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Theft Losses





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Theft Losses

- Theft losses
 - Non-Ponzi/investment
- Investment theft losses
 - Ponzi
- Net Operating Loss





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Theft Losses

- Taxpayers (individuals) who discover they are the victims of theft losses may deduct their theft losses:
 - On Schedule A (for non-business thefts),
 - If they have met the conditions outlined in Treasury Regulation sections 1.165-1 and 1.165-8, where applicable.
- Rev. Rul. 72-112-Theft defined





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Theft Losses

Internal Revenue Code section 165(a) allows a deduction for a loss sustained in the tax year and **not** compensated for by insurance or otherwise.

Loss is sustained in year in which it occurs:
(1) as evidenced by closed and completed transactions, and
(2) as fixed by identifiable events





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Theft Losses due to Ponzi Schemes

Guidance addressing theft losses from Ponzi-type investment schemes

- Rev. Rul. 2009-9
- Rev. Proc. 2009-20
- Rev. Proc. 2011-58





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Theft Losses due to Ponzi Schemes

- Revenue Ruling 2009-9: Provides Service position on theft loss deductions from criminally fraudulent investment arrangements.
- For-profit transactions (under IRC 165(c)(2)) are not subject to limitations that are applicable to personal casualty and theft losses (under IRC 165(h)).





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Theft Losses due to Ponzi Schemes

- Rev. Proc. **2009-20** provides an optional safe harbor treatment for taxpayers that experienced losses in certain investment arrangements discovered to be criminally fraudulent.
- Applies to specified fraudulent arrangements for which the discovery year is the taxable year beginning after **12/31/07**.





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Substantiation for Losses

Written documentation to prove eligibility for a theft loss includes, but is not limited to:

- cancelled checks,
- bank statements,
- wire transfers,
- brokerage records,
- statements of account, and
- substantiation of investments/withdrawals etc.





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Net Operating Losses (NOL)

NOL = deductions for the year are more than your income for the year

- 2 year carry back for business NOLs
- 3 year carry back for investment theft losses





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Net Operating Losses (NOL)

- We'll discuss three specific carryback opportunities to be kept in mind
- Taxpayer MAY elect to forego carryback
- For more NOL information, see Publication 536, *Net Operating Losses (NOLs) for Individuals, Estates, and Trusts*





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Resources on Losses

- Common forms, publications and copies of Revenue Rulings, Revenue Procedures and more that explain loss rules can be found on www.irs.gov.
- Can also use the search term: **Losses**





What's New on IRS.gov

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Topic	Search Word(s)
Electronic newsletters (payroll providers, small businesses and tax professionals)	e-news
Multimedia center (audio, video and text)	multimedia
Social media (iTunes, podcasts, Twitter, widgets, YouTube and IRS2Go mobile app) *Follow IRS on Twitter @IRSTaxpros	social media
Video portal <ul style="list-style-type: none">- Small business tax compliance priorities- Audit techniques guides- Referring tax avoidance schemes	video portal
Basic tools for tax professionals	basic tools
E-Services – Online tools for tax pros	eservice
Tax information for tax professionals	Tax pros
Continuing education for tax professionals	

