1012 Broad Street, 2nd Fl
Bloomfield, NJ 07003
Tel (973) 783-7000
Fax (973) 338-3955
www.DeBlisLaw.com

I. An Approach to Tackling Casualty Losses

a. Losses—165©

i. Losses incurred in a trade or business

ii. Losses incurred in a transaction entered into for profit

iii. Casualty loss (Can take under 165©(3))

1. Is it a casualty or theft loss?

a. Sudden, unexpected, and unusual

b. Those events analogous to fire, storm, shipwreck

2. In what year did it occur?

a. Theft—year discovered

b. Others—year sustained

3. How much can be deducted?

a. Casualty losses (there is a presumption that there is a casualty loss)

i. Step 1: Determine the amt. of loss—the lesser of:*

1. Basis or

2. Decrease in value

a. (Value before (-) value after)

3. * Loss=AB if:

a. asset is used for investment or trade or business, and

b. is totally destroyed

ii. Step 2: Loss reduced by any insurance received—Subtract any insurance recovery

iii. Step 3: Allowed only to the extent it exceeds $100 per casualty or theft. Total amounts allowed from each casualty/theft

iv. Step 4: Total from step 3 allowed only to the extent it exceeds 10% of AGI (will be told)

	Step 1: Determine the amt. of loss—the lesser of: Basis or decrease in value (VB – VA)	Step 2: Subtract any insurance recovery	Step 3: Allowed only to the extent is exceeds $100 per casualty or theft	Step 4: Total from step 3 allowed only to the extent it exceeds 10% of AGi
1. Cost=$5K VB=$1K VA=$500	Basis in car=$5K; Decrease in value= $1K - $500=$500; Amt. of loss is the lesser of basis or decrease in value which is $500			
2. Cost=$5K, VB=$4K, VA=$0	Amt. of loss is $4K - $0= $4K b/c $4K is less than $5K			
3. Cost=$2K, VB=$3K, VA=$0, Basis=$2K	Decrease in value = $3K. Basis = $2K. Amt. of loss = $2K b/c it is lesser than $3K. If boat was worth $3K before it sank, how come you can't deduct $3K? Bought boat at $2K then it went up to $3K. Didn't report			

	increase in value b/c there was no disposition			
4. AGI=$40K Casualty 1: AB=$20K VB=$5K VA=$0 Casualty 2: AB=$1K VB=$700 VA=$0	Casualty 1: Amt. of loss=$5K Casualty 2: Amt. of loss=$700	No insurance rec'd for either casualty	Casualty 1: $5K - $100=$4,900 Casualty 2: $700 - $100=$600	What is 10% of $40K (AGI)? $4K Total from step 3 = $5,500. Now reduce $5,500 by 10% of AGI or $4K. $5,500 - $4K= $1,500. $1,500 is the casualty loss

iv. Example to illustrate that if the asset is used for investment or in a trade or business and is totally destroyed, the loss=AB

1. Boat is being used in sightseeing business and sinks

    a. Cost=Basis=$10K

    b. Depreciation=$2K

        i. Therefore adjusted basis in boat is $8K

    c. Value before=$5K

    d. Value after=$0

    e. What is less: Your basis or the decrease in value caused by the casualty? Decrease in value

    f. If code says you can write off $5K what is the total amt. you haven't recovered? $3K b/c the adjusted basis in the boat after factoring in depreciation before it sank is $8K. If there is no boat left to depreciate what are you missing? $3K ($8K (adjusted basis) - $5K (difference in value))

    g. How much depreciation? $2K

    h. How much write off from casualty loss? $5K

i. If a boat (Cap. Expenditure) sinks or is destroyed, there is no way to recover cost but the adjusted basis in the boat is always recoverable. Total amt. can recover when boat sinks is $8K ($10K - $2K). Need extra $3K to get you to $0

    i. With a $5K amt. of loss: $10K (cost) - $2K (depreciation) - $5K (decrease in value)= $3K

    ii. With an amt. of loss equal to the adjusted basis in the boat: $10K-$2K-$8K (adjusted basis in boat)=$0