



COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

October 15, 2018

The Honorable Joe Courtney
U.S. House of Representatives
Washington, DC 20515

Dear Representative Courtney:

Thank you for your letters dated August 7, 2018, and September 20, 2018, asking for clarification on how legislative changes under the Tax Cuts and Jobs Act (Public Law 115-97) (TCJA) impact casualty loss deductions computed under Revenue Procedures 2017-60 and 2018-14 and whether the deductions generate or increase a net operating loss (NOL).

Revenue Procedures 2017-60 and 2018-14 provide a safe harbor for claiming a casualty loss for amounts paid to repair damage to concrete foundations resulting from the presence of the mineral pyrrhotite. Under this safe harbor, if a taxpayer pays to repair damage either in or before the 2016 tax year, the taxpayer may deduct the amount paid as a casualty loss for the tax year of payment on a timely amended income tax return for that tax year. If a taxpayer pays to repair damage either in the 2017 tax year or before the last day to file a timely (including extensions) original or amended income tax return for that tax year, the taxpayer may deduct the amount paid as a casualty loss for the 2017 tax year.

Casualty loss deductions that qualify for the safe harbor under Revenue Procedures 2017-60 and 2018-14 are treated as trade or business deductions and can create or increase a taxpayer's NOL. A taxpayer can carry these NOLs back 2 years and forward 20 years, and the NOLs can offset 100 percent of the taxpayer's taxable income in the carryback or carryover years. Any NOLs from casualty losses meeting the requirements of Revenue Procedures 2017-60 and 2018-14 are treated as arising either in or before the 2017 taxable year. Thus, the TCJA amendments that affect casualty losses and NOLs starting in the 2018 tax year, do not affect these NOLs.

I hope this information is helpful. I am sending a similar letter to Representative Larson. If you have any additional questions, please feel free to contact me, or a member of your staff may contact Leonard Oursler, Director, Legislative Affairs, at 202-317-6985.

Sincerely,

A handwritten signature in blue ink, appearing to read "Charles P. Rettig". The signature is fluid and cursive, with the first name "Charles" and last name "Rettig" clearly visible.

Charles P. Rettig