrophes, including hurricanes, floods, tornadoes, winter storms, and wildfires.

[12] See Exhibit A for illustrative legislation providing additional resources for disaster relief.

Although Congress has historically adopted individual assistance packages for disaster-stricken areas,[13] state and local governments need Congress to proactively support American communities through permanent, comprehensive disaster recovery legislation to address the immediate effects of a disaster and to rebuild these communities and their economies more quickly.

Congress's legislative responses to previous disasters implicitly acknowledge that, while traditional disaster recovery resources (including those available under the Stafford Act) and capital financing strategies are excellent tools for the state and local governments that generally lead the recovery efforts, such federal aid or private capital frequently may arrive too late or at too great a cost to mitigate the worst impacts of a major disaster on local communities. Permanent, comprehensive disaster-recovery legislation would enable state and local governments to more quickly and efficiently:

- Stabilize local communities and accelerate repopulation;
- Promote investments of private capital in disaster-stricken areas; and
- Leverage existing federal resources for enhanced job creation.

The National Association of Bond Lawyers ("NABL") respectfully submits this summary of policy ideas for consideration as a first step to creating comprehensive, permanent disaster recovery legislation to address these issues. These suggestions are based on legislation previously adopted by Congress in response to 9/11, Hurricane Katrina, and the 2008 Midwest floods; a summary chart comparing the provisions of those legislative efforts is included as Appendix A for reference.

[13] See Exhibit A for a comparison and description of three instances in which Congress provided local governments with tools to help address disaster recovery efforts.

NABL would be happy to assist the Congress of the United States, the United States Department of Treasury ("Treasury") and the Internal Revenue Service in considering the burdens and benefits of specific legislative proposals to address permanent disaster recovery legislation.

If NABL may provide further assistance, please contact Jessica Giroux, Director of Governmental Affairs in our Washington, DC, office at (202) 503-3290 or jgiroux@nabl.org.

I. Stabilizing Local Communities and Accelerating Repopulation

Immediately after a major disaster, local communities need the ability to fund basic and emergency services necessary to stabilize the community, to begin the process of rebuilding infrastructure in the community, and to get families back into homes. In short, these communities need available cash.

Existing law limits local governments' ability both to prepare for these situations and to react to increased spending needs after a disaster. Currently, local governments cannot easily finance reserves to prepare for potential disasters and are limited in which expenditures can be financed, regardless of how common those expenditures may be in disaster recovery efforts.[14] With a broad array of needs and an anticipation of assistance that will be directed toward specific purposes, local governments may be forced to delay critical projects while awaiting funding determinations from federal, state or outside agencies. In addition, existing housing resources are often too limited to enable families to return and rebuild their homes.

Comprehensive disaster-relief legislation should address these issues by doing the following:

1. To address working capital needs, revise Treasury regulations to permit local governments to expressly recognize a reasonable "disaster recovery" working capital reserve at levels sufficient to meet the needs created by a disaster—and in excess of 5% of the

[14] Because the procedure for addressing disasters is also impacted by state laws, this paper does not address potential incentives for local governments to coordinate their efforts, nor does it address specific interactions with existing requirements under the Stafford Act. Some of the policy suggestions contained here, however, would necessarily require consideration of applicable requirements for reimbursement under existing guidelines for federal assistance under the Stafford Act and other federal programs.

previous year's working capital expenditures[15] —which could be financed or maintained without resulting in tax-exempt bond proceeds being deemed not to be spent.

2. To address financing costs of extraordinary, non-recurring expenditures such as casualty losses, permit Treasury to draft regulations allowing tax-exempt financing to provide for costs incurred in connection with direct losses resulting from a disaster.[16]

3. To provide broader recovery funding for local projects, expressly recognize that proceeds of tax-exempt bonds are spent once allocated to a recovery-related project and permit reimbursements of recovery-related costs paid with proceeds of tax-exempt bonds to be reallocated to other expenditures related to the post-disaster recovery, regardless of the initial allocation of disaster bond proceeds. In many cases, reimbursement by FEMA (or other federal or state programs) is speculative and may not be realized for months or even years following the original expenditures. In cases in which the expenditure is originally paid with the proceeds of tax-exempt bonds, the accounting ramifications that result can be overly burdensome, or even exacerbated by staff turnover or communication challenges among local, state, and federal officials. Congress can eliminate this burden by expressly permitting reimbursement funding to be used for other recovery-related expenditures without jeopardizing the tax-exempt status of the original bonds.

[15] See Treas. Reg. § 1.148-6(d)(3)(iii).

[16] Regulations may require any self-insurance or similar reserves already set aside to be exhausted before proceeds may be allocated to the losses. Possible amendments to existing regulations may include broadening the category of expenditures described in Treasury Regulation § 1.148-6(d)(3)(ii)(B) to expressly permit not only direct casualty losses, but other extraordinary costs or increased operating costs that arise from a disaster. Additional extraordinary costs may include overtime pay, expenses to relocate staff and equipment, and additional expenditures related to deploying resources to support the recovery, as well as permitting the financing of such expenditures without fully exhausting self-insurance or similar reserves.

4. Ease private activity restrictions on governmental bonds during a designated period to permit local governments to offer low-cost space to federal agencies and private and not-for-profit recovery organizations that provide critical recovery services.

5. To encourage rebuilding and development through home building in disaster areas, authorize local governments to issue qualified mortgage bonds without eligibility restrictions such as income and purchase price limitations and first-time homebuyer requirements.[17]

6. Increase the eligible area median income thresholds related to multifamily housing developments and allow affordable housing bonds to qualify as tax-exempt if 20% of the units are held for households earning up to 60% of area median income or if 40% of the units are held for households earning up to 70 or 80% of area median income (often described as "workforce housing").

7. Grant additional low-income housing tax credit authority to each State and allow States to convert unused carryforward volume cap from previous years to additional low-income housing tax credit authority, insuring that each State has the ability to maximize that which it has been granted to allow homes to be built or rebuilt.

8. Allow states to "carry forward" unallocated low-income housing tax credits from year to year to further support rebuilding and development of affordable housing in disaster-stricken areas.

9. Permit state and local governments impacted by a disaster the flexibility to restructure bond indebtedness by allowing them to advance refund outstanding tax-exempt

[17] GO Zone Mortgage Revenue Bonds provided needed assistance to a number of people affected by Hurricane Katrina. However, even with the raised income limits, a number of residents were not able to take advantage of the relief Congress granted.

bonds (regardless of whether such bonds were previously advance refunded prior to passage of tax reform legislation in 2017).

10. Assist distressed communities in providing for ongoing operating costs and debt repayment, through principal forgiveness (e.g., ARRA clean-drinking water programs), authority to borrow on a tax-exempt basis for capitalized interest on non-enterprise projects, and interest subsidies (e.g., Build America Bonds).

11. Provide express authority to issue long-term tax-exempt indebtedness to finance short-term assets (such as police cars, emergency vehicles, operating expenses and extraordinary expenditures directly related to the disaster) to strengthen debt service coverage ratios and maximize cash flow relief to local governments.

II. Promoting Investments of Private Capital in Disaster-Stricken Areas

The proposals described above are useful, but communities still need the capital markets to invest private capital in disaster-stricken areas to help fund the recovery efforts. Thus, providing state and local governments the ability to react to a disaster solves just half the problem; comprehensive disaster-relief legislation should also promote private investment in distressed communities.

Disaster-stricken areas pose special challenges because the communities looking to the capital markets are coming off an event most politely described as a "potential credit negative." Disaster-related damages may result in significant decreases in government fund balances, property losses, and reductions in property values (reducing the property tax base), distressing the community's financial position and perceived credit-worthiness. Disaster-recovery legislation can address these issues both by helping local governments improve their balance

sheets and by providing incentives to investors, all with the goals of allowing communities recovering from a disaster to develop balance sheet strength and access to low-cost capital.

Some ideas to address "potential credit negative" impacts are described below:

1. Provide Community Reinvestment Act Credit for banks that lend to communities engaged in disaster-recovery efforts.

2. Allow exceptions to the prohibitions on federal guarantees of tax-exempt bonds to permit disaster-stricken areas to leverage aid under the Stafford Act, other federal aid, and Federal Home Loan Bank ("FHLB") credit support through a standby letter of credit (or other credit enhancement) in support of a letter of credit (or other credit enhancement) issued by a member bank.[18]

3. Increase the limit on the amount of obligations that may be designated as "bank qualified" under Section 265 from $10,000,000 to a higher limit, such as $30,000,000 for issuers in disaster-stricken areas for a designated period of time.

4. Revise the "bank qualified" provisions so that (i) any issuer, not just a qualified small issuer, may designate up to a stated amount of bank-qualified bonds in disaster-stricken areas for a designated period of time, and (ii) bonds issued by a conduit issuer on behalf of a local government are not aggregated with other bonds issued by that conduit issuer.

5. Permit local governments to specifically pledge FEMA reimbursement funds as security for the payment of bonds.

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[18] FHLB enhancement could also be limited to a maximum period, similar to exceptions temporarily allowed under the Housing Assistance Tax Act of 2008. See I.R.C. § 149(b)(3)(A)(iv)..

6. Encourage a regional approach to recovery by easing current restrictions on pool programs, including "blind pools," to permit communities to share credit risks and the benefits of recovery.

7. Authorize states with disaster-stricken areas to issue tax credit bonds (such as the Gulf Tax Credit Bonds) and to lend proceeds of such bonds to local communities in said disaster-stricken areas within the state to fund local recovery-related projects and/or refinance state and local obligations outstanding at the time of the disaster declaration.

III. Leveraging Federal Resources for Enhanced Job Creation

For disaster-recovery legislation to be truly comprehensive, it must not only assist local governments in stabilizing day-to-day life after the disaster, help residents return and rebuild their homes, and incentivize private capital to invest, but it also should provide opportunities for business owners to redevelop and make available the jobs necessary to maintain the community over the long term. To be truly successful, these opportunities should both assist in restoring damaged property and encourage private innovation to help communities prosper at the same time as they recover. In addition, disaster-recovery legislation should acknowledge and support the various local economic drivers in different parts of the country. Specific disaster-recovery authorization in favor of the recovery of private employers can also allow local governments to effectively prioritize projects to expedite rebuilding the local economy.

To advance these goals, comprehensive disaster-recovery legislation should:

1. Build on prior disaster-recovery legislation by permitting broad types of private enterprise to access tax-exempt financing in disaster-recovery areas: hotels, office buildings, retail stores, medical clinics and other healthcare facilities, public utility property, warehouses, and manufacturing plant buildings.

2. Provide specific legislative provisions to define allowable redevelopment projects and additional capital projects to revitalize and develop the disaster area post-recovery.[19]

3. Provide for broader allowances on use of tax-exempt financing for rehabilitation, as limitations are likely to discourage smaller businesses with more limited replacement costs from rebuilding.

4. Allow equipment and movable fixtures to qualify as eligible project expenditures so long as these assets are not located outside of, or removed from, the disaster area.

5. Permit borrowers of tax-exempt exempt facility and qualified 501(c)(3) bonds relief from standing restrictions on refunding and advance refunding their outstanding obligations, so long as the proceeds of those obligations were used primarily in the disaster area.

6. Permit replacement of livestock as a qualified project cost in areas where livestock may be a significant asset in the local economy.

7. Ease public-private partnership restrictions to enable alternative sources of private funds to flow more easily into the disaster area.

8. Eliminate limitations to recapture eligible expenditures prior to an issuer's adoption of an official intent resolution and enable businesses facing significant challenges post-disaster to immediately make significant expenditures without the requirement of an "official intent declaration." While expenditures would still have to be qualified project costs under exempt facility bond provisions and be allocated under reimbursement allocation provisions, businesses would be able to react more quickly in the aftermath of a disaster.

[19] The Heartland Disaster Tax Relief Act, and subsequent notices from the I.R.S., provided a very broad definition for replacement projects; however, much uncertainty surrounded the interpretation of the Heartland Disaster Tax Relief Act. As a result, governmental entities issued few Midwest Disaster Area Bonds prior to receipt of Internal Revenue Service Notice 2010-10, which provided, among other things, guidance on replacements projects.

9. Authorize accelerated depreciation for assets financed under the provisions of the disaster-recovery legislation to enhance compatibility with private sector financing models.

10. Provide other significant tax incentives to support private business, such as 5-year net operating loss carry-forward, recognition of an entire disaster area as a "low income community" for new markets tax credits purposes and allocation of additional new markets tax credits for use therein, designation of disaster areas as "qualified opportunity zones" under the recently enacted Investing in Opportunity Act (26 USC §§ 14002-1 & 14002-2), special incentives for employers, and expensing of demolition and cleanup charges.

11. Use a formula to provide a maximum private activity bond volume cap with no restriction on years of carryforward for disaster-recovery areas to help local governments more effectively designate disaster-recovery private activity bond volume cap to allow for the prioritization of projects post-disaster.

12. Incentivize states to encourage disaster preparedness and economic recovery efforts through local resources, such as:

a. establishing local credit enhancement programs;

b. establishing a long-term revolving loan fund to finance businesses in disaster-stricken areas for reconstruction, rehabilitation, and development of eligible projects at low or below-market interest rates, or with principal forgiveness if the business meets certain job creation and capital investment requirements; and

c. providing ad valorem tax exemptions and sales or use tax exemptions on project purchases along with other state tax incentives.

IV. Conclusion

In order to expedite economic recovery and retain jobs in disaster-stricken areas, Congress should consider enacting standing legislation to help local governments partner with capital markets stakeholders and with private businesses to stabilize their communities and their economies. This can be accomplished by giving those governments the tools to move quickly, permitting them the flexibility to address sudden, extraordinary demands for capital. With these tools, local governments can help Americans rebuild their homes, restart their businesses, and get back to work improving their communities.

APPENDIX A

SUMMARY OF PRIOR DISASTER RECOVERY LEGISLATION[1]

	Job Creation and Work Assistance Act of 2002[2]	*Gulf Opportunity Zone Act of 2005*[3]	*Heartland Disaster Tax Relief Act of 2008*[4]	
EXEMPT FACILITY AND QUALIFIED MORTGAGE BONDS				
Bonds Authorized	Liberty Bonds	Qualified Gulf Opportunity (“GO”) Zone Bonds	Qualified Midwestern Disaster Area Bonds	Qualified Hurricane Ike Disaster Area Bonds
Eligible Issue Dates	3/9/02 – 1/1/14	12/21/05 – 1/1/12	10/3/08 – 1/1/13	10/3/08 – 1/1/13
Eligible Issuers	State of NY and any political subdivision	Alabama, Louisiana, Mississippi	Any state in which a Midwestern disaster area is located	Any state in which a Hurricane Ike disaster area is located (Texas, Louisiana)
Annual Issuance Limits	No	No	No	No
Maximum Aggregate Issuance Limits	$8 billion	$2,500 per state resident based on 2004 U.S. Census data: • Alabama: $2.1 billion; • Louisiana: $7.9 billion; • Mississippi: $4.9 billion	$1,000 per Midwestern state resident based on most recent U.S. Census data before *earliest* applicable disaster date for Midwestern disaster areas within the state	$2,000 per State per resident of specified counties in Texas and Louisiana based on most recent census estimate before 9/13/08
Approving Authority	$4 billion by Governor of New York; $4 billion by Mayor of City of New York	• Alabama: Governor • Louisiana: State Bond Commission; and • Mississippi: Governor.	Governor of relevant state, but on the basis of providing assistance to areas in the order in which such assistance is most needed	Governor of relevant state, but on the basis of providing assistance to areas in the order in which such assistance is most needed
Eligible Uses of Proceeds	95% or more of net proceeds used for “qualified project costs”	• 95% or more of net proceeds used for “qualified project costs”, or • Meets the requirements of a qualified mortgage issue, except as otherwise provided	• 95% or more of net proceeds used for “qualified project costs”, or • Meets the requirements of a qualified mortgage issue, except as otherwise provided	• 95% or more of net proceeds used for “qualified project costs”, or • Meets the requirements of a qualified mortgage issue, except as otherwise provided
“Qualified Project	• Costs of the	• Costs of any	• Costs of any	• Costs of any

[1] The Consolidated Appropriations Act, 2018, P.L. 115-141, which was signed into law on March 23, 2018, repealed I.R.C. §§ 1400L and 1400N. As a guide to the reader, however, the relevant portions of the Internal Revenue Code are referenced here as they read prior to repeal.

[2] Pub. L. 107-147, § 301(a), 116 Stat. 33 (previously codified at I.R.C. § 1400(L) (2002)).

[3] P.L. 109-135, Tit. I, § 101(a), 119 Stat. 2579 (previously codified at I.R.C. § 1400(N) (2005)).

[4] Pub. L. No. 110-343, §§ 702, 704, 122 Stat. 3765 (modifying prior § I.R.C. 1400(N) (2008)).

	Job Creation and Work Assistance Act of 2002[2]	*Gulf Opportunity Zone Act of 2005*[3]	*Heartland Disaster Tax Relief Act of 2008*[4]	
Costs"	acquisition, construction, reconstruction, and renovation of nonresidential real property and residential rental property (including fixed tenant improvements associated with such property) located in the "New York Liberty Zone"[5] • Costs of public utility property located in the New York Liberty Zone; and • Costs of the acquisition, construction, reconstruction, and renovation nonresidential rental property (including fixed tenant improvements associated with such property) located outside the New York Liberty Zone but within the City of New York, if such property was part of a project which consisted of at least one hundred thousand (100,000) square feet of usable office or other commercial space located in a single building or multiple adjacent buildings	qualified residential rental project in the GO Zone; • Costs of the acquisition, construction, reconstruction and or renovation of non-residential real property (including buildings and their structural components and fixed improvements); or • Costs of public utility property.	qualified residential rental project in the Midwestern disaster area; • Costs of the acquisition, construction, reconstruction and or renovation of non-residential real property (including buildings and their structural components and fixed improvements); or • Costs of public utility property.	qualified residential rental project in the Midwestern disaster area; • Costs of the acquisition, construction, reconstruction and or renovation of non-residential real property (including buildings and their structural components and fixed improvements); or • Costs of public utility property.
Special Rules relating to issues to finance "qualified project costs"	• Not more than $2 billion could be issued for projects outside of NY Liberty Zone; • Not more than $1.6 billion for residential rental property; • Not more than	• Qualified residential rental projects satisfy §142(d)(1) tests with 20% of units at 60% AMI or 40% at 70% AMI • Eligible for 2-year spending exception from rebate	• Qualified residential rental projects satisfy §142(d)(1) tests with 20% of units at 60% AMI or 40% at 70% AMI • Eligible for 2-year spending exception from rebate	• Qualified residential rental projects satisfy §142(d)(1) tests with 20% of units at 60% AMI or 40% at 70% AMI • Eligible for 2-year spending exception from rebate

[5] The "New York Liberty Zone" is defined under Section § 1400L(h) of the Code to include the "area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York."

	Job Creation and Work Assistance Act of 2002[2]	*Gulf Opportunity Zone Act of 2005*[3]	*Heartland Disaster Tax Relief Act of 2008*[4]	
	$800 million for facilities used for retail sales of tangible property and functionally related and subordinate property.		• For projects involving a private business use, the person using the property either suffered a loss in a trade or business attributable to the designated disaster, or is a person designated in the disaster area as a person carrying on a trade or business replacing a trade or business with respect to which another person suffered a loss, and, in the case of public utility property, the project involves repair or reconstruction of public utility property damaged by the disaster	• For projects involving a private business use, the person using the property either suffered a loss in a trade or business attributable to the designated disaster, or is a person designated in the disaster area as a person carrying on a trade or business replacing a trade or business with respect to which another person suffered a loss, and, in the case of public utility property, the project involves repair or reconstruction of public utility property damaged by the disaster
Qualified Mortgage Issue Requirements	N/A	• Only applicable to owner-occupied residences in the GO Zone, but such residences are treated as a targeted area residence • All financing (without exception) must be provided to mortgagors with a family income not more than 115% of AMI • "Qualified home improvement loans" up to $150,000 • Except as allowed under IRC §143, any use of repaid principal of an issue may not be used to provide financing • For purposes of Section 143, expenditures for the repair or reconstruction of a residence of at least 25% of mortgagor's adjusted basis in the property (determined	• 95% of the proceeds of the issue must be used for mortgagors who suffered damages to their principal residences attributable to the disaster • Only applicable to owner-occupied residences in the Midwestern disaster area, but such residences are treated as a targeted area residence • All financing (without exception) must be provided to mortgagors with a family income not more than 115% of AMI • "Qualified home improvement loans" up to $150,000 • Except as allowed under IRC §143, any use of repaid principal of an issue may not be used to provide financing • For purposes of	• 95% of the proceeds of the issue must be used for mortgagors who suffered damages to their principal residences attributable to the disaster • Only applicable to owner-occupied residences in the Midwestern disaster area, but such residences are treated as a targeted area residence • All financing (without exception) must be provided to mortgagors with a family income not more than 115% of AMI • "Qualified home improvement loans" up to $150,000 • Except as allowed under IRC §143, any use of repaid principal of an issue may not be used to provide financing • For purposes of

	Job Creation and Work Assistance Act of 2002[2]	*Gulf Opportunity Zone Act of 2005*[3]	*Heartland Disaster Tax Relief Act of 2008*[4]	
		at the later of completion or acquisition of the residence) are treated as "qualified rehabilitation"	Section 143, expenditures for the repair or reconstruction of a residence of at least 25% of mortgagor's adjusted basis in the property (determined at the later of completion or acquisition of the residence) are treated as "qualified rehabilitation"	Section 143, expenditures for the repair or reconstruction of a residence of at least 25% of mortgagor's adjusted basis in the property (determined at the later of completion or acquisition of the residence) are treated as "qualified rehabilitation"
Limits on Existing Property	Improvements must have been made to the property in an amount not less than fifty percent (50%) of the purchase price.	Improvements must have been made to the property in an amount not less than fifty percent (50%) of the purchase price.	Improvements must have been made to the property in an amount not less than fifty percent (50%) of the purchase price.	Improvements must have been made to the property in an amount not less than fifty percent (50%) of the purchase price.
Movable Fixtures or Equipment eligible?	No.	No.	No.	No.
Subject to TEFRA requirements under 147(f)[6]	Yes.	Yes	Yes	Yes
Subject to limits on useful lives of assets financed under 147(b)	Yes.	Yes	Yes	Yes
25% limit on proceeds used to acquire land under 147(c)(1)(A)	Yes.	Yes	Yes	Yes
Interest subject to AMT	No.	No.	No.	No.
Subject to use restrictions	Yes, under 147(e)[7].	Yes, under I.R.C. § 144(c)(6)(B).[8]	Yes, under I.R.C. § 144(c)(6)(B).	Yes, under I.R.C. § 144(c)(6)(B).
ADVANCE REFUNDING BONDS				
Authorizing Statute	I.R.C. § 1400L(e)	I.R.C. § 1400N(b)	N/A	N/A
Provides For	One additional advance refunding of	One additional advance refunding of		

[6] Code Section 147(f) provides that public approval must be obtained with respect to the issuance of a private activity bond for such bond to be a qualified private activity bond. The public approval must be obtained from (i) a governmental unit that issued such bond or on behalf of which such bond was issued and (ii) each governmental unit with jurisdiction over the area in which any facility financed by such bond is located. *See* I.R.C. § 147(f)(2).

[7] This restriction includes any airplane, skybox or other private luxury box, health club facility, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

[8] This restriction includes any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

	Job Creation and Work Assistance Act of 2002[2]	*Gulf Opportunity Zone Act of 2005*[3]	*Heartland Disaster Tax Relief Act of 2008*[4]	
	bonds not otherwise eligible for advance refunding	bonds not otherwise eligible for advance refunding		
Date requirements	3/9/02 – 1/1/06	12/21/05 – 1/1/11		
Eligibility	Only bonds outstanding on 9/11/01 that were state or local bonds which were: • A general obligation of the City of New York; • A state or local bond other than a private activity bond issued by the NY Municipal Water Finance Authority, the Metropolitan Transportation Authority of the State of New York, or the Municipal Assistance Corporation; or • A qualified 501(c)(3) bond which is a qualified hospital bond[9] issued by or on behalf of the State of New York or New York City.	Only bonds outstanding on 8/28/05 and issued by the States of Alabama, Louisiana or Mississippi (or their political subdivisions) are eligible; must be designated by Governor		
Aggregate limits	Maximum face amount of bonds so designated cannot exceed: • $4.5 billion – Governor of New York; • $4.5 billion – Mayor of New York City	Maximum face amount of bonds so designated cannot exceed: • $4.5 billion – Louisiana; • $2.25 billion – Mississippi; and • $1.125 billion - Alabama		
Other requirements	Advance refunding is the only other outstanding bond with respect to the refunded bond, and the bonds meet all the arbitrage and rebate requirements of I.R.C. §148	Advance refunding is the only other outstanding bond with respect to the refunded bond, and the bonds meet all the arbitrage and rebate requirements of I.R.C. §148		
Use of Proceeds Requirement		Issues which provide property described in		

[9] *See* I.R.C. § 145(c).

	Job Creation and Work Assistance Act of 2002[2]	*Gulf Opportunity Zone Act of 2005*[3]	*Heartland Disaster Tax Relief Act of 2008*[4]	
		I.R.C. §144(c)(6)(B) are not eligible		
TAX CREDIT BONDS				
Authorizing Statute	N/A	I.R.C. §1400N(l)	I.R.C. §1400N(l)[10]	N/A
Eligible Issue Dates		1/1/06-12/31/06	1/1/09-12/31/09	
Eligible Issuers		Alabama, Louisiana, Mississippi	Any State in which a Midwestern Disaster Area is located or any instrumentality of the State	
Aggregate limits		• Louisiana - $200,000,000 • Mississippi - $100,000,000 • Alabama - $50,000,000	• States with population of at least 2,000,000 - $100,000,000 • States with a population between 1 and 2 million - $50,000,000	
Maturity limits		2 years	2 years	
Uses of proceeds		95% of proceeds of the issue must be used to pay (or loaned to a political subdivision to pay) principal, interest or premiums on qualified bonds of State or political subdivision of state	95% of proceeds of the issue must be used to pay (or loaned to a political subdivision to pay) principal, interest or premiums on qualified bonds of State or political subdivision of state	
Other requirements		• Must be a general obligation in registered form (within the meaning of IRC § 149(a)) • Must repay bonds outstanding on 8/28/05 • May not repay private activity bonds • May not be used for advance refundings • Must satisfy the arbitrage requirements of I.R.C. §148 • May not pay off any bonds which provided property described in I.R.C. § 144(c)(6)(B).	• Must be a general obligation in registered form (within the meaning of IRC § 149(a)) • Must repay bonds outstanding on the earliest applicable disaster date for Midwestern disaster areas in the State • May not repay private activity bonds • May not be used for advance refundings • Must satisfy the arbitrage requirements of I.R.C. §148 • May not pay off any bonds which provided	

[10] Pub. L. No. 110-343, § 702(d)(7).

	Job Creation and Work Assistance Act of 2002[2]	*Gulf Opportunity Zone Act of 2005*[3]	*Heartland Disaster Tax Relief Act of 2008*[4]	
			property described in I.R.C. § 144(c)(6)(B).	
State matching requirement		Bond issuer must pledge and pay an amount equal to the face amount of the bond issue to repay the prior bonds	Bond issuer must pledge and pay an amount equal to the face amount of the bond issue to repay the prior bonds	
Credit Provided		Federal tax credit to holder based on the credit rate determined by the Secretary for the date the bonds were sold	Federal tax credit to holder based on the credit rate determined by the Secretary for the date the bonds were sold	
Rate provisions		Credit rate is the rate estimated to permit the issuance of such bonds with a specified maturity or redemption date without discount and without interest cost to the issuer	Credit rate is the rate estimated to permit the issuance of such bonds with a specified maturity or redemption date without discount and without interest cost to the issuer	
Credit Allowance		Taxpayer may recognize one-quarter of annual credit on the 15th of March, June, September and December, and on the maturity date of the bonds	Taxpayer may recognize one-quarter of annual credit on the 15th of March, June, September and December, and on the maturity date of the bonds	

APPENDIX B

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May 30, 2019

The Honorable Richard Burr
Co-Lead, Disaster Tax Relief Task Force
U.S. Senate Committee on Finance

The Honorable Michael Bennet
Co-Lead, Disaster Tax Relief Task Force
U.S. Senate Committee on Finance

The Honorable Johnny Isakson
Disaster Tax Relief Task Force
U.S. Senate Committee on Finance

The Honorable Maria Cantwell
Disaster Tax Relief Task Force
U.S. Senate Committee on Finance

Re: Disaster Tax Relief Taskforce Recommendation

Dear Senators Bennet, Burr, Cantwell, and Isakson:

The National Association of Bond Lawyers (NABL) is a non-profit corporation and specialty bar association of approximately 2,700 lawyers. NABL exists to promote the integrity of the municipal bond market by advancing the understanding of and compliance with the law affecting public finance.

NABL members hail from every U.S. state, the District of Columbia, and Puerto Rico. Our members represent issuers, non-profit institutions and other borrowers, underwriters, investors, trustees, and other parties in connection with the issuance of bonds by state and local governments. NABL members and their firms are involved in a significant portion of the municipal financings in the U.S. every year.

As a member of the Senate Committee on Finance's Disaster Tax Relief Taskforce, we understand you are undertaking an examination of possible solutions that would provide long-term certainty when natural disasters strike. On September 8, 2018, NABL released a paper entitled "Disaster Recovery Bond Financing – Considerations for Congress." The paper draws on the experiences of NABL's membership, many of whom were on the front-lines of state and local recovery efforts following floods, fires, storms, terrorist attacks and other disasters, and offers policy proposals based on legislation previously adopted by Congress in response to 9/11, Hurricane Katrina, and the 2008 Midwest floods. We are attaching that paper for the taskforce's review and use as a first step to creating comprehensive, permanent disaster recovery legislation. We believe these suggestions will greatly assist the taskforce, and we stand ready to assist as you build out any of the proposals into legislative language.

NABL urges you to continue to support tax-exempt municipal bonds as a vital tool to be utilized in any future response by Congress when it comes to natural disasters.

Thank you for the opportunity to relay our views. Please do not hesitate to reach out to Jessica Giroux, Director of Governmental Affairs at jgiroux@nabl.org or 202.503.3290, if we can be of assistance.

Sincerely,

Dee P. Wisor

Dee P. Wisor
President, National Association of Bond Lawyers

Attached, please find a submission from the National Association of Bond Lawyers to the Senate Committee on Finance's Disaster Tax Relief Taskforce. We understand you are undertaking an examination of possible solutions that would provide long-term certainty when natural disasters strike. Our cover letter describes the longer paper we are offering for consideration to the taskforce. NABL stands ready to answer questions or otherwise be of assistance to you.

Warm regards,
Jessica

Jessica R. Giroux
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Suggestions for Tax Provisions to Help Nonprofits Respond to Natural Disasters

The North Carolina Center *for* Nonprofits has more than 1,400 nonprofit members serving all 100 counties of North Carolina. Many of our member nonprofits were directly affected by Hurricane Matthew in 2016 and Hurricane Florence in 2018, suffering flooding, wind damage, and loss of power for significant periods of time. In addition, many of our members provided a wide range of relief and recovery services to individuals, businesses, and communities that were affected by the storms. These services included food assistance, emergency shelter, water, and medical assistance, both in the immediate aftermath of the storms and for extended periods. Based on experiences of these nonprofits, the Center offers these suggestions to the Senate Finance Committee task force exploring disaster tax relief provisions.

Suggestion #1: Provide automatic extensions of filing deadlines for tax-exempt organizations in areas that have been designated as affected by natural disasters.

Rationale

- In the period immediately following a natural disaster, tax exempt organizations – like other businesses and individuals – often lack access to print and electronic records that are necessary to complete and file tax returns with the Internal Revenue Service (IRS). In addition to payroll and related returns, nonprofits may also experience difficulty filing informational tax returns such as the Form 990, 990-EZ, 990-N, and 990-T.
- Providing automatic extensions to tax-exempt entities in areas affected by natural disasters would provide greater certainty, consistency, and clarity to nonprofits than waiting for Congress or the IRS to provide filing deadline extensions after disasters occur.

Suggestion #2: Extend the employee retention credit to tax-exempt employers.

Rationale

- In previous disaster tax relief legislation, tax-exempt organizations were not eligible for the tax credit businesses could receive for wages paid to employees while businesses were inoperable after natural disasters.
- Nonprofits employ about 10% of the workforce in North Carolina and a similar portion of the workforce throughout the nation.
- By extending this temporary tax credit to tax-exempt nonprofit employers, Congress could help these organizations continue to pay regular wages to their employees after disasters strike. This would prevent the unintended consequence of taking away a primary source of income from 10% of working families during a time of greatest need.
- Congress could extend this tax credit to tax-exempt organizations either by allowing them to apply it to federal payroll taxes that they already pay or by making it a refundable tax credit as part of the unrelated business income tax, which is the form of corporate income tax that some tax-exempt organizations pay.

Suggestion #3: **Create a temporary non-itemizer tax deduction for charitable contributions made for disaster relief and recovery.**

Background

- In past disaster tax relief legislation, Congress has temporarily suspended percentage limitations on adjusted gross income (AGI) for cash contributions made for disaster relief efforts to charitable organizations.
- Nonprofits providing disaster relief certainly appreciate this provision, and we would encourage it to be included in future disaster tax relief legislation.
- This provision, however, predates the Tax Cuts and Jobs Act (TCJA), which significantly increased the standard deduction and correspondingly reduced the percentage of taxpayers who use itemized deductions. As a result, lifting the AGI cap would incentivize far fewer taxpayers to increase their disaster-related contributions after TCJA.
- In a post-TCJA tax environment, when the vast majority of taxpayers use the standard deduction, a temporary above-the-line, non-itemizer deduction for charitable contributions used for disaster relief and recovery would be the best way to increase private donations to disaster relief and recovery.
- Encouraging private giving for disaster relief and recovery is critical for ensuring that essential services can reach affected communities in a timely and efficient way. Unlike nonprofits, governments cannot always provide disaster relief and recovery services and resources immediately to affected communities. For example, a recent state legislative report showed that, more than two years after Hurricane Matthew struck eastern North Carolina in 2016, the State of North Carolina had only spent 1% of the federal Community Development Block Grant – Disaster Relief funding it received to provide housing assistance to affected communities.
- An automatic, temporary above-the-line, non-itemizer deduction would provide immediate, targeted support for organizations in the disaster area struggling to reopen, relieve suffering, and help in recovery efforts in their communities.

Suggestion #4: Broaden the scope of temporary tax incentives for disaster-related charitable giving to apply to recovery efforts.

Rationale

- In previous disasters, the provision suspending AGI percentage limitations for certain disaster-related contributions has been applied to contributions "made for relief efforts."
- During the two recent hurricanes that struck eastern North Carolina, charitable nonprofits have not only provided immediate *relief* to affected individuals, but have offered many services to help communities *recover* from the devastation of the storms. In addition, many nonprofit service providers experienced disruptions in their own operations – and their ability to provide basic relief and recovery services – because of storm damage.
- To maximize the ability of nonprofits to help communities recover from natural disasters, we encourage Congress to broaden the scope of contributions eligible for temporary tax incentives (whether it is the suspension of AGI limitations, a non-itemizer deduction, or other tax incentives that Congress may develop) to apply to contributions "made for relief or recovery efforts" (emphasis added).

For more information, contact David Heinen, Vice President for Public Policy and Advocacy, at 919-790-1555, ext. 111 or dheinen@ncnonprofits.org.

On behalf of the NC Center for Nonprofits, I am submitting four suggestions for tax provisions that would help tax-exempt nonprofit organizations more effectively provide relief and recovery services after natural disasters.

Feel free to contact me if I can provide any additional information.

Thanks,

David Heinen

David Heinen
Vice President for Public Policy and Advocacy
919-790-1555, ext 111
dheinen@ncnonprofits.org

To the members of the Disaster Relief Taskforce:

Please allow me to comment on the impact of natural disasters on nonprofits; particularly those in my home state of North Carolina. I've spent the past thirty-eight years directing services for people with Intellectual/Developmental Disabilities and those with other behavioral health needs. Most of that time has been spent in the nonprofit sector, but I also worked within governmental agencies responsible for coordinating services and distributing funding. In addition, I have served on the boards of many nonprofits and chaired a number of them. These included organizations such as rural hospitals, museums, school bus safety foundations, statewide associations, parent-teacher groups, economic development organizations, and nonprofits that formed to develop group homes and other services. During this time I spent many years as a small town mayor where nonprofits were both a source of support and jobs for our citizens. I am a founding member of the board of the Alliance for Nonprofits of North Carolina. I give you this information to show that I have had many opportunities to see the impact of natural disasters on nonprofits, their employees, and the communities they serve.

A healthy nonprofit sector is critical to the well-being of our communities and citizens. Many nonprofits, such as Wake Enterprises, depend upon Medicaid and other federal and state funding to provide services. We supplement this using donations, grants, and fundraisers to hold down costs while maintaining quality. In the past thirty-eight years, I've been involved with nonprofits through hurricanes, flooding, tornadoes, and severe/ice storms causing wide-spread power outages and damage to structures. I've seen people impacted by these disasters, including people with developmental disabilities we serve, work through their nonprofits to help their neighbors. Because funding is often tied to individual service hours, nonprofits lose funding for days or weeks during disaster recovery. At a time when their lowest paid hourly employees need it most, these organizations can't afford to pay them. Charitable contributions to organizations like mine are reduced as the focus of support, for those who can still afford to give, shifts to disaster recovery organizations. It may take a small organization years to recover from a single disaster.

When federal or state tax incentives are given to help businesses recover, our nonprofits are left out. I ask you to be thoughtful and creative in supporting the role of human service nonprofits in disaster recovery and in the valuable support we provide year-round. It is important that you understand the complexity of how interwoven nonprofits are as service providers and employers in both urban and rural communities. Does it make sense to suspend Medicaid funding during disasters simply because our staff can't get out of their homes to provide services? Our costs for buildings, utilities, accreditation, and support of our employees are not interrupted by the disasters, so why should our funding be? Giving taxpayers a special credit for contributions to nonprofits involved in disaster recovery is politically correct, but I encourage you to see the value of including the same credit for those donating to any human services nonprofit impacted by the disaster.

If you want to avoid lining the pockets of high-paid executives of large nonprofits, recommend legislation that will prevent that without limiting help for those who need it. Direct federal support to my hourly employees and the people I serve who need it most, not me or other executives. Consider a network of easy to apply for minigrants for nonprofits impacted in addition to the tax incentives for those who can still afford to give. Limit such grants to organizations with annual budgets under five million dollars (or less). Understand tax incentives for such giving will drive up revenues for well-deserving national nonprofits, but provide far less help to small rural organizations.

Ignoring the impact of natural disasters on the nonprofits that provide services throughout the year simply creates another national disaster. I understand how hard it is to look beyond the immediate damage to see the walls slowly crumbling around a community's small nonprofits. Organizations like mine that serve people with disabilities aren't labelled as disaster recovery organizations, but no community will truly recover if such a support system is allowed to fail.

Thank you for accepting and considering my lengthy comments. I know you will recommend the very best options for our country, based upon the information you have and the limited scope of your taskforce. Please accept my appreciation for your service to our country.

Respectfully submitted,

Walter T. Weeks

Walter T. Weeks
Vice President for Business Development
Inperium of North Carolina and
Executive Director Emeritus
Wake Enterprises, Inc.
3548 Bush Street
Raleigh, NC 27609
(919) 232-2358
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June 13, 2019

The Honorable Richard Burr
217 Russell Senate Office Building
United States Senate
Washington, DC 20510

The Honorable Michael Bennet
261 Russell Senate Office Building
United States Senate
Washington, DC 20510

The Honorable Johnny Isakson
131 Russell Senate Office Building
United States Senate
Washington, DC 20510

The Honorable Maria Cantwell
511 Hart Senate Office Building
United States Senate
Washington, DC 20510

RE: **Nonprofit Recommendations for a Disaster Relief and Recovery Tax Package**

Dear Senators Burr, Bennet, Isakson, and Cantwell,

Thank you for taking on the task of determining how best to use the federal tax code to relieve suffering and promote recovery efforts after natural disasters strike. Your task is a critical contribution to disaster preparedness that can benefit the victims of all future disasters and ease the increased strain on local charitable organizations that engage in disaster relief and recovery efforts.

We write to endorse and encourage your adoption of the four specific recommendations to the Taskforce submitted by the North Carolina Center *for* Nonprofits on June 5. Initially proposed by our colleague state association of nonprofits in North Carolina, the recommendations are based on experiences of many of our organizations in dealing with disaster relief and recovery activities across the country. Combined, the four common-sense recommendations will eliminate uncertainty and remove barriers to nonprofit success in helping our fellow residents rebuild their lives and assisting our communities to come together to develop local solutions.

Before addressing the four recommendations, we highlight that while natural disasters are typically regional in scope, they occur throughout the United States in many different forms. The Atlantic and Gulf Coast states have extensive experiences dealing with the aftermath of hurricanes. The Midwest has tornadoes and floods. Western states deal with the ravages of wildfires, mudslides, earthquakes, and even tsunamis and volcanic eruptions.

The good news is that wherever disasters strike, charitable nonprofits respond to help people through the trauma and provide a platform for those wanting to help. Federal and state money may be slow in arriving, but nonprofits wade in immediately to provide relief. More lasting assistance may be coming, but the charitable organizations in the community already know the recovery needs of their neighbors and take action right away and continue for the long term. The undersigned organizations often serve as connectors and conveners of other nonprofits in the immediate hours of a disaster, as well as down the line as the full impact of loss is understood. We share the collective experiences of our organizations to inform your work and improve your final product.

As your Taskforce considers development of "a core package of tax relief provisions that should be available when natural disasters strike," we urge you to adopt the following recommendations to enable tax policy to truly support victims of disasters and the vital work of charitable organizations in times of great need.

1. **IRS Filing Deadlines**: Any disaster relief and recovery tax package should include language granting automatic extensions for tax filing deadlines for nonprofit organizations, other businesses, and individuals without requiring a statement from the IRS or Congress. Nonprofits engaged in immediate disaster-relief work shouldn't have to divert attention and personnel from the crisis at hand to scour reports to determine if a deadline has been extended.
2. **Employer Tax Credits**: Many recent tax relief packages have included a provision granting income tax credits to employers that maintain employee income during disaster-related shutdowns. Nonprofits, representing 10 percent of America's private workforce, generally are unable to utilize these tax credits because they are exempt from the income taxes to which the credits apply. We ask the Taskforce Members to extend the tax-credit provision to the taxes that nonprofits do pay, namely payroll and other taxes.
3. **Disaster Relief and Recovery**: We ask Taskforce Members to broaden tax provisions in the package you recommend to ensure that incentives apply not just to immediate disaster "relief" efforts, but also to disaster "recovery" activities. This matters because the housing and feeding of victims of disaster may extend for many months or even years after the event. Likewise, many nonprofits find their own facilities destroyed, "under water," or otherwise unusable as a result of the disaster and must commence their own recovery efforts while simultaneously providing immediate relief in their communities.
4. **Temporary Universal or Non-Itemizer Deduction**: Our final recommendation is the creation of a temporary, targeted universal or non-itemizer deduction that would enable all taxpayers to receive a charitable giving tax incentive when they donate to disaster relief and recovery efforts. Disaster tax packages normally remove the giving cap of 50 percent of Adjusted Gross Income (now 60 percent of Adjusted Gross Income after the enactment of the Tax Cuts and Jobs Act in 2017) to incentivize greater giving in the aftermath of disasters. The increase in the standard deduction in the 2017 tax law means that only the 10 to 12 percent of taxpayers who itemize will see a difference when they contribute to relief and recovery work. Many more people experience a desire to give to these efforts and make small donations via their phone or online. The lack of a tax incentive for those who do not itemize means that most of these donations will remain very small. We believe that an above-the-line charitable deduction that is **temporary** (e.g., for six months after the disaster declaration) and **targeted** (i.e., available only to the charitable organizations engaged in relief and recovery in the designated disaster area) would enable all taxpayers to support their fellow Americans throughout the country in an immediate and responsible way.

We thank the Members of the Taskforce for working to improve disaster preparedness. We stand ready to provide examples of our work, answer questions about these recommendations, and promote passage of legislation that advances the goals discussed throughout this letter.

Sincerely,

National Council of Nonprofits

Alaska

Foraker Group

Arizona

Alliance of Arizona Nonprofits

California

California Association of Nonprofits

Colorado

Colorado Nonprofit Association

Connecticut

CT Community Nonprofit Alliance

Delaware

Delaware Alliance for Nonprofit Advancement

Florida

Florida Nonprofit Alliance

Georgia

Georgia Center for Nonprofits

Hawai`i

Hawai`i Alliance of Nonprofit Organizations

Idaho

Idaho Nonprofit Center

Illinois

Forefront

Iowa

Nonprofit Association of the Midlands

Kansas

Nonprofit Connect

Kentucky

Kentucky Nonprofit Network

Louisiana

Louisiana Association of Nonprofit Organizations

Maine

Maine Association of Nonprofits

Maryland

Maryland Nonprofits

Massachusetts

Providers' Council

Michigan

Michigan Nonprofit Association

Minnesota

Minnesota Council of Nonprofits

Missouri

Nonprofit Connect

Montana

Montana Nonprofit Association

Nebraska

Nonprofit Association of the Midlands

New Hampshire

New Hampshire Center for Nonprofits

New Jersey

Center for Non-Profits

New Mexico

New Mexico Thrives

New York

New York Council of Nonprofits

Nonprofit Coordinating Committee of New York
d/b/a Nonprofit New York

North Carolina

North Carolina Center *for* Nonprofits

North Dakota

North Dakota Association of Nonprofit Organizations

Ohio

Ohio Association of Nonprofit Organizations

Oklahoma

Oklahoma Center for Nonprofits

Oregon

Nonprofit Association of Oregon

Pennsylvania

Pennsylvania Association of Nonprofit Organizations

South Carolina

Together SC

Tennessee

Momentum Nonprofit Partners

Utah

Utah Nonprofits Association

Vermont

Common Good Vermont

Virginia

Center for Nonprofit Advancement

Washington

Washington Nonprofits

West Virginia

West Virginia Nonprofit Association

Wyoming

Wyoming Nonprofit Network

Contact:
David L. Thompson, Vice President of Public Policy, National Council of Nonprofits, 1001 G Street, NW, Suite 700 East, Washington, DC 20001, dthompson@councilofnonprofits.org, 202-962-0322.

Attached please find the recommendations of the network of state associations of nonprofits and the National Council of Nonprofits. The letter makes four recommendations for tax changes that will assist nonprofits engage in disaster relief and recovery activities:

1. extend tax filing deadlines,
2. enable nonprofits to take advantage of salary continuation tax credits,
3. expand tax provisions to cover both disaster relief and recovery to ensure ongoing support, and
4. create a temporary, targeted universal or non-itemizer charitable deduction to provide a giving incentive to people throughout the country, regardless of tax-filing status, encouraging them to support their fellow Americans.

The organizations signing the letter often serve as connectors and conveners of other nonprofits in the immediate hours of a disaster, as well as down the line as the full impact of loss is understood. We share the collective experiences of our organizations to inform the work of the Taskforce and improve your final product.

We thank the Members of the Taskforce for working to improve disaster preparedness. We stand ready to provide examples of our work, answer questions about these recommendations, and promote passage of legislation that advances the goals discussed throughout this letter.

Regards,
David

David L. Thompson | Vice President of Public Policy
National Council of Nonprofits
1001 G Street NW, Suite 700E
Washington, DC 20001

National Voice • State Focus • Local Impact
(202) 962-0322 x113 | www.councilofnonprofits.org | @NatlCouncilNPs

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Gentlemen:

As a large employer in the state of Georgia, an area impacted by a natural disaster in 2018, who has seen how long it takes for Congress to enact tax relief for the natural disasters each time that they occur, I want to urge you to enact a permanent hiring retention credit when disasters occur. These employer tax credits are necessary to help employers who are impacted and who still work hard to keep their workers on their payroll during natural disasters. Providing a permanent retention tax incentive would not only help First Advantage, but it would more importantly provide an economic boost to the devastated communities of Georgia, which should not have to wait months for relief. A disaster is an emergency which requires emergency relief not relief that may or may not come months later. When the federal government declares an area to have been devastated because of a natural or man-made disaster, then the needed economic relief should be automatic and not have to wait for Congress to act. That is why I want to urge you to make disaster tax relief including a retention tax credit automatic and permanent.

Thank you very much for your consideration.

David L. Gamsey
Chief Financial Officer
First Advantage Corporation

United States Senate

WASHINGTON, DC 20510

June 26, 2019

The Honorable Richard Burr
217 Russell Senate Office Building
Washington, DC 20510

The Honorable Michael Bennet
261 Russell Senate Office Building
Washington, DC 20510

Dear Senators Burr and Bennet:

We appreciate your leadership in reviewing expiring tax provisions. As you consider which provisions ought to be extended, we also encourage you to consider including in your recommendation temporary tax benefits for people living in areas that received federal disaster declarations due to storms that occurred in 2018 and 2019.

When disasters hit, Americans come to the aid of those who are harmed. Targeted, temporary relief for those living in disaster areas can achieve bipartisan approval. We hope the Disaster Task Force will agree and recommend extending relief for disasters occurring in 2018 and 2019.

We request that you include provisions from our bill, S. 1133, the *Disaster Tax Relief Act of 2019.* These provisions would:

- Eliminate penalties for early withdrawals from IRAs for those in affected areas;
- Eliminate the cap on deductions for charitable contributions within disaster areas;
- Expand the casualty loss deduction to assist with destroyed property in disaster areas;
- Temporarily establish employee retention credits for businesses in affected areas;
- Protect the credits of Earned Income Tax Credit (EITC) recipients living in disaster areas who see a decrease in pay.

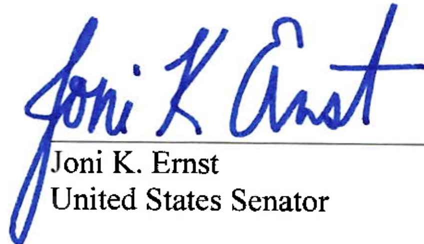
These are all measured and tested provisions, and will help people get back on their feet.

The individuals harmed by these disasters are not asking for a handout; they are asking for a hand-up from difficult situations. As taxpayers, Nebraskans and Iowans, as well as Americans in countless states have offered the same for those who have been harmed by such devastating events.

Thank you for your consideration of this important issue.

Sincerely,

Deb Fischer
United States Senator



Joni K. Ernst
United States Senator

Benjamin Sasse
United States Senator

Cc: The Honorable Chuck Grassley, the Honorable Ron Wyden, the Honorable Johnny Isakson, the Honorable Maria Cantwell

Colorado Charitable Contribution Subtraction (Non-Itemizer Deduction)

Under Colorado law, taxpayers who take the standard deduction on their federal income tax returns can take a deduction on state income tax return in the amount of charitable donations in excess of $500.

AGI	Qualified Contribution Dollars (thousands) Table 21	Qualified Contribution Number of Filers Table 20	Average Donated above the $500 floor (unadjusted)	Number of Returns Table 20A	Percentage of Eligible Non-Itemizers Taking the Deduction Tables 15 and 20	Federal Itemizers Charitable Deductions (for comparison)
$5,000 - $10,000	$5,267	4,513	$1,167	4,513	4.1%	$1,402
$10,000 - $15,000	$7,794	6,375	$1,223	6,375	4.8%	$1,893
$15,000 - $20,000	$8,920	7,373	$1,210	7,375	5.5%	$2,186
$20,000 - $25,000	$10,466	7,931	$1,317	7,931	6.2%	$2,472
$25,000 - $35,000	$23,885	17,452	$1,369	17,452	8.1%	$2,648
$35,000 - $50,000	$37,340	25,770	$1,449	25,770	12.2%	$2,870
$50,000 - $75,000	$56,739	35,857	$1,582	35,857	19.8%	$3,015
$75,000 - $100,000	$40,064	24,263	$1,651	24,263	28.1%	$3,528
$100,000 - $250,000	$37,545	23,766	$1,580	23,766	36.7%	
$250,000 -	$2,134	859	$2,484	859	44.5%	
Total	$234,366	157,313	$1,490	154,159	19.8%	

Source: Tax Profile & Expenditure Report 2016, Colorado Department of Revenue, Table 15 (page 94), Table 20 (page 112) and Table 21 (page 113), using 2013 data from individual income tax returns.
Statute: § 39-22-104(4)(m), C.R.S.; Dept. Rule 39-22-104(4)(M) (charitable contribution subtraction)

Insurance Institute for Business & Home Safety®

June 28, 2019

The Honorable Michael F. Bennet
261 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Richard Burr
217 Russell Senate Office Building
Washington, D.C. 20510

Dear Senators Burr and Bennet:

The Insurance Institute for Business & Home Safety ("IBHS") is a 501(c)(3) organization, enabled by the property insurance industry's investment, to fund building safety research that leads to real-world solutions for home and business owners, helping to create more resilient communities.

We appreciate your concern and efforts to renew expiring tax provisions. As you consider provision extensions, we request that you include S.1958, legislation that provides a tax credit for disaster mitigation expenditures, in your recommendation.

Although Americans spend billions of taxpayer dollars on disaster recovery, there are few incentives that encourage mitigation in communities. Encouraging mitigation is essential in minimizing damages from natural disasters and saving communities and the government money after a disaster strikes.

We specifically request that you consider S. 1958, the *SHELTER Act*. This bill creates a tax credit for Americans who take smart steps to reduce future disasters by allowing a 25 percent write off for qualifying expenses.

Thank you for your consideration of this important issue.

Sincerely,

General Counsel & Chief Risk Officer
Insurance Institute for Business & Home Safety

NATURAL DISASTERS
THE CASE FOR PERMANENT TAX RELIEF

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EXECUTIVE SUMMARY

Every year, natural disasters victimize tens of thousands of Americans. Floods, tornadoes, hurricanes, drought and forest and brush fires take lives; destroy homes and businesses; and tear apart communications and transportation networks. The financial losses can run into the billions. In 2014 alone, eight events each created a billion dollars or more in damages.[1] Hurricane Katrina, which struck the Gulf Coast in 2005, caused more than $151 billion in damages and claimed more than 1,800 lives. In 2012, Hurricane Sandy left behind $67 billion in damages along the eastern seaboard.

Individual Americans, civic groups, charitable organizations, and the federal government pitch in with help, generally with Washington in the lead through a proven process that has worked well for some 65 years. Set in motion by a presidential disaster declaration, the Federal Emergency Management Administration (FEMA) sets up operations in affected areas to coordinate and help finance recovery.

A HOLE IN THE DISASTER RELIEF SYSTEM

But in one regard, the process has been less fair and less consistent than it should be. In some disasters, the federal government has supplemented direct aid by adjusting tax rules so that disaster victims can keep and use more of their own money to pay bills, repair damage, and rebuild businesses. The concept is simple — tax rules and penalities that make sense in normal circumstances so that people pay their fair share become illogical when disaster wipes out homes, businesses, and jobs.

Because tax relief is dependent on Congressional action after every disaster, it has been available only sporadically — provided for some disasters, but denied for others without clear reason. For Hurricane Katrina, Congress granted tax relief. For Hurricane Sandy it did not. In 2008, Congress enacted the National Disaster Relief Act of 2008, which granted tax relief to all taxpayers affected by federally-declared disasters in 2008 and 2009. Since then, there's been no tax relief at all.

This disparate treatment hurts every person and business in disaster areas by slowing general recovery, prolonging unemployment created by the disaster, and adding to the cost of various government unemployment and income support programs.

[1] ncdc.noaa.gov/billions/events

AUTOMATIC, CONSISTENT AND PERMANENT TAX RELIEF FOR DISASTER VICTIMS

Why not treat every disaster alike? Shouldn't every victim get the same helping hand from Washington? The CPA profession believes Congress should provide fairness, certainty, and consistency with permanent tax relief measures that automatically apply once the President issues a disaster declaration.

Based on experience and previous disaster tax bills, the CPA profession has identified 10 disaster tax relief measures that should be permanently enacted into law. The relief, which would expand victims' financial capabilities and allow greater access to their own funds, would be automatic for taxpayers with a main residence or business in a federal disaster area.

Among other things, the proposals would enable victims to use their own money from retirement accounts without penalty. They also would ease limits on deductions for casualty losses for individuals and increase the deduction for medical expenses. Businesses would gain additional time to claim net operating losses and be able to expense a greater amount of business equipment purchases.

Congress should close the gap in disaster relief and permanently provide automatic tax relief that is fair, consistent, and certain. All disaster victims across our country deserve help on the same terms so they can rebuild as fast as possible.

NATURAL DISASTERS
THE CASE FOR PERMANENT TAX RELIEF

Every year, natural disasters victimize tens of thousands of Americans. Floods, tornadoes, hurricanes, drought and forest and brush fires take lives; destroy homes and businesses; and tear apart communications lines and transportation networks. Sometimes, the devastation is so great that a single word — Katrina or Sandy — lives in our minds to sum up the horror.

Rich and poor, people of every ethnicity and color, individuals of prominence and those who are little known may be afflicted in any part of the country. Nature does not discriminate.

The human suffering is immeasurable; the financial losses can run into the billions. In 2014 alone, eight events each created a billion dollars or more in damages.[1] Hurricane Katrina, which struck the Gulf Coast in 2005, caused more than $151 billion in damages and claimed more than 1,800 lives. In 2012, Hurricane Sandy left behind $67 billion in damages along the eastern seaboard. In April and May 2011, scores of tornadoes combined for some $21 billion in damages across more than a dozen states. Severe drought and heat, though less dramatic, wiped out some $31 billion in food crops in 2012.

The number of catastrophic events and the dollar costs vary from year to year. The only constants are that they *will* happen and that, as a nation, we will reach out to help. Instinctively, charities, religious organizations, civic groups, and individuals from across the country step forward to console the wounded, offer food and shelter, clear debris, and help to rebuild.

Washington pitches in, too, through a well-tested process that has provided support from the federal government for some 65 years. Once put in motion by a presidential disaster declaration, the Federal Emergency Management Administration (FEMA) sets up operations in affected areas to coordinate and help finance recovery. The country works hard to help victims reassemble their lives as quickly as possible.

[1] ncdc.noaa.gov/billions/events

A HOLE IN THE DISASTER RELIEF SYSTEM

In one regard, however, the current process has been less predictable, less fair, and less consistent than it should be. In some disasters, the federal government has supplemented direct aid by temporarily adjusting tax rules so that disaster victims can keep and use more of their own money to pay bills, repair damage, and rebuild businesses. This logical, proven tax relief has helped millions get back on their feet — without additional direct outlays from the U.S. Treasury. But this type of help has been available only sporadically. It's been provided in some years for some disasters, but denied in other years for other disasters without any evident reason or rationale. For Hurricane Katrina, as well as Wilma and Rita, Congress granted tax relief. For Sandy and Isaac, Congress did not. For 2008 and 2009, Congress enacted broad legislation making tax relief automatic for federally declared disasters. Since then, there's been no tax relief.

Why not treat every disaster alike? Isn't it fair and reasonable for every victim to count on the same helping hand from Washington? It's time to fix that inconsistency and give every American an equal chance to rebuild after a disaster.

THE DISASTER RELIEF PROCESS — A FEDERAL SYSTEM SINCE 1950

Before 1950, disaster relief was generally left to state and local government and private charitable groups. Since then, it has shifted from "a largely uncoordinated and decentralized system of relief funding to one dominated by the federal government."[2] The change partly reflected the increasing complexity of relief efforts when disasters cross state lines and involve interconnected infrastructure such as highways, railroads, airports, utilities and communications networks. Civil defense concerns, including fear of nuclear conflict during the Cold War, were an additional impetus for a centralized response with dollars and coordination from the federal government.

The shift toward Washington began with enactment of the Federal Disaster Relief Act of 1950. It empowered the President for the first time to offer federal aid without a specific act of Congress. Subsequent laws expanded the types of federal aid to include direct assistance to individual citizens and households in addition to funding provided to local and state government agencies. Today, federal disaster relief efforts are governed by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, enacted in 1988, which empowered the President to issue major disaster, emergency, and fire management declarations. It also established a permanent Disaster Relief Fund (DRF) to maintain relief infrastructure and cover expenditures for "normal" disasters involving costs of less than $500 million. Following a request for help from state governors, a presidential declaration automatically triggers funding from the DRF for three broad types of aid — individual assistance such as housing and disaster-related unemployment; public assistance for removing debris and repairing or replacing damaged structures such as roads, bridges, utilities, and public buildings; and hazard mitigation to reduce the potential impact of future disasters.[3]

Historically, annual appropriations for the DRF have not been sufficient for a full response to actual disasters, and Congress generally has been required to appropriate additional funds as disasters occur. From FY 2000 to FY 2013 some $123.2 billion has been paid out through the DRF. That's an average of about $9 billion a year, but outlays can vary substantially from year to year. Nearly $48 billion was dispensed in FY 2005 alone, primarily in response to Hurricane Katrina, which required nine separate supplemental appropriations by Congress.

Although relief measures have generally passed quickly with bi-partisan support, disaster funding occasionally has been slowed by political or fiscal considerations. In some instances, disaster legislation has become a vehicle for unrelated funding that might not have passed on its own. For example, the Disaster Relief and Summer Jobs Act of 2010 also included $33 billion in war funding.[4]

FEMA generally administers the relief, under a National Disaster Recovery Framework, that assigns lead responsibility for specific functions to six separate federal agencies. Adopted in 2010, this Framework reflected consultations with federal, state, local, and tribal government agencies, as well as private sector partners.

[2] "Disaster Relief Funding and Emergency Supplemental Appropriations," Congressional Research Service, April 12, 2011
[3] Ibid, CRS
[4] Ibid, CRS

THE TAX RELIEF CHALLENGE

Unfortunately, one type of help — tax relief — that disaster victims should get has become a bit of a guessing game. It's been granted for some disasters, but denied in others where the need is as great or greater. The concept is simple — tax rules and penalities that make sense in normal circumstances so that people pay their fair share become illogical when disaster wipes out people's homes, businesses, income, and jobs. It makes little sense for the government to pay out aid with one hand, but tax victims' money with the other.

In 2005, Congress provided tax relief to victims of hurricanes Katrina, Rita, and Wilma by enacting the Gulf Opportunity Zone Act, which enabled early access to funds in IRAs and other retirement accounts without the normal penalties, expanded deductions for casualty losses by removing various income limitations, and eased the terms for earned income tax credits and refundable child tax credits. It also allowed victims to benefit from debt cancellation without counting it as income.[5] After all, if you can't pay your debts, you probably don't have money to pay taxes either. Relief also was granted in 2008 to victims of flooding in the Midwest, and the National Disaster Relief Act of 2008 extended relief, in advance, to individuals in all federally declared disaster areas in 2008 and 2009.[6]

But Americans victimized by disasters since 2010, when the last automatic tax relief expired, haven't received the same help.[7]

Legislation to grant tax relief to victims of Hurricane Isaac, which hit many of the same locations as Katrina, Rita and Wilma, stalled in 2013. Tax relief for Hurricane Sandy, which affected two dozen states, has been stuck in Congress since 2012. The National Disaster Relief Act of 2014, introduced with bi-partisan sponsorship to cover disasters that occurred in 2012, 2013 and 2014, never made it out of committee.

Unless tax relief or other aid is approved in the early stages of a disaster while emotion is high, it tends not to happen. As the images of disaster fade from memory, enthusiasm for relief measures dims, too. Other concerns and priorities move to the fore.

This disparate treatment hurts every person and business in disaster areas by slowing general economic recovery, prolonging unemployment created by the disaster, and adding to the cost of various government unemployment and income support programs.

Rep. Bill Pascrell (D-NJ), who co-sponsored the Natural Disaster Tax Relief Act, summed it up well: Because of this inconsistent treatment, disaster victims are "left holding the bag."[8]

"It's only fair communities hit hard by recent natural disasters get the same care and opportunities to rebuild that other parts of the country received," said Rep. Tom Reed (R-NY), who introduced the legislation in the last Congress. "Right now, there's no consistency in tax relief for natural disasters and that's putting a real strain on anyone

[5] "Tax Law Changes Related to Hurricanes, Katrina, Rita and Wilma," Internal Revenue Service, January 2006, irs.gov/uac/Tax-Law-Changes-Related-to-Hurricanes-Katrina,-Rita-and-Wilma

[6] "Tax Impacts of Natural Disasters," by Heather Drake for Beta Alpha Psi Journal, March 13, 2014, bappdx.org/tax-impacts-of-natural-disasters/

[7] The National Disaster Relief Act of 2008, signed into law on October 3, 2008, provided automatic tax relief for individuals affected by a federally declared disaster during 2008 and 2009. It expired at the end of 2009.

[8] "Pascrell Fights for Tax Relief for Federally Declared Natural Disasters," August 5, 2014, pascrell.house.gov/media-center/press-releases/pascrell-fights-for-tax-relief-to-federally-declared-natural-disasters

trying to get back on their own two feet. Families that recently went through a natural disaster fairly deserve the same treatment Congress has historically given to the families of natural disasters in years past."[9]

> *"To provide fairness, consistency, and certainty for disaster victims, the CPA profession believes Congress should enact permanent tax relief measures that automatically apply once a presidential disaster declaration is issued."*

THE CPA PROFESSION HAS AN ANSWER

To provide fairness, consistency and certainty for disaster victims, the CPA profession believes Congress should enact permanent tax relief measures that automatically apply once a presidential disaster declaration is issued. Similarly situated citizens should be treated alike with automatic and legally mandated access to the same tax benefits for comparable losses. The help they receive should not vary because one disaster affects more people than another, or the damage is more devastating, or the spokespeople more eloquent, or the images more heartrending.

Any individual who loses a home, or a business or a job faces a difficult uphill battle for recovery. Victims need to know from day one where they stand, what taxes they will pay, and what relief they can count on. With that knowledge, they can figure out what funds will be available and the best way to use them. A disaster relief process that allows a taxpayer to access a retirement account without penalty, for example, opens a host of financial options that may not be available if a penalty payment is required. It's tough enough to bounce back from disaster without having to guess about the tax consequences, whether tax relief is on the way, when it might arrive, and what exactly it will cover. It's counterproductive if tax penalties created for non-disaster situations prevent disaster victims from using their own money to rebuild. But, under the current system, relief may come months or years after a disaster — or not at all — and penalties and limits on credits and deductions may wall off money that should be available for digging out.

Fast and guaranteed relief that lets disaster victims know where they stand from day one will eliminate the guesswork so that families and businesses can make informed decisions that speed recovery. A permanent and consistent set of rules for disaster tax relief is smart public policy that will provide fair treatment for disaster victims and help communities get back on their feet faster. Consistency helps the IRS, too, by easing the burden and cutting the cost of administering different rules for different taxpayers caught in different disasters.

The CPA profession has a solution. Based on experience with past tax relief and in partnership with state CPA societies, which have long urged consistent tax treatment for disaster victims and have worked closely with FEMA and the IRS in helping taxpayers as they rebuild, the AICPA has identified 10 disaster tax relief measures that should be permanently enacted into law. The relief,

[9] "Reed Bill Would Provide Tax Relief to Federally-Declared Natural Disasters," August 5, 2014, reed.house.gov/press-release/reed-bill-would-provide-tax-relief-federally-declared-natural-disasters

much of which has proven successful in past disasters, would effectively expand victims' financial capabilities and allow greater access to their own funds. It would be automatically triggered for taxpayers residing in or with a principal place of business located in a federal disaster area and for which FEMA has authorized "individual assistance."

Among other things, the profession's proposals would enable disaster victims to access their own funds more easily by waiving the normal penalty for early withdrawal from retirement accounts. They would provide significant financial benefit to individuals by easing limits on deductions for casualty losses for disaster damages not covered by insurance, increase the deduction for medical expenses, and allow victims to benefit from cancellation of a debt without reporting it as income. The proposals would help workers and businesses alike by offering a tax credit to businesses that continue to pay wages to workers when disaster shuts down their workplace.

We also propose benefits to directly assist affected businesses by extending the time period for net operating losses, raising the expense limit for purchases of business equipment, and increasing from two to five years the property replacement period for property damaged by a disaster. Our proposals also would provide a financial incentive in the form of an additional exemption for taxpayers who provide housing for individuals displaced by a disaster.

The proposals are explained in detail in the attached Appendix.

"Based on experience with past tax relief and in partnership with state CPA societies … the AICPA has identified 10 disaster tax relief measures that should be permanently enacted into law."

A CALL TO ACTION

We can't predict when or where, but every year natural disasters tragically disrupt lives. They inflict enormous personal pain and create billions of dollars in property damage and other losses. Every year, tens of thousands, sometimes millions, of Americans confront the task of rebuilding. They look to government for help, and substantial aid rolls in. But no system is perfect. In disaster relief, one easily-fixable flaw stands out — the failure to provide the same consistent level of tax relief to every victim in every federal disaster area.

It's time to close that hole in the system and permanently provide automatic tax relief that is fair, consistent, and certain so that every disaster victim receives help on the same terms and can rebuild as fast as possible. Congress should do it now.

APPENDIX

AICPA PROPOSAL FOR PERMANENT DISASTER TAX RELIEF

1	**Waive Individual Casualty Loss Limitations**	Waive the casualty loss floor of 10 percent of adjusted gross income (AGI) (section 165(h)(i))[1] and the $100 per loss floor (section 165(h)(2)) for losses attributable to a disaster event. The purpose of this provision is to extend adequate relief to the affected taxpayers under section 165(h)(i).
2	**Extend Net Operating Loss Carryback to Five Years**	Allow a five-year carryback period for net operating losses (NOLs) attributable to a disaster event under section 172(b)(2). By allowing a five-year carryback period for NOLs attributable to a disaster event, affected taxpayers will have the benefit of an extended carryback (increase of three years) from the normal NOL carryback period of two years.
3	**Increase Section 179 Expense Limits**	Increase section 179 expensing limits under section 179(b)(1) in either the year of the disaster event or the following year by the lesser of a specified amount ($100,000) or the cost of "qualified property," as described in section 179(e)(1). "Qualified property" replaces or rehabilitates property damaged by the "disaster event." This provision is intended to provide immediate tax relief to business owners for unanticipated capital expenditures caused by the disaster event.
4	**Increase Property Replacement Period to Five Years**	Allow a five-year replacement period (increased from two) under section 1033(a)(2)(B) for property damaged or destroyed by a disaster event. For certain disasters that have occurred, a five-year replacement period is already in place. This provision simply makes five years the standard replacement period. Also, allow this revision to the replacement period to cover trade/business property, real property, and/or principal residences that are involuntarily converted during a disaster event.

Continued on page 12

[1] All section references in this Appendix are to the Internal Revenue Code of 1986, as amended, or the Treasury regulations promulgated there under, unless otherwise specified.

5	**Waive the Penalty for Early Retirement Withdrawal**	Impose no tax on qualified disaster victims who withdraw up to a specified amount ($100,000) from a qualified plan or individual retirement account (IRA) and repay that amount within five years. Any amount not repaid within five years of the date of withdrawal is taxable income during that fifth year unless a taxpayer chooses to report the amount as income and pay the tax in any earlier year. Any income recognized under this section would not be subject to the 10 percent early withdrawal penalty under section 72(t) for distributions up to a specified amount ($100,000). Such favored distributions were previously allowed under section 1400Q(a) for "hurricane" disasters; however, this provision would include all federally declared "disaster events," including but not limited to hurricanes. One purpose of this provision is to allow affected taxpayers to access their own funds immediately while waiting for government assistance and insurance reimbursements that are not immediately forthcoming.
6	**Allow a Housing Exemption for Displaced Individuals**	Allow a partial or full exemption (as defined under section 151(d)) to individuals who provide at least 60 days of temporary rent-free housing to a person dislocated by a disaster event. Taxpayers may claim this exemption only once for each such person and shall claim the exemption for the tax year which contains the latter of the 60th day or the day that the temporary housing period ends. The exemption amount is calculated as the number of rent-free days (up to 365) provided, divided by 365, and multiplied by the personal exemption allowed a single taxpayer during the applicable year. The maximum number of individuals for which a taxpayer may claim this exemption is four individuals per disaster event. Furthermore, no phase-out under section 151(d)(3) would apply to this exemption.
7	**Allow Discharge of Indebtedness**	Allow disaster victims to exclude from taxable income, under section 108, cancellation of debt income for non-business debts provided that the cancellation occurs within one year of the beginning date of the disaster event. The discharging entity must certify that the discharge is a direct result of loss, property damage, or other factors caused exclusively by the disaster event. Currently, the Code provides only limited exclusions for discharge of indebtedness income. This recommendation would allow for a much needed provision that recognizes that if individuals affected by a disaster are unable to repay their outstanding loans, they are also likely unable to pay tax on the phantom income.

Continued on page 13

8	**Employee Retention Credit for Affected Employers**	Allow a credit under section 38 of 40 percent of qualified wages (up to $6,000 in qualified wages per employee) for specified disaster-damaged businesses. Qualified wages (as defined for Work Opportunity Credit purposes under section 51(a)) are wages paid to employees who are unable to work because their employer's business was rendered inoperable due to damage from the disaster event. The Code would provide that qualified wages for an employee are calculated based on their regular wages, not including overtime, for the lesser of the period the business is rendered inoperable or 16 weeks. Specified disaster-damaged businesses must have the affected place of business located within the declared disaster area, employ fewer than 200 full-time equivalent employees, and may only claim the credit for employees who were employed at the affected place of business for at least 30 days prior to the disaster event.
9	**Permit the Use of Prior Year's Income to Calculate the Earned Income Tax Credit, Child Tax Credit, and Premium Tax Credit**	Allow affected taxpayers in the disaster area to use either their current year or previous year's income amounts for purposes of calculating the Earned Income Tax Credit (section 32), the Child Tax Credit (section 24) and the Premium Tax Credit (section 36B). With this suggested provision, the affected taxpayer would have the opportunity to use a more beneficial income year, thus allowing the affected taxpayer the opportunity to benefit from various credits that might not have been available to the taxpayer because of the fluctuation of income caused by the disaster.
10	**Increase the Medical Expense Deduction**	Eliminate the medical deduction floor percentage (as defined under section 213(a), generally 10 percent of AGI, and 7.5 percent for taxpayers over 65) for an individual who incurs deductible medical expenses directly related to an injury caused by the disaster event. This reduction is available only for the directly-related expenses incurred for up to two tax years (the year of the event and the subsequent year). The purpose of this provision is to provide potential relief from the deduction limitations for taxpayers incurring unexpected disaster related medical expenses.

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17254-311

MEMORANDUM June 12, 2019

To: Senate Finance Committee Disaster Tax Relief Task Force

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Subject: **Disaster Tax Relief**

This memorandum responds to your request for information on disaster tax policy to support the Senate Finance Committee's Disaster Tax Relief Task Force. As discussed, this memorandum includes: (1) an overview of permanent tax provisions and existing authorities to provide disaster tax relief; (2) an overview, summary, and comparison of temporary disaster tax relief since 2000; and (3) the estimated cost of disaster tax relief.[1]

Disaster Relief in the Internal Revenue Code

There are various forms of disaster relief in the Internal Revenue Code (IRC). There are permanent provisions, which provide tax relief for different types of disaster events. At times, Congress has passed legislation providing additional tax relief in response to certain disaster events or relief for events occurring during a certain period of time.

Permanent Provisions

There are several permanent disaster relief provisions. In some cases, these provisions apply to any property that is destroyed or damaged due to casualty or theft. In other cases, relief is limited to property lost as a result of federally declared disasters or for disasters for which the IRS undertakes administrative actions. Additionally, as discussed further below, there are instances where these permanent relief provisions have been temporarily enhanced in response to specific disaster events.

Disaster Casualty Losses

Taxpayers may be able to deduct casualty losses resulting from the damage to or destruction of personal property (property not connected to a trade or business).[2] For tax years 2018 through 2025, the casualty

[1] Information in this memorandum is of general interest to Congress. As such, all or part of this information may be provided in other CRS written products. Your confidentiality as a requester will be preserved in any case where this occurs.

[2] Internal Revenue Code (IRC) Section 165.

loss deduction is limited to losses attributable to federally declared disasters. After 2025, under current law, the deduction is to be available to losses arising from fire, storm, shipwreck, or other casualty or theft. Casualty losses are an itemized deduction. Each casualty is subject to a $100 floor, meaning that only losses in excess of $100 are deductible for each casualty. Additionally, casualty losses are only deductible to the extent that aggregate losses exceed 10% of the taxpayer's adjusted gross income (AGI). Only casualty losses not compensated for by insurance or otherwise can be deducted.

Before 2018, the tax expenditure estimate for casualty and theft losses included deductions claimed for all types of losses, not disaster-related losses specifically. The Joint Committee on Taxation (JCT) estimated the tax expenditure for the deduction for casualty and theft losses to be $0.4 billion in FY2017.[3]

Starting in 2018, the casualty loss deduction was generally limited to losses from federally declared disasters. For FY2018, the JCT estimated the tax expenditure for the deduction for casualty and theft losses to be $0.2 billion.[4] The tax expenditure estimate for FY2019 is $0.1 billion.

Involuntary Conversions

An involuntary conversion occurs when property is destroyed, stolen, condemned, or disposed of under threat of condemnation, and the owner of the property receives money or payment for the property, such as an insurance payment. An involuntary conversion can also be viewed as a forced sale of property. The IRC allows taxpayers to defer recognizing a gain on property that is involuntarily converted.[5] The replacement period, the time within which a taxpayer must replace converted property to receive complete deferral, ranges from two to four years, depending on the type of property and the circumstances of the involuntary conversion. For a taxpayer's principal residence and its contents, the replacement period for an involuntary conversion stemming from a federally declared disaster is four years.[6]

Taxpayers whose principal residence or any of its contents are involuntarily converted as a result of a federally declared disaster qualify for additional special rules. First, gain realized from the receipt of insurance proceeds for unscheduled personal property (property in the home that is not listed as being covered under the insurance policy) is not recognized. Second, any other insurance proceeds received for the residence or its contents are treated as a common fund. If the fund is used to purchase property that is similar or related in service or use to the converted residence or its contents, then the owner may elect to recognize gain only to the extent that the common fund exceeds the cost of the replacement property.

If a taxpayer's business property is involuntarily converted as a result of a federally declared disaster, then the taxpayer is not required to replace it with property that is similar or related in service to the original property in order to avoid having to recognize gain on the conversion, as long as the replacement property is still held for a type of business purpose. The replacement period for business property is two years (the replacement period for condemned business property is three years).

[3] Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2018-2022*, May 25, 2018, JCX-34-18, p. 43.

[4] Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2018-2022*, October 4, 2018, JCX-82-18, p. 31.

[5] IRC Section 1033.

[6] Taxpayers may also be able to exclude gains on their personal residence under another section of the IRC. Under IRC Section 121, individuals may exclude up to $250,000 ($500,000 if married filing jointly) of gain from selling a principal residence if the taxpayer meets a use test (has lived in the house for at least two years out of the last five years) and an ownership test (has owned the house, also for two years out of the last five). If a taxpayer fails to meet the use test but experienced an unforeseen circumstance, the taxpayer may claim a reduced exclusion. Unforeseen circumstances include the involuntary conversion of a residence and a natural or man-made disaster (or act of war or terrorism) resulting in a casualty to a principal residence.

No cost estimates are available for the treatment of disaster-related involuntary conversions.

Disaster Relief for Low-Income Housing Credit[7]

Owners of low-income housing tax credit (LIHTC) properties are eligible for relief from certain requirements of the program if the property is located in a major disaster area.[8] Specifically, property owners are provided relief from credit recapture, carryover allocation rules, and income certifications for displaced households temporarily housed in a LIHTC unit. Property owners may also qualify for additional credits for rehabilitation expenditures, and, for buildings in the first year of the credit period that are severely damaged, the allocation of credits may either be treated as having been returned or the first year of the credit period can be extended. State LIHTC allocating agencies are eligible for relief from compliance monitoring under the same IRS guidance. Additionally, households are eligible to occupy a LIHTC unit without being subject to the income limits of the program if their principal residence was located in a major disaster area.

No cost estimates are available for the LIHTC disaster-related relief.

Exclusion for Disaster Assistance Payments to Individuals

Taxpayers can exclude from income qualified disaster relief and disaster mitigation payments.[9] Excludable relief payments include payments for expenses that are not compensated for by insurance (or otherwise compensated for). Excludable relief payments can include personal, family, living, or funeral expenses incurred as a result of the disaster; payments for home repairs or to replace damaged and destroyed contents; payments by a transportation provider for injuries or deaths resulting from a disaster; and payments from governments (or similar entities) for general welfare when disaster relief is warranted. Qualified disaster mitigation payments include amounts paid under the Robert T. Stafford Disaster Relief and Emergency Assistance Act or the National Flood Insurance Act (as in effect on April 15, 2005) for hazard mitigation.

The tax expenditure for the exclusion of disaster mitigation payments is *de minimis* (less than $50 million) in any given tax year. For the five-year period spanning FY2018 – FY2022, the tax expenditure estimate for the exclusion of disaster mitigation payments is $0.1 billion.[10] When this provision was first enacted in 2001, it was estimated to have negligible revenue effects over the 10-year budget window.[11]

Exclusion for Insurance Living Expense Payments

Taxpayers whose principal residence is damaged in a disaster (as well as fire, storm, or other casualty) can exclude from income insurance reimbursements for living expenses while temporarily occupying another residence.[12] This exclusion also applies to taxpayers who are denied access to their home by government authorities due to the threat of casualty or disaster.

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[7] This section was written by Mark Keightley, Specialist in Public Finance. For information on the low-income housing tax credit generally, see CRS Report RS22389, *An Introduction to the Low-Income Housing Tax Credit*, by Mark P. Keightley.

[8] IRS Revenue Procedure, Rev. Proc. 2014-49.

[9] IRC Section 139. IRC Section 139 was established by the Victims of Terrorism Relief Act of 2001 (P.L. 107-139).

[10] Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2018-2022*, October 4, 2018, JCX-82-18, p. 31.

[11] Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in the 107th Congress*, January 24, 2018, JCS-1-03, p. 323.

[12] IRC Section 123.

No cost estimates are available for the exclusion for insurance reimbursements for living expenses while temporarily occupying another residence.

IRS Administrative Relief

The IRS is authorized to postpone any federal tax deadline, including deadlines for filing returns, paying taxes, or claiming refunds, for up to one year for taxpayers affected by federally declared disasters.[13] The IRS may also postpone certain IRA deadlines. Specifically, the IRS can extend the 60-day period for plan participants to deposit rollover retirement plan distributions to another qualified plan or IRA.[14] Additionally, the IRS may extend the time for a qualified plan to make a required minimum distribution.

The IRS is also authorized to waive underpayment penalties when a casualty, disaster, or other unusual circumstances has made it such that the imposition of a penalty would be against equity and good conscience.[15]

No cost estimates are available for IRS authorized administrative disaster-related relief. When this provision was first enacted in 2001, it was estimated to have negligible revenue effects over the 10-year budget window.[16]

Past Temporary Disaster-Relief Provisions

At times, Congress has chosen to use tax policy to provide temporary relief and support following disaster incidents. Temporary and event-specific disaster tax policy has been enacted following many major disaster events in recent years. However, temporary or targeted tax relief has not been enacted following all major disaster events. For example, no temporary or targeted disaster tax relief was enacted in response to tropical storm Irene in 2011 or Hurricane Sandy in 2012.

The specific tax relief provisions enacted to respond to past disaster events are summarized in **Table 1**.[17] The following discussion provides additional information on these provisions.

[13] IRC Section 7508A. For a full list of the time-sensitive requirements that can be postponed under IRC Section 7508A, see IRS Revenue Procedure, Rev. Proc. 2018-58. The IRS must publish a notice or issue guidance for taxpayers to be entitled to any postponement under IRC Section 7508A. This provision was enacted in the Victims of Terrorism Tax Relief Act of 2001 (P.L. 107-134) and applies to federally declared disasters occurring on or after September 11, 2001.

[14] IRC Sections 402(c)(3)(B) and 408(d)(3)(I).

[15] IRC Section 6654(e)(3)(A).

[16] Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in the 107th Congress*, January 24, 2018, JCS-1-03, p. 323.

[17] The Job Creation and Worker Assistance Act of 2002 (Job Creation Act; P.L. 107-147) responded to the terrorist attacks of 9/11. The Katrina Emergency Tax Relief Act of 2005 (KETRA; P.L. 109-73) responded to Hurricane Katrina. The Gulf Opportunity Zone Act of 2005 (GO Zone Act; P.L. 109-135) responded to Hurricanes Katrina, Rita, and Wilma. The Food, Conservation, and Energy Act of 2008 (2008 Farm Bill; P.L. 110-246) responded to severe storms and tornados in Kansas in 2007. The Heartland Disaster Tax Relief Act of 2008, enacted as Title VII of Division C of P.L. 110-343 (the Heartland Act), and other provisions in P.L. 110-343 responded to severe Midwest storms in the summer of 2008 and Hurricane Ike and provided general disaster relief for events occurring before January 1, 2010. The Disaster Tax Relief and Airport and Airway Extension Act of 2017 (Disaster Tax Relief Act of 2017; P.L. 115-63) responded to Hurricanes Harvey, Irma, and Maria. The 2017 tax act (P.L. 115-97) (commonly referred to using the title of the bill as passed in the House, the “Tax Cuts and Jobs Act”), responded to disasters occurring in 2016. The Bipartisan Budget Act of 2018 (BBA18; P.L. 115-123) responded to the 2017 California wildfires.

Table 1. Temporary Disaster-Related Tax Provisions

	Job Creation and Worker Assistance Act of 2002	Katrina Emergency Tax Relief Act of 2005	GO Zone Act of 2005	Food, Conservation, and Energy Act of 2008	Heartland Disaster Tax Relief Act of 2008 and other provisions in P.L. 110-343		Disaster Tax Relief and Airport and Airway Extension Act of 2017	2017 Tax Act	Bipartisan Budget Act of 2018
Provision	**Terrorist attacks of 9/11/2001**	**Hurricane Katrina**	**Hurricanes Katrina, Rita, and Wilma**	**2007 Storms in Kansas**	**2008 Midwest storms**	**Disasters between 2007-2009**	**Hurricanes Harvey, Irma, and Maria**	**2016 Disasters**	**California Wildfires**
Enhanced Casualty Loss Deduction		Yes	Yes	Yes	Yes	Yes	Yes	Yes[a]	Yes
Retirement Plan Distributions		Yes	Yes	Yes	Yes		Yes	Yes	Yes
Increased Limits on Charitable Deductions		Yes	Yes		Yes		Yes		Yes
Employee Retention Credit		Yes	Yes	Yes	Yes		Yes		Yes
EITC/CTC Credit Computation Look-Back		Yes	Yes		Yes		Yes		Yes
Expensing	Yes		Yes	Yes	Yes	Yes			
Bonus Depreciation	Yes		Yes	Yes		Yes			
Net Operating Losses			Yes	Yes	Yes	Yes			
Mortgage Revenue Bonds		Yes	Yes			Yes			
Expensing of Environmental Remediation Costs ("Brownfields")			Yes[b]			Yes (but not limited to disasters)[b]			
Charitable Contributions of Inventory		Yes (but not limited to disasters)[c]				Yes (but not limited to disasters)[c]			

	Job Creation and Worker Assistance Act of 2002	Katrina Emergency Tax Relief Act of 2005	GO Zone Act of 2005	Food, Conservation, and Energy Act of 2008	Heartland Disaster Tax Relief Act of 2008 and other provisions in P.L. 110-343		Disaster Tax Relief and Airport and Airway Extension Act of 2017	2017 Tax Act	Bipartisan Budget Act of 2018
Provision	**Terrorist attacks of 9/11/2001**	**Hurricane Katrina**	**Hurricanes Katrina, Rita, and Wilma**	**2007 Storms in Kansas**	**2008 Midwest storms**	**Disasters between 2007-2009**	**Hurricanes Harvey, Irma, and Maria**	**2016 Disasters**	**California Wildfires**
Involuntary Conversions		Yes	Yes	Yes	Yes				
Discharge of Indebtedness		Yes			Yes				
Employer-Provided Housing			Yes		Yes				
Tax-Exempt Bonds	Yes		Yes		Yes				
Tax Credit Bonds			Yes		Yes				
Housing Exemption		Yes			Yes				
Mileage Rate and Reimbursement		Yes			Yes				
Treasury Authority to Make Adjustments Relating to Status		Yes	Yes		Yes				
Education Credits			Yes		Yes				
Low-Income Housing Tax Credit			Yes	Yes (but limited to representation provision)	Yes				
Rehabilitation Credit			Yes		Yes				
Public Utility Losses			Yes	Yes					
Gulf Coast Recovery Bonds			Yes						
New Markets Tax Credit			Yes						

	Job Creation and Worker Assistance Act of 2002	Katrina Emergency Tax Relief Act of 2005	GO Zone Act of 2005	Food, Conservation, and Energy Act of 2008	Heartland Disaster Tax Relief Act of 2008 and other provisions in P.L. 110-343		Disaster Tax Relief and Airport and Airway Extension Act of 2017	2017 Tax Act	Bipartisan Budget Act of 2018
Provision	**Terrorist attacks of 9/11/2001**	**Hurricane Katrina**	**Hurricanes Katrina, Rita, and Wilma**	**2007 Storms in Kansas**	**2008 Midwest storms**	**Disasters between 2007-2009**	**Hurricanes Harvey, Irma, and Maria**	**2016 Disasters**	**California Wildfires**
Small Timber Producers			Yes						
Work Opportunity Tax Credit	Yes	Yes							
Leasehold Improvements	Yes								

Source: Congressional Research Service.

Notes: Provisions enacted in response to specific disasters are not necessarily identical. Provisions that are highly similar are grouped here to facilitate comparison across disaster events.

a. The special casualty loss deduction applies to disaster losses occurring in 2016 and 2017.

b. The remediation expensing provision (IRC Section 198) is not limited to federally declared disasters or specific disasters. It was temporary when enacted and was extended several times, but has now expired. The Heartland Act was among those laws that extended Section198. The GO Zone Act had also extended it, but only for those costs for contaminated sites in the GO Zone, as well as treating petroleum products as a hazardous substance.

c. KETRA provided special rules regarding donations of food and book inventory, neither of which was limited to donations related to the hurricane, but both of which were originally set to expire on December 31, 2005. The provisions have been extended several times since then, including by the Heartland Act (as part of its tax extenders package, rather than its disaster relief provisions). The enhanced deduction for book inventory expired at the end of 2011, while the special rules for donations of food inventory were made permanent in the Protecting Americans from Tax Hikes Act of 2015, enacted as Division Q in the Consolidated Appropriations Act, 2016 (P.L. 114-113).

Enhanced Casualty Loss Deduction

An enhanced casualty loss deduction has been made available for losses attributable to certain disasters or for losses occurring during certain periods of time. Most recently, an enhanced casualty loss deduction was provided for California wildfires in the Bipartisan Budget Act of 2018 (BBA18; P.L. 115-123), any disaster-related casualty loss in years 2016 or 2017 in the 2017 tax act, commonly called the "Tax Cuts and Jobs Act" (TCJA; P.L. 115-97), and Hurricanes Harvey, Irma, and Maria in the Disaster Tax Relief and Airport and Airway Extension Act of 2017 (P.L. 115-63). The enhancements (1) waive the 10% of AGI floor; (2) increase the $100 floor for each casualty to $500; and (3) allow taxpayers not itemizing deductions to add the deduction to their standard deduction. Generally, casualty loss deductions are claimed in the year of the loss. However, a loss in a federally declared disaster area may be deducted on the prior year's tax return. A similar provision was enacted in response to several previous disasters.

Retirement Plan Distributions

BBA18, TCJA, and the Disaster Tax Relief Act of 2017 all provided relief relating to retirement plan distributions. First, each act waived the 10% penalty that would otherwise apply on early withdrawals made from a qualifying retirement plan[18] if the individual's principal place of abode was in the disaster area and the individual sustained an economic loss due to the disaster. The distributions were required to occur within a specified time frame, and the maximum amount that could be withdrawn without penalty was $100,000 or 100% of the present value of the plan participant's benefits (but not less than $10,000). Funds could be re-contributed to a qualified plan over a three-year period and receive tax-free rollover treatment. Additionally, with respect to any taxable portion of the distribution, the individual could include one-third of such amount in gross income over the course of three tax years rather than including the entire amount on the tax return for the year of distribution.

Further, the acts increased the amount disaster victims could borrow from their retirement plans without immediate tax consequences.[19] Under current law, the maximum amount that may be borrowed without being treated as a taxable distribution is the lesser of (a) $50,000, reduced by certain outstanding loans, or (b) the greater of $10,000 or 50% of the present value of the employee's vested benefits. For loans made during the applicable period, the acts increased this to the lesser of (1) $100,000, reduced by certain outstanding loans, or (2) the greater of $10,000 or 100% of the present value of the employee's vested benefits, as well as extending certain loan repayment dates by one year. A similar provision was enacted in response to several previous disasters.

Increased Limits on Charitable Deductions

Taxpayers are generally permitted to deduct contributions made to 501(c)(3) charitable organizations, subject to various limitations.[20] Individuals may not claim a charitable deduction that exceeds 50% (temporarily increased to 60% beginning in 2018 through 2025) of their "contribution base" (adjusted gross income with certain adjustments) and corporations may not claim a deduction that exceeds 10% of their taxable income with certain adjustments. Any excess contributions may generally be carried forward for five years.

BBA18 and the Disaster Tax Relief Act of 2017 temporarily suspended the 50% and 10% limitations for qualified contributions made for disaster relief efforts. An additional deduction is allowed for amounts by

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[18] IRC Section 72(t).

[19] IRC Section 72(p).

[20] IRC Section 170. For more information, see CRS In Focus IF11022, *The Charitable Deduction for Individuals*, by Margot L. Crandall-Hollick and Molly F. Sherlock.

which the taxpayer's contribution base exceeds the amount of all other allowable contributions in the tax year. For individuals, the deduction could not exceed the amount that the contribution base exceeded other charitable contributions. For individuals, the acts also suspended the overall limitation on itemized deductions for qualified contributions that was in effect through 2017. A similar provision was enacted in response to several previous disasters.

Employee Retention Credit

BBA18 and the Disaster Tax Relief Act of 2017 provided a temporary retention credit for disaster-damaged businesses that continued to pay wages to their employees who were unable work after the disaster rendered the business inoperable.[21] Eligible employees were those whose principal place of employment was in the applicable disaster area. The credit equaled 40% of the employee's first $6,000 in wages paid between the date the business became inoperable and the date it resumed significant operations at that location (or the end of the first calendar year, whichever came first). Wages can be those paid even if the employee provides no services for the employer, or for wages paid for services performed at a different location or before significant operations resume. This employee retention may not be for an employee during any period that the employer claims a work opportunity credit for the employee. A similar provision was enacted in response to several previous disasters.

EITC/CTC Credit Computation Look-Back

BBA18 permitted individuals affected by California wildfires in 2017 to elect to use their earned income from 2016 for computing the child tax credit (CTC)[22] and the earned income tax credit (EITC),[23] instead of their income from 2017, if 2016 income was greater than 2017 income.[24] The Disaster Tax Relief Act of 2017 also included this provision for those affected by Hurricanes Harvey, Irma, and Maria. This may have benefited taxpayers whose income was reduced in the year of the disaster. In general, taxpayers qualified only if they lived in the disaster zone or lived in the disaster area and the disaster caused them to be displaced from their principal place of abode. A similar provision was enacted in response to several previous disasters.

Expensing

In general, capital expenditures must be added to a property's basis rather than being expensed (i.e., deducted in the current year). IRC Section 179 provides an exception so that a business may expense the costs of certain property in the year it is placed in service.[25] After 2018, the maximum expensing allowance is $1 million, with an investment limitation of $2.5 million (both amounts are adjusted for inflation). In the past, these thresholds have been lower. For example, in 2007, the maximum expensing allowance under Section 179 was $125,000, and the deduction decreased dollar-for-dollar as the total cost of all property the business placed in service during the year exceeded $500,000. The Heartland Act increased the Section 179 limitations by up to $100,000 and $600,000 for qualified disaster area property for federally declared disasters occurring prior to January 1, 2010. Increased expensing allowances were enacted in response to several disasters before 2007 as well.

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[21] The employee retention credit increases a taxpayer's general business credit (IRC Section 38).

[22] IRC Section 24.

[23] IRC Section 32.

[24] For more information on the CTC and EITC, see CRS Report R41873, *The Child Tax Credit: Current Law*, by Margot L. Crandall-Hollick, and CRS Report R43805, *The Earned Income Tax Credit (EITC): An Overview*, by Gene Falk and Margot L. Crandall-Hollick.

[25] For more information, see CRS Report RL31852, *The Section 179 and Section 168(k) Expensing Allowances: Current Law and Economic Effects*, by Gary Guenther.

The Heartland Act also added IRC Section 198A, which permitted full expensing (subject to depreciation recapture) of qualified expenditures for the abatement or control of hazardous substances released on account of a federally declared disaster, the removal of debris or the demolition of structures on business-related real property damaged by such a disaster, and the repair of business-related property damaged by such a disaster. This provision only applied to federally declared disasters occurring prior to January 1, 2010.

Bonus Depreciation

For eligible property acquired and placed in service after September 27, 2017, and before January 1, 2023, businesses may claim a 100% expensing (or bonus depreciation) allowance under Section 168(k).[26] Like expensing limitations, the bonus depreciation allowance has changed over time. The Heartland Act provided a 50% bonus depreciation provision for qualified disaster assistance property from a federally declared disaster occurring prior to January 1, 2010.[27] With 100% bonus depreciation in effect through 2022, providing additional bonus depreciation is not currently a policy option.

Net Operating Losses

Under current law, a business's net operating loss (NOL) can be carried forward indefinitely.[28] Additionally, NOLs are limited to 80% of taxable income. There is no carryback of NOLs. This treatment was enacted in the 2017 tax act (P.L. 115-97).[29] Before 2018, in general, a taxpayer's net operating loss (NOL) could be carried back and deducted in the two tax years before the NOL year, and then carried forward for up to 20 years after the NOL year. Additionally, before 2018, there was an extended to three-year carryback for individuals who had a loss of property arising from a casualty or theft. A three-year period also applied for small businesses and farmers for NOLs attributable to federally declared disasters.

The Heartland Act provided for a five-year carryback period for qualified losses from any federally declared disaster occurring prior to January 1, 2010.[30] For such disasters, it also suspended the alternative minimum tax (AMT) provision that generally limits NOL deductions to 90% of alternative minimum taxable income. The corporate AMT was repealed in the 2017 tax act.

Mortgage Revenue Bonds

Mortgage revenue bonds are tax-exempt bonds used to finance below-market rate mortgages for low- and moderate-income homebuyers.[31] In general, the homebuyers must not have owned a residence for the past three years, and the houses' costs may not exceed 90% of the average purchase price for the area. However, for areas that are low-income or of chronic economic distress, the three-year restriction does not apply and the purchase price limitation is increased to 110%.

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[26] For more information, see CRS Report RL31852, *The Section 179 and Section 168(k) Expensing Allowances: Current Law and Economic Effects*, by Gary Guenther.

[27] GO Zone Act and the 2008 Farm Bill also provided a 50% bonus depreciation provision for qualified property, as well as granting the Secretary the authority to suspend the deadline by which property must be placed in service, on a case-by-case basis, for up to one year for taxpayers affected by the hurricanes.

[28] IRC Section 172.

[29] CRS Insight IN10846, *P.L. 115-97: Net Operating Losses*, by Mark P. Keightley.

[30] The GO Zone Act and the 2008 Farm Bill had allowed NOLs from the disasters to be carried back for five years.

[31] IRC Section 143. For more information, see CRS In Focus IF10739, *Disaster Assistance and Federal Subsidies for Municipal Bonds*, by Grant A. Driessen and Joseph S. Hughes.

For individuals whose homes were declared unsafe or ordered to be demolished or relocated due to a federally declared disaster occurring prior to January 1, 2010, the Heartland Act waived the three-year restriction and increased the purchase price limitation from 90% to 110%.[32] It also permitted individuals whose homes were damaged by the disaster to treat the amount of owner-financing provided for home repair and construction as a qualified rehabilitation loan, limited to $150,000 (the amount is generally limited to $15,000), which had the effect of waiving the three-year requirement for such financing. The GO Zone Act and KETRA contained similar provisions.

In the Heartland Act, the maximum amount of bonds each state could issue was $1,000 multiplied by that state's population in the disaster area, and need-based prioritization for state allocations were established. The GO Zone Act also expanded qualified private activity bond issuances for mortgage revenue bonds in disaster areas. The Go Zone Act added $2,500 per person in the federally declared Katrina disaster areas in which the residents qualify for individual and public assistance. The increased volume capacity added approximately $2.2 billion for Alabama, $7.8 billion for Louisiana, and $4.8 billion for Mississippi in aggregate over the next five years through 2010.[33]

Expensing of Environmental Remediation Costs ("Brownfields")

Capital expenditures must generally be added to the property's basis rather than being expensed (i.e., deducted in the current year). IRC Section 198 provided an exception by allowing taxpayers to expense any qualifying environmental remediation costs paid or incurred prior to January 1, 2012, for the abatement or control of hazardous substances at a qualified contaminated site. Unlike the other provisions discussed in this report, Section 198 is not limited to federally declared disasters or specific disasters. The provision was enacted as a temporary one in the Taxpayer Relief Act of 1997 (P.L. 105-34) and was extended a number of times before expiring at the end of 2011.

The Heartland Act was among those laws that temporarily extended Section 198. The GO Zone Act had also extended the provision, but only for those costs for contaminated sites in the GO Zone, as well as treating petroleum products as a hazardous substance.

Charitable Contributions of Inventory

Before 2005, donors of food inventory who are not C corporations could only claim a charitable deduction equal to their basis in the inventory (typically, its cost).[34] C corporations were allowed an enhanced deduction, which was the lesser of (1) the basis plus 50% of the property's appreciated value, or (2) two times basis.

KETRA provided special rules that allowed donors of wholesome food inventory to benefit from the enhanced deduction and allowed C corporations to claim an enhanced deduction for donations of book inventory to public schools. Neither provision was limited to donations related to the hurricane, but both were originally set to expire on December 31, 2005. The provisions have been extended several times since then, including by the Heartland Act (as part of its tax extenders package, rather than its disaster relief provisions). The enhanced deduction for charitable contributions of food inventory was made permanent in the Protecting Americans from Tax Hikes Act of 2015, enacted as Division Q in the

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[32] KETRA and the GO Zone Act temporarily removed the three-year requirement for qualifying homes, as well as increasing the limitation on qualified home improvement loans from $15,000 to $150,000 for loans used to repair hurricane damage.

[33] For more information, see CRS Report RL31457, *Private Activity Bonds: An Introduction*, by Steven Maguire and Joseph S. Hughes.

[34] IRC Section 170(e). For more information on the charitable contribution deduction, see CRS Report RL34608, *Tax Issues Relating to Charitable Contributions and Organizations*, by Jane G. Gravelle and Molly F. Sherlock.

Consolidated Appropriations Act, 2016 (P.L. 114-113).[35] The enhanced deduction for book inventory expired as scheduled at the end of 2011.

Involuntary Conversions

In addition to the generally treatment of involuntary conversions (discussed above), the Job Creation Act, KETRA, the 2008 Farm Bill, and the Heartland Act increased the two-year time period to purchase the replacement property to five years for property in the applicable disaster area so long as substantially all of the use of the replacement property occurred in such area.

Discharge of Indebtedness

When all or part of a debt is forgiven, the amount of the cancellation is ordinarily included in the income of the taxpayer receiving the benefit of the discharge.[36] However, there are several exceptions to this general rule. For example, no amount of the discharge is included in income if the cancellation is intended to be a gift or is from the discharge of student loans for the performance of qualifying services.[37] The Mortgage Forgiveness Debt Relief Act of 2007 (P.L. 110-142) temporarily excluded qualified canceled mortgage debt income that is associated with a primary residence from taxation (this provision was extended multiple times, and expired at the end of 2017).[38] There are also certain situations in which the taxpayer may defer taxation, with the possibility of permanent exclusion, on income from the discharge of indebtedness, such as if discharge occurs when the debtor is in Title 11 bankruptcy proceedings or legally insolvent.[39] Both KETRA and the Heartland Act included provisions that allowed victims to exclude non-business debt forgiveness from income in certain conditions.

Victims of Hurricane Katrina were allowed to exclude non-business debt that was forgiven by a governmental agency or certain financial institutions if the discharge occurred after August 24, 2005, and before January 1, 2007. Individuals were eligible for this benefit if (1) their principal place of abode was in the core disaster area, or (2) it was in the Hurricane Katrina disaster area and they suffered an economic loss due to the hurricane. Individuals with certain tax attributes (such as basis) were required to reduce them by the amount excluded from income, which has the effect of deferring (rather than permanently eliminating) the tax on the cancelled debt.

For victims with a principal place of abode in a Midwestern disaster area, the Heartland Act provided similar relief. However, if that home was in an area determined by the President to warrant only public assistance, the individual also had to have suffered an economic loss due to the severe weather.

Employer-Provided Housing

Both the GO Zone Act and the Heartland Act excluded the value of certain employer-provided housing, limited to $600 per month, from the employee's income and allowed the employer to claim a credit equal to 30% of that amount. Among other requirements, the employee must have had a principal residence in the applicable disaster area and have performed substantially all employment services for that employer in that area. The employer must have had a trade or business located within the applicable disaster area.

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[35] For more information, see CRS Report R43517, *Recently Expired Charitable Tax Provisions ("Tax Extenders"): In Brief*, by Jane G. Gravelle and Molly F. Sherlock.

[36] IRC Section 61(a)(12).

[37] IRC Sections 102 and 108.

[38] For more information, see CRS Report R44925, *Recently Expired Individual Tax Provisions ("Tax Extenders"): In Brief*, coordinated by Molly F. Sherlock.

[39] IRC Section 108(a).

Tax-Exempt Bonds

Both the GO Zone Act and the Heartland Act temporarily allowed affected states to issue tax-exempt bonds to finance (1) qualified activities involving residential rental projects, nonresidential real property, and public utility property located in the disaster area; and (2) below-market rate mortgages for low- and moderate-income homebuyers. Under the GO Zone Act, the maximum amount of bonds that each state could issue was $2,500 multiplied by that state's population that was located in the GO Zone as determined prior to the date of Hurricane Katrina. Under the Heartland Act, the maximum amount of bonds each state could issue was capped at $1,000 multiplied by that state's population in the disaster area, and the act expressly stated that the bonds would have to be designated by the appropriate state authority on the basis of providing assistance to where it was most needed. The Job Creation Act, meanwhile, allowed New York to issue up to $8 billion (divided equally between the state and New York City) in tax-exempt bonds to finance qualified activities involving residential rental projects, nonresidential real property, and public utility property located in the disaster zone. The Job Creation Act and the GO Zone Act also allowed one additional advance refunding of qualifying bonds that were issued by those states.

The GO Zone Act, the 2008 Farm Bill, and the Heartland Act allowed operators of low-income residential rental projects financed by IRC Section 142(d) bonds to rely on the representations of displaced individuals regarding their income qualifications so long as the tenancy began within six months of the displacement.

Tax Credit Bonds

Both the GO Zone Act and the Heartland Act permitted affected states to issue tax credit bonds to pay the principal, interest, or premiums on qualified governmental bonds or to make loans to political subdivisions to make such payments. Bondholders may claim a credit based on the product of a credit rate and the bonds' outstanding face amount. The bonds were required to be issued within a certain time period and could not have a maturity date beyond two years, among other requirements. Further, each state was capped in the amount of bonds it could be issued—for example, under the Heartland Act, the maximum amount of bonds that could be issued by states with disaster area populations of at least 2 million was $100 million; the cap was $50 million for states with disaster area populations between 1 million and 2 million; and the other states could not issue any bonds. Bonds could not be used for certain activities (e.g., golf courses).

Housing Exemption

Both KETRA and the Heartland Act provided tax relief to those who provided free housing to those displaced by the storms. Individuals could claim additional personal exemptions of $500 each for up to four displaced people who they housed for at least 60 consecutive days. These exemptions could be claimed in both the year of the disaster and the next year; however, no person could qualify the taxpayer for the exemption in both years. Among other requirements, the displaced person must have had a principal place of abode in the disaster area; if the home was not in the *core* disaster area, then the person must have been displaced due to either storm damage to the home or evacuation caused by the storm.

Mileage Rate and Reimbursement

Generally, individuals who use their personal vehicles for charitable purposes may claim a deduction based on the number of miles driven. The amount is set by statute at 14 cents per mile.[40]

[40] IRC Section 170(i).

KETRA and the Heartland Act each temporarily increase the charitable mileage rate to 70% of the standard business mileage rate if the vehicle was used for hurricane or Midwest disaster relief. The standard business mileage rate is periodically set by the IRS. In 2019, the standard mileage rate is 56 cents per mile.[41]

Additionally, both acts provided a temporary exclusion from a charitable volunteer's gross income for any qualifying mileage reimbursements received from the charity for the operating expenses of a volunteer's passenger automobile, when used for disaster relief.

Treasury Authority to Make Adjustments Relating to Status

KETRA, the GO Zone Act, and the Heartland Act all contained similar provisions that authorized the Treasury Secretary to make adjustments in the application of the tax laws for the tax years of the disaster and the immediate subsequent year so that temporary relocations due to the disaster did not cause taxpayers to lose any deduction or credit or to experience a change of filing status.

Education Credits

Individuals with eligible tuition and related expenses may claim certain higher education tax credits.[42] Under the law existing when KETRA, the GO Zone Act, and the Heartland Act were enacted, the Hope credit was 100% of the first $1,000 of eligible expenses plus 50% of the next $1,000 of eligible expenses, both adjusted for inflation. The maximum Lifetime Learning credit is and was 20% of up to $10,000 of eligible expenses. Beginning in 2009, the partially refundable American Opportunity Tax Credit (AOTC)[43] temporarily increased the Hope credit, allowing 100% of eligible expenses up to $2,000 plus 25% of the next $2,000 of eligible expenses. The Protecting Americans from Tax Hikes (PATH) Act (Division Q of P.L. 114-113) made the AOTC permanent, effectively eliminating the Hope credit.

For individuals attending school in the GO Zone for 2005 and 2006, the GO Zone Act allowed certain non-tuition expenses (e.g., books, equipment, and room and board) to qualify for the Hope and Lifetime Learning credits; doubled the $1,000 limitations in the Hope credit to $2,000; and increased the 20% limitation in the Lifetime Learning credit to 40%. The Heartland Act provided similar rules for students attending school in a Midwestern disaster area during 2008 or 2009. However, to take advantage of this provision for 2009, taxpayers were required to waive application of the AOTC provisions.

Low-Income Housing Tax Credit

The low-income housing tax credit allows owners of qualified residential rental property to claim a credit over a 10-year period that is based on the costs of constructing, rehabilitating, or acquiring the building attributable to low-income units.[44] Owners may claim a credit based on 130% of the project's costs if the housing is in a low-income or difficult development area. Owners must be allocated the credit by a state. Each state is limited in the amount of credits it may allocate to the greater of $2,000,000 or $1.75 times the state's population (both figures are adjusted for inflation and are $3,166,875 and $2.75625, respectively, for 2019), with adjustments.

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[41] IRS Notice 2019-2.

[42] IRC Section 25A. For more information, see CRS Report R41967, *Higher Education Tax Benefits: Brief Overview and Budgetary Effects*, by Margot L. Crandall-Hollick.

[43] For information on the AOTC, see CRS Report R42561, *The American Opportunity Tax Credit: Overview, Analysis, and Policy Options*, by Margot L. Crandall-Hollick.

[44] IRC Section 42. For more information, see CRS Report RS22389, *An Introduction to the Low-Income Housing Tax Credit*, by Mark P. Keightley.

The GO Zone Act temporarily increased the credits available to Alabama, Louisiana, and Mississippi for use in the GO Zone by up to $18.00 multiplied by the state's population that was located in the GO Zone prior to the date of Hurricane Katrina. It also temporarily treated the disaster zones as difficult development areas and used an alternate test for determining whether certain GO Zone projects qualified as low-income housing. The Heartland Act permitted affected states to allocate additional amounts for use in the disaster area of up to $8.00 multiplied by the state's disaster area population.

Rehabilitation Credit

Taxpayers may claim a credit equal to 10% of the qualifying expenditures to rehabilitate a qualified building or 20% of such expenditures for a certified historic structure.[45] Both the GO Zone Act and the Heartland Act temporarily increased these percentages to 13% and 26%, respectively, for rehabilitating qualifying buildings and structures damaged by the applicable disasters.

Public Utility Losses

Under IRC Section 172, certain net operating losses, called specified liability losses, may be carried back for 10 years. Under IRC Section 165(i), certain disaster losses may be deducted in the year prior to the disaster. The GO Zone Act treated public utility casualty losses as a Section 172 loss. The GO Zone Act and the 2008 Farm Bill allowed public utility disaster losses to be deducted in the fifth taxable year preceding the disaster.

Gulf Coast Recovery Bonds

The GO Zone stated that it was the sense of Congress that the Treasury Secretary designate at least one series of bonds as Gulf Coast Recovery Bonds. The Treasury designated Series I inflation-indexed savings bonds purchased through financial institutions as "Gulf Coast Recovery Bonds."[46]

New Markets Tax Credit

Under the new markets tax credit, taxpayers are allocated a credit for investments made in qualified community development entities.[47] The credit is claimed over a period of seven years and equals the amount of the investment multiplied by a percentage: 5% for the first three years and 6% for the next four years. The credit was capped at $2 billion for 2005 and $3.5 billion for 2006 and 2007. The GO Zone Act increased the cap by $300 million for 2005 and 2006 and by $400 million for 2007, and it allocated these amounts to entities making low-income community investments in the GO Zone.

Small Timber Producers

Under IRC Section 194, taxpayers may expense up to $10,000 of qualifying reforestation expenditures. Under IRC Section 172, the general rule is that taxpayers may carry net operating losses back for two years. The GO Zone Act created two special rules for timber producers with less than 501 acres of timber property: it (1) increased the Section 194 limit by up to $10,000 for expenditures made for qualified

[45] IRC Section 47.

[46] U.S. Department of the Treasury, "Treasury Designates Series I Savings Bonds as Gulf Coast Recovery Bonds," press release, March 29, 2006, https://www.treasury.gov/press-center/press-releases/Pages/js4140.aspx.

[47] IRC Section 45D. For more, see CRS Report RL34402, *New Markets Tax Credit: An Introduction*, by Donald J. Marples and Sean Lowry.

timber property in the applicable disaster zones; and (2) increased the Section 172 carry back period to five years for certain losses attributable to timber property in those zones.

Work Opportunity Tax Credit

Generally, businesses that hire individuals from groups with high unemployment rates or special employment needs, such as high-risk youths and veterans, may claim the work opportunity tax credit.[48] The credit may be claimed for the wages of up to $6,000 that were paid during the employee's first year. For an employee who worked at least 400 hours, the credit equals 40% of his or her wages—thus, the maximum credit is $2,400.

KETRA allowed businesses to claim the work opportunity credit on wages paid to certain employees hired after Hurricane Katrina. Eligible employees were those who had a principal place of abode in the core disaster area and either (1) were hired during the two-year period beginning August 28, 2005, for a position in the area, or (2) were displaced by the Hurricane and hired after August 27, 2005, and before January 1, 2006. Congress later extended the WOTC's expiration from August 28, 2007, to August 28, 2009, for firms who hire "Hurricane Katrina employees" to work in the disaster area (see the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 in P.L. 110-343). The Job Creation Act provided similar treatment for New York Liberty Zone business employees and certain employees outside the zone.

Leasehold Improvements

For purposes of depreciation, the Job Creation Act generally shortened the recovery period for leasehold improvement property to five years for qualifying property located in the New York disaster zone.

Revenue Estimates

Table 2 through **Table 9** provide information on the cost estimates associated with temporary disaster relief legislation. This information is provided on a fiscal year basis, as well as over the applicable budget window. With the exception of the 2017 tax act (P.L. 115-97, commonly referred to as the Tax Cuts and Jobs Act), each table reports revenue estimates from the Joint Committee on Taxation (JCT) in millions of dollars. For the 2017 tax act, estimates are in billions of dollars.

[48] IRC Section 51. For more information, see CRS Report R43729, *The Work Opportunity Tax Credit*, by Benjamin Collins and Sarah A. Donovan.

Table 2. Revenue Effects of Disaster Tax Relief in the Bipartisan Budget Act of 2018

(millions of dollars)

Provision	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2018-2027
Tax Relief for California Wildfires											
Special disaster-related rules for use of retirement funds	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]
Employee retention credit for employers	-2	-3	-1	[4]	[4]	[4]	[4]	[4]	[4]	[4]	-7
Temporary suspension of limitations on charitable contributions	-259	120	44	24	17	10					-45
Special rules for qualified disaster-related personal casualty losses	-202	-21									-223
Special rule for determining earned income	-131	-33									-164
Total of Tax Relief for California Wildfires	-594	63	43	24	17	10	[4]	[4]	[4]	[4]	-439
Tax Relief for Hurricanes Harvey, Irma, and Maria											
Special disaster-related rules for use of retirement funds	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]
Employee retention credit for employers	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]
Temporary suspension of limitations on charitable contributions	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]
Special rules for qualified disaster-related personal casualty losses	-7	-1									-8
Special rule for determining earned income	-7	-2									-9
Total of Tax Relief for Hurricanes Harvey, Irma, and Maria	-14	-3	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	-17
Total of BBA 2018 disaster tax relief provisions	***-608***	***60***	***43***	***24***	***17***	***10***	***[4]***	***[4]***	***[4]***	***[4]***	***-456***

Source: Joint Committee on Taxation, JCX-4-18, "Estimated Budget Effects Of The Revenue Provisions Contained In The 'Bipartisan Budget Act Of 2018'"

Notes: Estimates may not add due to rounding. [1] Gain of less than $50 million. [2] Loss of less than $50 million. [3] Negligible revenue effect. [4] Gain of less than $500,000. [5] Loss of less than $500,000. [6] Loss of less than $1 million.

Table 3. Revenue Effects of Disaster Tax Relief in the 2017 Tax Act (P.L. 115-97)

(billions of dollars)

Provision	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2018-2027
Special rules for retirement plans and casualty loss relief	-3.2	-1.3	[1]	[1]	[2]	[2]	[2]	[2]	[2]	[2]	-4.6

Source: Joint Committee on Taxation, JCX-67-17, 'Estimated Budget Effects Of The Conference Agreement For H.R.1, The "Tax Cuts And Jobs Act"'

Notes: Estimates may not add due to rounding. [1] Gain of less than $50 million. [2] Loss of less than $50 million. [3] Negligible revenue effect. [4] Gain of less than $500,000. [5] Loss of less than $500,000. [6] Loss of less than $1 million.

Table 4. Revenue Effects of Disaster Tax Relief in the Disaster Tax Relief and Airport and Airway Extension Act of 2017

(millions of dollars)

Provision	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2018-2027
Special disaster-related rules for use of retirement funds	-47	-14	6	6	[4]	-1	-1	-1	-1	-1	-53
Employee retention credit for employers	-216	-273	-84	-41	-24	-16	-11	-11	-6	[5]	-681
Temporary suspension of limitations on charitable contributions	-3,310	1,627	511	298	203	119					-552
Special rules for qualified disaster-related personal casualty losses	-2,992	-798	-199	[5]							-3,989
Special rule for determining earned income	-61	-37	-16								-115
Application of disaster-related tax relief to possessions of the United States	-239										-239
Total of Disaster Tax Relief and Airport and Airway Extension Act disaster tax relief provisions	***-6,865***	***505***	***218***	***263***	***179***	***102***	***-12***	***-12***	***-7***	***-1***	***-5,629***

Source: Joint Committee on Taxation, JCX-44-17, "Estimated Revenue Effects Of The Revenue Provisions Contained In Titles II And V Of H.R. 3823, The "Disaster Tax Relief And Airport And Airway Extension Act Of 2017," Scheduled For Consideration By The House Of Representatives On September 27, 2017"

Notes: Estimates may not add due to rounding. [1] Gain of less than $50 million. [2] Loss of less than $50 million. [3] Negligible revenue effect. [4] Gain of less than $500,000. [5] Loss of less than $500,000. [6] Loss of less than $1 million.

Table 5. Revenue Effects of Disaster Tax Relief in the Heartland Disaster Tax Relief Act of 2008

(millions of dollars)

Provision	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2009-2018
Tax Benefits for the Midwestern and Hurricane Ike Disaster Areas											
Special allocation of private activity bond financing	-9	-45	-96	-137	-167	-178	-177	-174	-170	-167	-1,320
Special allocation of low-income housing credit	-20	-86	-179	-251	-278	-278	-278	-278	-278	-278	-2,203
Partial expensing for certain demolition and clean-up costs	-2	-1									-3
Extension for expensing for environmental remediation costs		[5]	[5]								[5]
Increase rehabilitation credit	-2	-1	[5]	[5]	[5]	[5]	[5]	[5]	[5]	[5]	-3
Treatment of net operating losses attributable to storm disaster losses	-103	-23	12	15	15	13	11	9	8	7	-37
Credit to holders of Midwestern tax credit bonds	-7	-26	-41	-34	-8	-8	-7	-7	-7	-7	-152
Expansion of Hope Scholarship and Lifetime Learning Credits for Midwestern disaster area	-71	-50									-121
Temporary income exclusion and credit for employer-provided lodging	-20	-2									-23
Special rules for use of retirement funds	-34	-6	3	-1	-1	-1	[5]	[5]	[5]	[5]	-42
Employee Retention Credit	-64	-18	-8	-2							-93
Temporary suspension of limitations on qualified charitable contributions	-700	92	66	53	26	13	7	5	3	2	-433
Suspension of thresholds on personal casualty losses in Midwestern disaster area	-61										-61
Special look-back rules for determining earned income for EITC	-89										-89
Secretarial authority to make adjustments regarding taxpayer and dependency status	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]
Additional personal exemption for displaced individuals staying as houseguests	-8	-2									-10

Provision	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2009-2018
Increase in standard mileage rate for charitable use of a vehicle for providing relief to disaster area	-9										-9
Mileage reimbursements to charitable volunteers excluded from gross income up to standard business rate	-1										-1
Exclusions of certain cancellations of indebtedness for certain taxpayers affected by disasters	-4	-2									-6
Extend replacement period for non-recognition of gain for property located in disaster area	-30	-41	-3	1	1	1	2	2	2	2	-65
Total Tax Benefits for the Midwestern and Hurricane Ike Disaster Areas	*-1,234*	*-211*	*-246*	*-356*	*-412*	*-438*	*-442*	*-443*	*-442*	*-441*	*-4,671*
Reporting Requirements Relating to Disaster Relief Contributions	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]
Temporary Tax-Exempt Bond Financing and Low-Income Housing Tax Relief for Areas Damaged by Hurricane Ike	-5	-24	-50	-70	-81	-83	-82	-82	-81	-81	-638
<u>National Disaster Relief for Federally Declared Disaster Areas in 2008 and 2009</u>											
Individual casualty losses deductible for itemizers without regard to AGI	-676	-259									-934
Expensing of qualified environmental remediation, debris removal or demolition of structures, or repairs	-5	-15	-11	-4	-1	[4]	[4]	[4]	[4]	[4]	-35
5-year carryback of NOLs for qualified disaster losses	-189	-301	-15	76	64	55	47	40	34	29	-162
Relax mortgage revenue bond limitations for presidentially declared disasters	-2	-3	-5	-5	-5	-5	-5	-5	-5	-5	-45
Special depreciation allowance for qualified disaster property ("bonus depreciation")	-1,045	-1,299	-1,082	-372	234	377	316	245	176	132	-2,318
Increased expensing for qualified disaster property under section 179	-67	-31	-25	11	37	25	18	12	7	4	-10
Total National Disaster Relief for Federally Declared Disaster Areas in 2008 and 2009	-1,984	-1,908	-1,138	-294	329	452	376	292	212	160	-3,504
Total of Heartland Disaster Act of 2008 tax relief	***-3,223***	***-2,143***	***-1,434***	***-720***	***-164***	***-69***	***-148***	***-233***	***-311***	***-362***	***-8,813***

Source: Joint Committee on Taxation, JCS-1-09, "General Explanation of Tax Legislation Enacted in the 110th Congress"

Notes: Estimates may not add due to rounding. [1] Gain of less than $50 million. [2] Loss of less than $50 million. [3] Negligible revenue effect. [4] Gain of less than $500,000. [5] Loss of less than $500,000. [6] Loss of less than $1 million.

Table 6. Revenue Effects of Disaster Tax Relief in the Food, Conservation, and Energy Act of 2008

(millions of dollars)

Provision	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2008-2018
Temporary relief for Kiowa County, KS and surrounding area:												
Suspension of certain limitations on personal casualty losses	-4	-3										-8
Extension of replacement period for non-recognition of gain	[5]	-1	-1	[5]	[5]	[5]	[5]	[5]	[5]	[5]	[5]	-2
Employee retention credit for employers affected by May 4 storms and tornados	-3	-7	-1	[5]								-11
Special allowance for certain property acquired on or after May 5, 2007	-25	-14	-5	1	1	1	1	1	1	1	1	-35
Increase in expensing under section 179	[5]	[5]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[5]
Expensing for certain demolition and clean-up costs	[5]	[5]										
Treatment of public utility property disaster losses	[5]	[4]	[4]	[4]								[5]
Treatment of net operating losses attributable to storm losses	-5	-2	1	1	[4]	[4]	[4]	[4]	[4]	[4]	[4]	-1
Treatment of representations regarding income eligibility for purposes of qualified rental project requirements	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]
Special rules for use of retirement funds	[5]	-3	1	[4]	[5]	[5]	[5]	[5]	[5]	[5]	[5]	-3
Total of Temporary relief for Kiowa County, KS and surrounding area	***-37***	***-30***	***-5***	***2***	***1***	***1***	***1***	***1***	***1***	***1***	***1***	***-60***

Source: Joint Committee on Taxation, JCS-1-09, "General Explanation of Tax Legislation Enacted In the 110th Congress"

Notes: Estimates may not add due to rounding. [1] Gain of less than $50 million. [2] Loss of less than $50 million. [3] Negligible revenue effect. [4] Gain of less than $500,000. [5] Loss of less than $500,000. [6] Loss of less than $1 million.

Table 7. Revenue Effects of Disaster Tax Relief in the Gulf Opportunity Zone Act of 2005

(millions of dollars)

Provision	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2006-2015
Establishment of the Gulf Opportunity Zone											
Specials allocation of private activity bond financing	-15	-51	-94	-137	-181	-210	-217	-217	-217	-217	-1,556
Advance refundings of certain tax-exempt bonds	-54	-104	-119	-113	-101	-89	-69	-45	-29	-16	-741
Low-income housing credit	-6	-29	-71	-123	-149	-149	-149	-149	-149	-149	-1,123
Special allowance for certain property acquired on or after 9/28/05:											
Equipment	-785	-696	59	355	267	217	163	111	72	43	-194
Structures	-542	-588	-655	-259	-16	9	31	47	58	64	-1,850
Increase expensing under section 179	-31	-27	-2	17	12	9	7	5	3	2	-7
Partial expensing for certain demolition and clean-up costs	-84	-39	-5	3	3	3	3	3	3	3	-105
Extend and expand to petroleum products expensing for environmental remediation costs	-26	-44	-15	6	6	7	6	5	4	4	-48
Increase rehabilitation credit	-11	-24	-21	-10	-3	-2	-2	-2	-1	-1	-78
Increase reforestation expensing	-2	-1	[5]	1	1	1	1	1	[4]	[4]	[5]
Treat small timber growers as farmers for purposes of the 5-year NOL carryback	-1	[5]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[5]
10-year NOL carryback for certain GO Zone related public utility casualty losses	-221	-40	39	33	28	24	20	17	15	13	-71
Treatment of NOL attributable to GO Zone losses	-1,003	-319	92	166	160	136	115	98	83	71	-401
Credit to holders of Gulf Tax Credit Bonds	-7	-17	-14	-3	-3	-3	-3	-3	-3	-3	-57
Application of New Markets Tax Credit to investments in GO Zone community development entities		-20	-43	-50	-54	-59	-59	-59	-36	-8	-387
Treatment of representations regarding income eligibility for qualified residential rental project requirements	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]
Treatment of public utility property disaster losses	-128	-17	29	23	19	15	12	10	8	6	-24
Expansion of Hope Scholarship and Lifetime Learning Credits for students in the GO Zone	-38	-17									-55

Provision	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2006-2015
Temporary income exclusion and credit for employer-provided lodging	-99	-146									-246
Extension of special rules for mortgage revenue bonds in the Katrina disaster area			-2	-7	-11	-15	-15	-15	-15	-15	-96
Special extension of bonus depreciation placed in service date for taxpayers affected by hurricanes	-58	-18	8	7	6	6	5	5	5	5	-29
Total of Establishment of Gulf Opportunity Zone	-3,111	-2,197	-814	-90	-16	-100	-151	-189	-199	-198	-7,068
Tax Benefits Related to Hurricanes Rita and Wilma											
Special rules for use of retirement funds for relief relating to Hurricanes Rita and Wilma	-173	-41	34	23	-5	-3	-3	-2	-2	-2	-174
Removal of employer size limitation for Hurricane Katrina employee retention credit	-56	-18	-9	-4	-2						-90
Employee retention credit for employers of employees affected by Hurricanes Rita and Wilma	-15	-5	-3	-1							-24
Temporary suspension of limitations on qualified corporate charitable contributions for relief efforts	-85	5	1	[5]	[5]	-1	-3	-3	-3	-3	-91
Suspension of thresholds on personal casualty losses for losses in Hurricanes Rita and Wilma disaster areas	-528	-611	-35	[5]							-1,174
Special look-back rules for determining earned income for EITC	-28										-28
Secretarial authority to make adjustments regarding taxpayer and dependency status	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]
Special rules for mortgage revenue bonds in the GO, Rita GO, and Wilma GO Zones	-1	-3	-4	-5	-7	-7	-7	-7	-7	-7	-55
Total of Tax Benefits Related to Hurricanes Rita and Wilma	-886	-673	-16	13	-14	-11	-13	-12	-12	-12	-1,636
Total of Gulf Opportunity Zone Act of 2005 hurricane relief	***-3,997***	***-2,870***	***-830***	***-77***	***-30***	***-111***	***-164***	***-201***	***-211***	***-210***	***-8,704***

Source: Joint Committee on Taxation, JCX-89-05R, "Estimated Revenue Effects Of H.R. 4440, The "Gulf Opportunity Zone Act of 2005," As Passed By The House Of Representatives And The Senate On December 16, 2005"

Notes: Estimates may not add due to rounding. [1] Gain of less than $50 million. [2] Loss of less than $50 million. [3] Negligible revenue effect. [4] Gain of less than $500,000. [5] Loss of less than $500,000. [6] Loss of less than $1 million.

Table 8. Revenue Effects of Disaster Tax Relief in the Katrina Emergency Tax Relief Act of 2005

(millions of dollars)

Provision	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2006-2015
Special Rules for Use of Retirement Funds for Relief Relating to Hurricane Katrina											
Penalty-free withdrawals from retirement plans for qualified Hurricane Katrina distributions	-61	4	-2	-2	-2	-1	-1	-1	-1	-1	-69
Income averaging for qualified Hurricane Katrina distributions	-10	-18	15	11							-2
Recontributions of withdrawals for home purchases cancelled due to Hurricane Katrina	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]
Loans from qualified plans for relief relating to Hurricane Katrina	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]
Total of Special Rules for Use of Retirement Funds for Relief Relating to Hurricane Katrina	-71	-14	13	9	-2	-1	-1	-1	-1	-1	-71
Employment Relief											
Work opportunity tax credit	-12	-30	-28	-12	-6	-3	-1				-93
Employee retention credit for employers	-23	-8	-4	-2							-38
Total of Employment Relief	-35	-38	-32	-14	-6	-3	-1				-131
Charitable Giving Incentives											
Temporary suspension of limitations for qualified charitable contributions	-819	56	17	-3	-4	-14	-26	-26	-26	-26	-871
Additional personal exemption for displaced individuals staying as houseguests	-96	-32									-128
Increase in standard mileage rate for charitable use of a vehicle for providing relief	-17	-12									-29
Mileage reimbursements to charitable volunteers excluded from gross income up to standard business rate	-1	-1									-2
Extend enhanced deduction for contributions of food inventory to individuals	-20										-20
Extend enhanced deduction to include contributions of books to public schools	-5										-5

Provision	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2006-2015
Total of Charitable Giving Incentives	-958	11	17	-3	-4	-14	-26	-26	-26	-26	-1,055
Additional Tax Relief Provisions											
Exclusions of certain cancellations of indebtedness for certain taxpayers	-190	-103									-293
Suspend thresholds on personal casualty losses for losses which arise in the Hurricane Katrina disaster area	-1,089	-1,259	-73	[5]							-2,420
Required exercise of authority under section 7508A for tax relief for certain taxpayers	-10										-10
Tax relief under section 7508 and 7508A by reason of service in a combat zone, natural disasters, terrorist, or military actions	-2	-2	-2	-2	-2	-2	-2	-2	-2	-2	-20
Special mortgage financing rules for residences located in Hurricane Katrina disaster area	-2	-7	-14	-18	-19	-19	-19	-19	-19	-19	-154
Extend replacement period for nonrecognition of gain for property located in Hurricane Katrina disaster area	-837	-1,151	-102	8	15	25	42	53	56	60	-1,831
Special look-back rules for determining earned income for EITC	-125										-125
Secretarial authority to make adjustments to taxpayer and dependency status for taxpayers affected by Hurricane Katrina	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]
Total of Additional Tax Relief Provisions	-2,255	-2,522	-191	-12	-6	4	21	32	35	39	-4,853
Total of Katrina Emergency Tax Relief Act of 2005 tax relief provisions	***-3,319***	***-2,563***	***-193***	***-20***	***-18***	***-14***	***-7***	***5***	***8***	***12***	***-6,110***

Source: Joint Committee on Taxation, JCX-68-05, "Estimated Revenue Effects Of The House Resolution Of Concurrence With An Amendment To The Senate Amendment To H.R. 3768, The 'Katrina Emergency Tax Relief Act Of 2005'"

Notes: Estimates may not add due to rounding. [1] Gain of less than $50 million. [2] Loss of less than $50 million. [3] Negligible revenue effect. [4] Gain of less than $500,000. [5] Loss of less than $500,000. [6] Loss of less than $1 million.

Table 9. Revenue Effects of the Disaster Tax Relief in the Job Creation and Worker Assistance Act of 2002

(millions of dollars)

Provision	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2002-2012
Expansion of Work Opportunity Tax Credit to include certain employees in New York City	-119	-259	-176	-52	-19	-6						-631
30% bonus depreciation for property placed in service in the Liberty Zone:												
Property included in H.R. 3090	-535	-490	-464	-445	-411	192	481	403	323	240	166	-542
Residential and non-residential new structures	-87	-114	-136	-152	-154	-150	-146	-142	-11	33	33	-1,026
Authorize issuance of tax-exempt private activity bonds for rebuilding portion of NYC damaged in 9/11 attacks	-11	-41	-90	-127	-137	-137	-137	-137	-137	-137	-137	-1,228
NYC advance refunding of bonds capped at $9 billion over 3-year window	-103	-124	-133	-125	-115	-98	-80	-64	-49	-30	-15	-937
Increase in section 179 expensing by $35,000 and reduced rate of phaseout	-36	-56	-37	-29	-23	20	49	31	21	14	9	-37
Extension of replacement period to 5 years for certain property in NYC	-145	-199	-18	1	2	3	6	7	7	8	9	-318
5-year life for leasehold improvements in the Liberty Zone	-11	-26	-45	-70	-102	-115	-101	-79	-50	-12	14	-595
Interaction with general business tax provisions	563	520	470	-42	-303	-270	-228	-173	-120	-80	-52	285
Total of Tax Benefits for Area of New York City Damaged in Terrorist Attacks on 9/11/01	***-484***	***-789***	***-629***	***-1,041***	***-1,262***	***-561***	***-156***	***-154***	***-16***	***36***	***27***	***-5,029***

Source: Joint Committee on Taxation, JCX-13-02, "Estimated Revenue Effects Of The 'Job Creation And Worker Assistance Act Of 2002.'"

Notes: Estimates may not add due to rounding. [1] Gain of less than $50 million. [2] Loss of less than $50 million. [3] Negligible revenue effect. [4] Gain of less than $500,000. [5] Loss of less than $500,000. [6] Loss of less than $1 million.