paid or accrued in the taxable year. Foreign real property taxes may not be deducted under this exception.

The above rules apply to taxable years beginning after December 31, 2017, and beginning before January 1, 2026.

The conference agreement also provides that, in the case of an amount paid in a taxable year beginning before January 1, 2018, with respect to a State or local income tax imposed for a taxable year beginning after December 31, 2017, the payment shall be treated as paid on the last day of the taxable year for which such tax is so imposed for purposes of applying the provision limiting the dollar amount of the deduction. Thus, under the provision, an individual may not claim an itemized deduction in 2017 on a prepayment of income tax for a future taxable year in order to avoid the dollar limitation applicable for taxable years beginning after 2017.

Effective date.—The provision is effective for taxable years beginning after December 31, 2016.

3. Repeal of deduction for personal casualty and theft losses (sec. 1304 of the House bill, sec. 11044 of the Senate amendment, and sec. 165 of the Code)

PRESENT LAW

A taxpayer may generally claim a deduction for any loss sustained during the taxable year, not compensated by insurance or otherwise. For individual taxpayers, deductible losses must be incurred in a trade or business or other profit-seeking activity or consist of property losses arising from fire, storm, shipwreck, or other casualty, or from theft.[173] Personal casualty or theft losses are deductible only if they exceed $100 per casualty or theft. In addition, aggregate net casualty and theft losses are deductible only to the extent they exceed 10 percent of an individual taxpayer's adjusted gross income.

HOUSE BILL

The House bill repeals the deduction for personal casualty and theft losses. However, notwithstanding the repeal of the deduction, the provision retains the benefit of the deduction, as modified by the Disaster Tax Relief and Airport and Airway Extension Act of 2017,[174] for those individuals who sustained a personal casualty loss arising from hurricanes Harvey, Irma, or Maria.

Effective date.—The provision is effective for losses incurred in taxable years beginning after December 31, 2017.

SENATE AMENDMENT

The Senate amendment temporarily modifies the deduction for personal casualty and theft losses. Under the provision, a taxpayer may claim a personal casualty loss (subject to the limitations described above) only if such loss was attributable to a disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

[173] Sec. 165(c).
[174] Pub. L. No. 115–63.

The above-described limitation does not apply with respect to losses incurred after December 31, 2025.

Effective date.—The provision is effective for losses incurred in taxable years beginning after December 31, 2017.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

4. Limitation on wagering losses (sec. 1305 of the House bill, sec. 11051 of the Senate amendment, and sec. 165 of the Code)

PRESENT LAW

Losses sustained during the taxable year on wagering transactions are allowed as a deduction only to the extent of the gains during the taxable year from such transactions.[175]

HOUSE BILL

The House bill clarifies the scope of "losses from wagering transactions" as that term is used in section 165(d). Under the provision, this term includes any deduction otherwise allowable under chapter 1 of the Code incurred in carrying on any wagering transaction.

The provision is intended to clarify that the limitation on losses from wagering transactions applies not only to the actual costs of wagers incurred by an individual, but to other expenses incurred by the individual in connection with the conduct of that individual's gambling activity.[176] The provision clarifies, for instance, an individual's otherwise deductible expenses in traveling to or from a casino are subject to the limitation under section 165(d).

Effective date.—The provision is effective for taxable years beginning after December 31, 2017.

SENATE AMENDMENT

The Senate amendment follows the House bill. However, the Senate amendment does not apply to taxable years beginning after December 31, 2025.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

[175] Sec. 165(d).

[176] The provision thus reverses the result reached by the Tax Court in *Ronald A. Mayo v. Commissioner,* 136 T.C. 81 (2011). In that case, the Court held that a taxpayer's expenses incurred in the conduct of the trade or business of gambling, other than the cost of wagers, were not limited by sec. 165(d), and were thus deductible under sec. 162(a).