Dear Client:

If you suffered a loss as a result of Hurricane Irma, you may be able to recoup a portion of that loss through several different tax benefits that may be available to you. These include regular tax relief disaster provisions, special IRS initiatives, and recent federal legislation (the 2017 Disaster Tax Relief Act), which could reduce your tax compliance burden, avoid penalties, and provide tax benefits to help ease financial burdens resulting from the disaster.

Casualty loss deductions, election to claim for previous year. For personal casualty losses caused by an event in a federally declared disaster area, and for casualty and other losses incurred in a trade or business that are due to a disaster occurring in a federally declared disaster area, a special rule allows taxpayers to claim a personal casualty loss deduction either in the year when the casualty occurred, or in the year before the casualty occurred (to get the allowable refund in the casualty year). This election usually results in a faster tax refund, and sometimes a larger one.

Casualty loss deductions, limitations eased. The Disaster Tax Relief Act helps taxpayers that suffer a "net disaster loss" (qualified disaster-related personal casualty losses) in a number of ways. To qualify, the casualty losses must arise in the Hurricane Irma disaster area on or after Sept. 4, 2017, and be attributable to the hurricane.

10%-of-AGI limitation removed. The personal casualty losses of taxpayers claiming a net disaster loss from Hurricane Irma don't have to exceed 10% of adjusted gross income (the usual limitation) to qualify for a deduction.

Relief for non-itemizers. Taxpayers with net disaster losses won't have to itemize (as they would under the usual rules) to get tax relief. Instead, under a special rule, they can increase their standard deduction by the amount of their net disaster loss. Also, those who take the standard deduction and are subject to alternative minimum tax (AMT) (which generally disallows the standard deduction) won't lose the part of it that's attributable to the net disaster loss when figuring their AMT.

One down-side: increase in personal casualty floor. The usual $100 per-casualty floor (personal casualty losses) is increased to $500 for qualified disaster-related personal casualty losses. So these special relief provisions aren't available for small losses.

Postponed filing and payment deadlines; penalty relief. Individuals and businesses affected by Hurricane Irma, who reside in localities in Florida, Georgia, the U.S. Virgin Islands, and Puerto Rico that were declared to be in the federal disaster area, and who had tax filing and payment deadlines that occurred starting on Sept. 4, 2017 in Florida, and on Sept. 7, 2017 in Georgia, have until Jan. 31, 2018 to file returns and pay any taxes originally due during the relief period. This includes quarterly estimated tax payments, validly extended 2016 income tax returns (for which the extension was due to run out on Oct. 16, 2017)-but not tax payments related to 2016 individual returns-and quarterly payroll and excise tax returns.

The relief is available (without contacting IRS) to any taxpayer with an IRS address of record located in the disaster area.

IRS waived late-deposit penalties for federal payroll and excise tax deposits normally due during the disaster period.

Relief also is available to: the spouse of an affected taxpayer, for joint return filing purposes; relief workers assisting in the disaster area; and individuals, estates, trusts, and businesses located outside the disaster area whose records needed to meet a tax deadline are maintained in the disaster area.

Contact us immediately if you receive a late filing or payment penalty notice from IRS, or are contacted by IRS about a collection or examination matter.

Qualified disaster relief (QDR) payments (e.g., payments from FEMA) aren't taxable. QDR payments aren't subject to income or employment taxes. These are any payments (if not compensated by insurance or otherwise) made to or for an individual: (1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred due to a "qualified disaster;" (2) to reimburse or pay reasonable and necessary expenses to repair or rehabilitate a personal residence (including a rented one) or repair or replace its contents, if the work is needed due to a qualified disaster; (3) by a person who provides or sells transportation as a common carrier because of death or personal physical injuries due to a qualified disaster; or (4) if the amount is paid by a federal, state, or local government, or an agency or instrumentality of them, in connection with a qualified disaster to promote general welfare (but not if payments are made to businesses, or for income replacement or unemployment compensation).

Qualified disaster *mitigation* payments, which are made to lessen or avoid the effects of *future* disasters, are also excludable from income.

Special rules that may increase the earned income tax credit (EIC), or the refundable part of the child tax credit (CTC), for displaced individuals. The Disaster Tax Relief Act assists individuals in disaster areas who might ordinarily qualify for the EIC and/or the refundable part of the up-to-$1,000 per dependent CTC, but whose earnings or wages (on which these tax breaks are based) were adversely affected by the storms. If a qualified taxpayer's earned income (or that of a spouse on a joint return) for the tax year that includes the hurricane date is less than the earned income for the preceding tax year, then the taxpayer may, for both the EIC and CTC, substitute the earned income for the preceding year. The individual's principal place of abode on Sept. 4, 2017 must have been in the Hurricane Irma disaster area or zone, and the individual must have been displaced from that home by reason of Hurricane Irma.

Easier access to retirement plan funds. Distributions from qualified employer retirement plans are generally taxable immediately, and subject to a 10% penalty for those under age 59½ (subject to exceptions). Plan loans are treated as distributions unless, among other things (i) they don't exceed the lesser of: $50,000, or half of the value of the employee's nonforfeitable accrued benefit (however, a loan up to $10,000 is allowed, even if that is more than half of the employee's accrued benefit); and (ii) the loan is required to be repaid within five years (longer if it's a principal residence plan loan).

The Disaster Tax Relief Act eases a number of these rules to allow victims to take "qualified hurricane distributions" from their retirement plans of up to $100,000. A qualified hurricane distribution (QHD) is any distribution from an eligible retirement plan, including an IRA, made on or after Sept. 4, 2017, and before Jan. 1, 2019, to an individual whose principal place of abode on Sept. 4, 2017, is located in the Hurricane Irma disaster area and who has sustained an economic loss by reason of Hurricane Irma.

10%-penalty relief. QHDs are exempt from the 10% early withdrawal penalty.

No withholding. QHDs are not subject to the mandatory 20% withholding that generally applies to eligible rollover distributions.

Some tax deferred. Any taxable income from a QHD can be spread over a three-year period, beginning with the year that any amount would normally be taxable. Taxpayers can elect out of this spread.

Tax-favored treatment of recontributions. If the QHD is re-contributed at any time over a three-year period, beginning on the day after it was received, tax-free rollover treatment applies. This means that if a taxpayer timely recontributes the QHD, the taxpayer can recoup the tax paid on the it (via a refund claim) or, if recontribution is made in the same year as the QHD, avoid the tax entirely.

Relief for cancelled home purchases, construction. If any individual (*not just those living in a Presidentially declared disaster area*) made certain withdrawals from a qualified plan or IRA, such as hardship distributions, after Feb. 28, 2017 and before Sept. 21, 2017, for a home purchase or construction, and the purchase or construction was cancelled due to Hurricane Irma, the individual can recontribute the withdrawals. If the recontribution is made during the period beginning on Aug. 23, 2017, and ending on Feb. 28, 2018 to an eligible retirement plan, the original distribution is treated as tax-free under the rollover rules.

Eased rules for plan loans. For qualifying retirement plan loans made from Sept. 29, 2017 through Dec. 31, 2018, to individuals living in Hurricane Irma disaster areas, the maximum loan is increased from $50,000 to $100,000, the one-half of present value limit is removed, and a longer repayment term is allowed.

Insurance proceeds for damaged or destroyed property-special rules for determining gain. Under general income tax rules, insurance proceeds received on damaged or destroyed property are taxable to the extent they exceed the property's adjusted basis. If the proceeds are used to repair the property, or purchase qualified replacement property within two years, the gain can be deferred.

But under special rules that apply for disasters, if a taxpayer's principal residence or any of its contents are partially or completely destroyed due to a federally declared disaster, any gain from the receipt of insurance proceeds for personal property that was part of the residence contents for insurance purposes, and wasn't "scheduled property" (*i.e.*, wasn't specifically insured property, such as jewelry, listed in the insurer's schedule) isn't subject to income tax, regardless of what it is used for. And, insurance proceeds received for the home or its "separately scheduled" contents are treated as received for a single item of property (making it easier for the homeowner to replace the principal residence without recognizing gain). Also, a four-year replacement period applies, instead of the two-year period, for the election to defer gain. Also, note that the home-sale exclusion rules, which apply to involuntary conversions, often exclude involuntary-conversion gain on principal residences.

Tax help for disaster-relief charitable contributions. The following tax help is available for contributors to relief efforts:

Leave-based donation programs. IRS announced it wouldn't tax cash payments made by employers to charities in exchange for employees' paid time off, if payments are made to victims of Hurricane Irma and are paid to the charities before Jan. 1, 2019. Employers may deduct the payments as a business expense.

Charitable contributions. An individual's charitable contribution deduction for a tax year generally is subject to limits based both on the type of property contributed and the type of charity to which the contribution is made-either 50% or 30% of the taxpayer's contribution base for the year, subject to an overall 50% ceiling for all charitable gifts. The Disaster Tax Relief Act temporarily suspends most of these limitations for "qualified contributions" paid during the period beginning on Aug. 23, 2017, and ending on Dec. 31, 2017, in cash, to most church, governmental and other public charities, or private foundations, for relief efforts in the Hurricane Harvey, Irma, or Maria disaster areas. The taxpayer must obtain a contemporaneous written acknowledgement that the contribution was or is to be used for relief efforts, and make an election to apply the eased rules.

Employee retention tax credit. The Disaster Tax Relief Act provides eligible employers with an employee retention tax credit equal to 40% of qualified wages of up to $6,000 paid to each eligible employee, resulting in a credit of up to $2,400 per employee.

An eligible employer is, generally, one that on Sept. 4, 2017 conducted an active trade or business in the Hurricane Irma disaster *zone* (the portion of the disaster area that was hardest hit and is eligible for more non-tax federal assistance than is the disaster area generally) and whose business was made inoperable by the hurricane on any day after Sept. 4, 2017 and before Jan. 1, 2018 (the 2017 post-hurricane period).

Qualified wages are, generally, wages paid or incurred to an eligible employee during the 2017 post-hurricane period, and after the trade or business became inoperable and before significant operations resumed. Wages qualify for the credit whether or not the employee performs any services, performs services at a place other than the principal place of employment, or performs services before significant operations have resumed.

An eligible employee is generally an employee whose principal place of employment was with the employer in the Hurricane Irma disaster zone on Sept. 4, 2017.

Obtaining copies of returns from IRS-recovery of lost or destroyed records. IRS waives the usual fees that apply to requests for copies of returns and expedites requests for copies of previously filed returns, for disaster area taxpayers. This relief can be especially helpful to anyone whose copies of these documents were lost or destroyed by the hurricane.

Next steps. Please contact me so that I can help you maximize your tax benefits to help offset what you have lost from this disastrous hurricane.

Note, too, that I may be able to provide tips on preparing for future disasters and emergency situations.
Very truly yours,