

Important Considerations for Storm-Related Damage to Property

As we all continue to work through the aftermath of the severe winter weather our area has experienced this week, we wanted to take a moment to communicate a few key items that may be relevant to you if you have or your business has sustained damage to property.

As you might be aware, Governor Abbott on February 17 requested a “major disaster declaration” from President Biden in response to the widespread damage resulting from the storm. On February 19, President Biden approved this declaration for 77 Texas counties, including Tarrant, Dallas, Denton, Collin, Parker, and Ellis counties. This is significant, as the disaster declaration provides for more advantageous tax treatment of business and personal losses sustained as a result of the winter storm. For example, losses in federally declared disaster areas are not subject to the same deduction limitations as other casualty losses.

Here are some things you can do now if you have experienced damage to your business or personal property:

- **Take immediate action to mitigate the losses** (e.g., remove standing water as quickly as possible, remove effected carpet padding, use fans to dry the flooded area if possible). Salvage as much personal property as possible. Document the damage by taking photos.
- **Contact your insurance company to file a claim.** In many instances, they can provide assistance in mitigating the losses, and they will want to assess the damage as soon as possible. A casualty loss involving property covered by insurance can only be taken into account if a timely insurance claim is filed in connection with the loss.
- **Carefully track all expenditures associated with the damages.** This could include costs incurred in cleaning up the impacted area to mitigate damage (e.g., tools, professional fees for contractors, etc.), repairing the damage, and replacing damaged items. All of these expenses can be considered in determining the amount of the casualty loss.
- **Determine the value of the property immediately before and immediately after the incident occurred.** When claiming a casualty loss, the loss is calculated as the smaller of:
 - The cost or other basis of the property (reduced by any insurance reimbursement), or



- The decline in market value of the property as measured immediately before and after the casualty (reduced by any insurance reimbursement). This is generally determined through an appraisal.

The cost of repairs may also be used to measure the decline in fair market value if (a) the repairs are necessary to restore the property to the pre-casualty condition, (b) the amount is not excessive (c) the repairs do not address more than the specific damage incurred, and (d) the value of the property is not higher after the repairs than it was immediately prior to the loss event. Accordingly, retain all documentation that will help substantiate the loss of value.

- **Be intentional about the use of any insurance proceeds.** Unless insurance proceeds are invested into property similar or related in use to the damaged property, it could result in a taxable gain. Generally, the property must be replaced within two years after the close of the first taxable year in which the proceeds are received. In the event a federal disaster is declared, this timeline could be extended to four years. Also, be aware that there are restrictions on purchasing replacement property from related parties.

In addition to federal tax considerations, business owners should be aware of potential **sales and use tax implications** regarding the repairs to their facilities as a result of the winter storm. Real property repairs to nonresidential realty are considered to be taxable transactions in Texas regardless of how the contracts are structured. **However, businesses may qualify for a sales tax exemption to help alleviate at least a portion of that tax burden when the repairs are needed as a direct result of a natural disaster.** In such a circumstance, it is important for the labor component of the repairs to be stated separately from materials. It may be advantageous for you to work with our sales tax specialist, Brandon Hayes, before executing agreements with contractors to ensure that you take advantage of any tax saving opportunities.

Should you have any questions regarding the immediate actions you should take as part of your storm recovery efforts, please reach out to our team of professionals. We will do everything we can to help mitigate the cost of your personal and business losses through reduced income tax liabilities and, for businesses, reduced sales tax liabilities.



Joe Taylor, CPA
Chairman, Board of Managers
817.546.7026
jdtaylor@jtaylor.com



Pam Roberts, CPA
Partner, Tax Services
817.502.7730
proberts@jtaylor.com



Shannon Schumacher, CPA
Partner - Director of Tax Services
817.546.7020
sschumacher@jtaylor.com



Sarah Caldwell, CPA, CFP®
Partner - Tax Services
817.546.7033
scaldwell@jtaylor.com



Hayden Graham, CPA
Partner - Tax Services
817.502.7723
hgrahm@jtaylor.com



Brandon Hayes, CMI
Senior Manager – Indirect Tax Services
817.924.5900
bhayes@jtaylor.com