Damage to trees can cut income tax

Whether from wind, lightning or emerald ash borer, damage to trees may be tax deductible.

Determining if tree damage is deductible starts with IRS Publication 547, Casualties, Disasters, and Thefts. Pub 547 provides guidance on what constitutes a loss, deduction limits, and reporting your loss.

The following information and examples are based on the 2010 tax code for individuals.

Is it a casualty loss?

According to Pub 547, a casualty is the damage, destruction, or loss of property resulting from an identifiable event that is sudden, unexpected, or unusual.

- A sudden event is one that is swift, not gradual or progressive.
- An unexpected event is one that is ordinarily unanticipated and unintended.
- An unusual event is one that is not a day-to-day occurrence and that is not typical of the activity in which you were engaged.

Loss of property due to progressive deterioration is not deductible as a casualty loss. This is because the damage results from a steadily operating cause or a normal process, rather than from a sudden event. An example is the steady weakening of a building due to normal wind and weather conditions.

The damage or destruction of trees, shrubs, or other plants by a fungus, disease, insects, worms, or similar pests is considered progressive deterioration. **However, a sudden destruction due to an unexpected or unusual infestation of beetles or other insects may result in a casualty loss.**

Must file insurance claim

Regardless of whether or not your insurance covers tree damage, you must file an insurance claim.

IRS spokesman David Stell said if the property lost is insured, a claim with the insurance company must be made before a tax deduction can be claimed. IRS Pub 547 states: "Failure to file a claim for reimbursement -- if your property is covered by insurance, you must file a timely insurance claim for reimbursement of your loss. Otherwise, you cannot deduct this loss as a casualty or theft. The portion of the loss not covered by insurance is not subject to this rule."

Stell also said, "As standard insurance policies do not cover damage to trees, a tree-related loss can potentially be a tax deduction. But the homeowner must still file a claim on tree damage and obtain a denial of claim letter from the insurance company to prove it is a casualty loss that may be deducted on his income tax return. It's important to note that, for tax purposes, a casualty loss deduction is defined as the decrease in fair market value of the property affected. In the case of a tree, such loss-of-value determination would require an expert appraisal. Before-and-after, or at least 'after,' photographs would be helpful in documenting such a casualty."

Valuation methods

There are two methods for determining the decrease in fair market value of a property, the standard appraisal method and the restoration cost method.

The standard appraisal method is presented in *Valuation of Landscape Trees, Shrubs, and Other Plants*, published by the International Society of Arboriculture.

The costs of restoring and cleaning up the property after a casualty loss may be used to determine the decrease in fair market value if the following conditions are satisfied:

1. Costs were necessary to restore the property to its pre-casualty condition;
2. Amount spent for restoration is not excessive;
3. Costs do not do more than take care of the damage suffered;
4. Value of the property after restoration is not more than its value before the casualty.

Deduction limits for personal-use property

After you have figured your casualty or theft loss, you must figure how much of the loss you can deduct.

The deduction for casualty and theft losses of employee property and personal-use property is limited. With certain exceptions, a loss on property you own for your personal use is subject to the $100 and 10% rules.

$100 Rule

After you have figured your casualty loss on personal-use property, you must reduce that loss by $100. This reduction applies to each total casualty loss.

Example.

You have $750 deductible collision insurance on your car. The car is damaged in a collision. The insurance company pays you for the damage minus the $750 deductible. The amount of the casualty loss is based solely on the deductible. The casualty loss is $650 ($750 − $100) because the first $100 of a casualty loss on personal-use property is not deductible.

10% Rule

You must reduce the total of all your casualty or theft losses on personal-use property by 10% of your adjusted gross income. Apply this rule after you reduce each loss by $100.

Example.
In June, you discovered that your house had been burglarized. Your loss after insurance reimbursement was $2,000. Your adjusted gross income for the year you discovered the theft is $29,500. Figure your theft loss as follows.

1.	Loss after insurance	$2,000
2.	Subtract $100	100
3.	Loss after $100 rule	$1,900
4.	Subtract 10% of $29,500 AGI	$2,950
5.	Theft loss deduction	$-0-

You do not have a theft loss deduction because your loss ($1,900) is less than 10% of your adjusted gross income ($2,950).

Reporting your loss

How you report gains and losses depends on whether the property was business, income-producing, or personal-use property. For personal-use property, if you have a loss, use both of the following.

- Form 4684.
- Schedule A (Form 1040), Itemized Deductions.

Non-itemizing taxpayers cannot claim a deduction from casualty loss.

Summary

Depending on the circumstances, damage to trees may be considered a casualty loss. The amount of loss exceeding 10% of your adjusted gross income may be tax deductible. Filing an insurance claim and obtaining an appraisal are necessary parts of the process.

References

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