

APPENDIX B

IMMIGRANT ELIGIBILITY FOR DISASTER RELIEF PROGRAMS

Disaster Supplemental Nutrition Assistance Program (D-SNAP)

US Department of Agriculture (USDA), Food and Nutrition Service (FNS)

DESCRIPTION: Short-term, one-time food assistance benefit for households affected by a natural disaster in approved disaster areas, with relaxed eligibility criteria and a more streamlined certification process than regular SNAP.

D-SNAP is primarily for households not currently receiving SNAP. Many important details of the program depend on the state's request to operate a D-SNAP shortly after a disaster occurs. These include the application period, the D-SNAP benefit amount, the availability of supplements for ongoing SNAP households, and the exact eligibility criteria.

HHSC releases information through local media before the program application period begins, including the location of application sites, their days of operation, and the eligibility requirements.

ELIGIBLE IMMIGRATION STATUS: No citizenship or immigration status restrictions.

8 U.S.C. § 1611(b)(1)(B) (describing an exception from the general immigration status eligibility criteria for federal public benefits for "Short-term, non-cash, in-kind emergency disaster relief").

7 C.F.R. § 280.1 (describing the USDA Secretary's authority to establish "temporary emergency standards of eligibility" for disaster food assistance programs, without reference to citizenship or immigration status eligibility criteria).

USDA FNS, Disaster SNAP Guidance 3 (2014), fns-prod.azureedge.net/sites/default/files/D-SNAP_handbook_0.pdf (noting that citizenship status eligibility restrictions do not apply to D-SNAP).

See also FEMA, FP 104-009-03, Individual and Households Program Unified Guidance (IHPUG) 13 (2016), fema.gov/media-library-data/1483567080828-1201b6eebf9fbbd7c8a070fddb308971/FEMAIHPUG_CoverEdit_December2016.pdf (stating that the citizenship, non-citizen national, or qualified alien eligibility requirement does not apply to D-SNAP); FEMA Citizenship/Immigration Requirements, fema.gov/faq-details/FEMA-Citizenship-Immigration-requirements-1370032118159 (last updated Dec. 2, 2015) ("Individual Assistance programs such as Crisis Counseling, Disaster Legal Services and other short-term, non-cash emergency assistance, such as congregate shelters, are available to an individual and family regardless of citizenship status); and excerpt from NILC, Guide to Immigrant Eligibility for Federal Programs (4th ed. 2002), chapter last updated Oct. 2017, nilc.org/issues/economic-support/disaster-help/ (noting that "[a]ll immigrants, regardless of immigration status, are eligible for short-term, noncash, in-kind, emergency disaster relief and similar services," including D-SNAP).

See also Texas Health and Human Services Policy Guidance memo on implementing D-SNAP, hhs.texas.gov/sites/default/files/documents/laws-regulations/handbooks/twh/bulletins/09-15-17_17-11_2.pdf (Sept. 2017) (“Citizenship and alien status are not applicable. Applicants cannot be disqualified due to citizenship or alien status.” at pg. 7).

LINKS TO APPLY/NEXT STEPS: HHSC advertises application site locations in the days leading up to the application period. D-SNAP applications will not necessarily be taken at HHSC Benefits Offices. Online D-SNAP applications have not been made available following previous disasters in Texas.

Federal Assistance to Individuals and Households Program (IHP) - Housing Assistance (HA)

U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA)

DESCRIPTION: “Provides financial assistance and/or direct assistance to those who have, as a direct result of a major disaster or emergency, housing-related expenses and serious needs that can’t be met through other means. 42 U.S.C. § 5174; 44 C.F.R. § 206.110(a).

Assistance is limited to 18 months following the date of the disaster declaration and may be extended, at the State’s request, due to extraordinary circumstances. 42 U.S.C. § 5174(c)(1)(B)(iii); and 44 C.F.R. § 206.110(e).

Recipients can receive more than one type of HA, including a combination of financial assistance and direct services. 42 U.S.C. § 5174(b)(2)(B), 44 C.F.R. § 206.110(c). FEMA determines the appropriate types of HA for which a recipient may be eligible. 42 U.S.C. § 5174(h), 44 C.F.R. § 206.110(b).

Financial HA may include:

- Lodging expense reimbursement for short-term lodging, e.g. at hotels (FEMA, FP 104-009-03, Individual and Households Program Unified Guidance (IHPUG) 6 (2016), fema.gov/media-library-data/1483567080828-1201b6eebf9fbbd7c8a070fddb308971/FEMAIHPUG_CoverEdit_December2016.pdf [hereinafter IHPUG]);
- Rental assistance (42 U.S.C. § 5174(c)(1)(A)(i); 44 C.F.R. § 206.117(b)(1)(i)); or
- Grants to repair or replace an owner-occupied primary residence (42 U.S.C. § 5174(c)(2); 44 C.F.R. § 206.117(b)(2)).

Financial assistance awards can range from \$50 up to the annual program maximum, which is \$34,000 for emergencies and major disasters declared on or after Oct. 1, 2017. 42 U.S.C. § 5174(h); 44 C.F.R. § 206.110(b); Notice of Maximum Amount of Assistance Under the Individuals and Households Program, 82 Fed. Reg. 196 (Oct. 12, 2017).

When there is a lack of available housing resources, FEMA may provide Direct Housing Assistance (DHA). 42 U.S.C. § 5174(c)(1)(B)(i); 44 C.F.R. § 206.117(b)(1)(ii). DHA is not counted toward the IHP maximum award (IHPUG 7), and may include:

- Multi-family lease and repair, i.e. FEMA enters into lease agreements with owners of multi-family rental property to make repairs in order to provide temporary housing (42 U.S.C. § 5174(c)(1)(B)(ii));
- Manufactured housing units (IHPUG 7); or
- Permanent or semi-permanent housing construction, i.e. home repair and/or construction services in areas outside the continental United States and in other locations where no alternative housing resources are available (42 U.S.C. § 5174(c)(4); 44 C.F.R. § 206(b)(4)).”

ELIGIBLE IMMIGRATION STATUS: “The applicant or an adult household member must be a U.S. citizen, a non-citizen national, or a qualified alien. In addition, the parent or legal guardian of a minor child who meets the criterion can apply for assistance on behalf of the child as long as they live in the same household. The parent or legal guardian must register as the co-applicant. Individuals self-certify their citizenship status on a Declaration and Release form (FEMA Form 009-0-3) that asks applicants to declare, under penalty of perjury, that they have an eligible status. IHPUG 11-12.

See FEMA, FEMA Citizenship/Immigration Requirements, fema.gov/faq-details/FEMA-Citizenship-Immigration-requirements-1370032118159 (last updated Dec. 2, 2015) (“[U]ndocumented individuals can apply [for IHP] on behalf of a minor child who is a citizen and has a social security number. ... If you cannot sign the Declaration and Release [form stating that you are a U.S. Citizen, Non-Citizen National, or a Qualified Alien], another adult household member who is eligible can sign it and no information regarding your status will be gathered.”).

Special Consideration: FEMA may dispose of occupied manufactured housing units by selling them directly to the occupant at a fair and equitable price. Households that received such a unit through the citizenship or immigration status of a minor child member may be eligible to purchase the unit for the benefit of the child. FEMA staff will consult the Office of Chief Counsel to ensure the necessary legal requirements to complete the sale are met. IHPUG 81-82.”

LINKS TO APPLY/NEXT STEPS:

Options to apply include:

- disasterassistance.gov
- Downloading the FEMA application for smartphones at fema.gov/mobile-app or their mobile provider’s application store
- Calling 800-621-3362
- Visiting a Disaster Recovery Center (DRC) in person
- Applying in person with Disaster Survivor Assistance (DSA) Teams, which FEMA sends into affected communities.

Transitional Shelter Assistance (TSA)

U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA)

DESCRIPTION: Provides short-term lodging (5-14 days, adjustable to 30 days) in approved hotels or motels for evacuees who are not able to return home for an extended or indeterminate period of time following a disaster because their communities are either uninhabitable or inaccessible due to disaster-related damages, and congregate shelters have closed. FEMA pays the participating hotels and motels directly. The recipient is responsible for all other costs, including laundry, room service, parking, telephone, food, transportation or other services. FEMA, in conjunction with the state, may extend the initial period of assistance in 14-day intervals for up to six months from the date of disaster declaration.

TSA will not count toward a recipient's maximum amount of assistance available under the Individuals and Households Programs (IHP).

TSA is subject to a state cost-share, so the state must request that FEMA authorize the use of TSA for the declared disaster in specific geographic areas.

FEMA, Fact Sheet: Transitional Shelter Assistance (Aug. 2017), [fema.gov/media-library-data/1504386291776-95f2e849464628ac124a7f859c448e2e/FactSheetTransitionalShelterAssistance.pdf](https://www.fema.gov/media-library-data/1504386291776-95f2e849464628ac124a7f859c448e2e/FactSheetTransitionalShelterAssistance.pdf).

Stafford Act § 403, 42 U.S.C. § 5170b(a)(3)(B) (authorizing federal agencies to provide assistance to meet immediate threats to life and property resulting from a major disaster, including emergency shelter)

ELIGIBLE IMMIGRATION STATUS: Unclear. No citizenship or immigration status requirements are referenced in the authorizing statute or FEMA Fact Sheet on TSA, and TSA seems to fit the description of "short-term, non-cash, emergency aid," for which undocumented immigrants are eligible. However, in its National Disaster Housing Strategy, FEMA includes citizenship and immigration status criteria among the basic eligibility criteria for all Stafford Act disaster housing programs. Specifically, it states that "applicants must declare that they are a U.S. Citizen, Non-Citizen National, or Qualified Alien to receive assistance.... Minors who are a U.S. Citizen, Non-Citizen National, or Qualified Alien may be eligible to receive assistance on behalf of their parents or heads of the household, who are non-qualified citizens."

FEMA, Fact Sheet: Transitional Shelter Assistance (Aug. 2017), [fema.gov/media-library-data/1504386291776-95f2e849464628ac124a7f859c448e2e/FactSheetTransitionalShelterAssistance.pdf](https://www.fema.gov/media-library-data/1504386291776-95f2e849464628ac124a7f859c448e2e/FactSheetTransitionalShelterAssistance.pdf).

FEMA, National Disaster Housing Strategy, Annex 7: Summary of Guidance on Disaster Housing Assistance Available under the Stafford Disaster Relief and Emergency Assistance Act, including Eligibility Criteria and Application Procedures 129 (Jan. 16, 2009), [fema.gov/media-library-data/20130726-1747-25045-9685/ndhsannex7.pdf](https://www.fema.gov/media-library-data/20130726-1747-25045-9685/ndhsannex7.pdf) [hereinafter NDHS].

See also FEMA, Questions and Answers for Undocumented Immigrants Regarding FEMA Assistance (last

updated Jul. 8, 2017), [fema.gov/news-release/2004/06/17/questions-and-answers-undocumented-immigrants-regarding-fema-assistance](https://www.fema.gov/news-release/2004/06/17/questions-and-answers-undocumented-immigrants-regarding-fema-assistance) (“You may be eligible for Crisis Counseling or Disaster Legal Services, and other short-term, non-cash, emergency aid.”); FEMA Citizenship/Immigration Requirements, [fema.gov/faq-details/FEMA-Citizenship-Immigration-requirements-1370032118159](https://www.fema.gov/faq-details/FEMA-Citizenship-Immigration-requirements-1370032118159) (last updated Dec. 2, 2015) (“short-term, non-cash emergency assistance, such as congregate shelters, are available to an individual and family regardless of citizenship status”); and excerpt from NILC, Guide to Immigrant Eligibility for Federal Programs (4th ed. 2002), chapter last updated Oct. 2017, [nilc.org/issues/economic-support/disaster-help/](https://www.nilc.org/issues/economic-support/disaster-help/) (noting that “[a]ll immigrants, regardless of immigration status, are eligible for short-term, noncash, in-kind, emergency disaster relief and similar services”).”

LINKS TO APPLY/NEXT STEPS:

- [disasterassistance.gov/](https://www.disasterassistance.gov/)
- FEMA Helpline: 1-800-621-3362

Upon notification of eligibility, recipients must find and book their own hotel rooms, and can search for participating hotels at: [femaevachotels.com/](https://www.femaevachotels.com/)

FEMA, Fact Sheet: Transitional Shelter Assistance (Aug. 2017), [fema.gov/media-library-data/1504386291776-95f2e849464628ac124a7f859c448e2e/FactSheetTransitionalShelterAssistance.pdf](https://www.fema.gov/media-library-data/1504386291776-95f2e849464628ac124a7f859c448e2e/FactSheetTransitionalShelterAssistance.pdf).

Post-Hurricane Harvey, it appears that FEMA contacted eligible disaster survivors who had registered for FEMA disaster assistance; there was no separate application process for TSA. American Public Works Ass’n, Information from FEMA Regarding Hurricane Harvey, [apwa.net/MYAPWA/About/Hurricane_Harvey-FEMA/MyApwa/Apwa_Public/Hurricane_Harvey-FEMA.aspx?hkey=d51a77f1-3941-4d1c-9dc8-e6e3de475414](https://www.apwa.net/MYAPWA/About/Hurricane_Harvey-FEMA/MyApwa/Apwa_Public/Hurricane_Harvey-FEMA.aspx?hkey=d51a77f1-3941-4d1c-9dc8-e6e3de475414).

Housing Assistance Mortgage Insurance for Disaster Victims Section 203(h)

U.S. Department of Housing and Urban Development (HUD), Federal Housing Administration (FHA)

DESCRIPTION: Provides Federal Housing Administration (FHA) insurance to disaster survivors who have lost their homes and wish to rebuild or buy another home. Borrowers are eligible for 100 percent financing, including closing costs. No down payment is required. Borrowers pay closing costs and prepaid expenses.

Borrowers pay an up-front insurance premium (which may be financed) at the time of purchase, as well as monthly premiums that are added to the regular mortgage payment.

The program is intended to serve low- and moderate- income people, so FHA sets a mortgage limit that varies over time and by location. The mortgage limit can be calculated at entp.hud.gov/idapp/html/hicostlook.cfm. HUD, Mortgage Insurance for Disaster Victims Section 203(h), [hud.gov/program_offices/housing/sfh/ins/203h-dft](https://www.hud.gov/program_offices/housing/sfh/ins/203h-dft).

ELIGIBLE IMMIGRATION STATUS: Lawful permanent residents (LPRs) are eligible on the same terms and conditions as U.S. citizens. FHA will insure mortgages for other non-citizens with “lawful residency” provided that the:

- Property will be the borrower’s principal residence;
- Borrower has a valid Social Security Number; and
- Borrower is eligible to work in the United States, as evidenced by an Employment Authorization Document (EAD) issued by U.S. Citizenship and Immigration Services (USCIS). If the EAD will expire within one year and a prior history of residency status renewals exists, the lender may assume that continuation will be granted. If there are no prior renewals, the lender must determine the likelihood of renewal, based on information from USCIS.

An EAD is not required for borrowers residing in the U.S. by virtue of refugee or asylee status granted by USCIS. However, documentation substantiating the refugee or asylee status must be obtained.

Note: The Social Security card cannot be used as evidence of immigration or work status.

HUD, FHA Single Family Housing Policy Handbook (HUD Handbook 4000.1) § II.A.1.b.ii.A.8-9 (June 30, 2016), allregs.com/tpl/Main.aspx.

LINKS TO APPLY/NEXT STEPS: Applications are made through an FHA-approved lending institution. Link to Lender List Search page: hud.gov/program_offices/housing/sfh/lender/lenderlist.

For more information:

- Contact the FHA Resource Center, hud.gov/program_offices/housing/sfh/fharesourcectr; and
- Contact a HUD-approved housing counseling agency for assistance with disaster-related issues at (800) 569-4287 or apps.hud.gov/offices/hsg/sfh/hcc/hcs.cfm.

HUD, Mortgage Insurance for Disaster Victims Section 203(h), hud.gov/program_offices/housing/sfh/ins/203h-dft.

203(k) Rehabilitation Mortgage Insurance

U.S. Department of Housing and Urban Development (HUD), Federal Housing Administration (FHA)

DESCRIPTION: Enables disaster survivors to either:

1. Get a single mortgage to buy or refinance a home and the cost of its rehabilitation, or
2. Finance the rehabilitation of their existing home.

For smaller repairs or rehabilitation, up to \$35,000, applicants may be able to get a Limited 203(k). This is for work that doesn't require them to buy or refinance the property. For more detail see hud.gov/program_offices/housing/sfh/203k/203k--df.

FEMA, 203(h) Mortgage Insurance for Disaster Victims and 203(k) Rehabilitation Mortgage Insurance, disasterassistance.gov/get-assistance/forms-of-assistance/4703?s=1&id=7 (Sept. 21, 2017).

HUD, FHA Single Family Housing Policy Handbook (HUD Handbook 4000.1) § II.A.8.a (June 30, 2016), allregs.com/tpl/Main.aspx.

ELIGIBLE IMMIGRATION STATUS: Lawful permanent residents (LPRs) are eligible on the same terms and conditions as U.S. citizens. FHA will insure mortgages for other non-citizens with "lawful residency" provided that the:

- Property will be the borrower's principal residence;
- Borrower has a valid Social Security Number; and
- Borrower is eligible to work in the United States, as evidenced by an Employment Authorization Document (EAD) issued by U.S. Citizenship and Immigration Services (USCIS). If the EAD will expire within one year and a prior history of residency status renewals exists, the lender may assume that continuation will be granted. If there are no prior renewals, the lender must determine the likelihood of renewal, based on information from USCIS.

An EAD is not required for borrowers residing in the U.S. by virtue of refugee or asylee status granted by USCIS. However, documentation substantiating the refugee or asylee status must be obtained.

Note: The Social Security card cannot be used as evidence of immigration or work status.

HUD, FHA Single Family Housing Policy Handbook (HUD Handbook 4000.1) § II.A.8.a.ii (June 30, 2016), allregs.com/tpl/Main.aspx ("The Borrower must meet the eligibility requirements found in the Borrower Eligibility section..."); id.§ II.A.1.b.ii.A.8-9.

LINKS TO APPLY/NEXT STEPS: Applications must be submitted through an FHA-approved lender.

HUD, 203(k) Rehab Mortgage Insurance, hud.gov/program_offices/housing/sfh/203k/203k--df.

Home and Property Disaster Loans

U.S. Small Business Administration (SBA)

DESCRIPTION: Homeowners may borrow up to \$200,000 for repair or replacement of a primary residence.

Homeowners or renters may borrow up to \$40,000 for repair or replacement of household and personal effects.

13 C.F.R. § 123.105(a); SBA, Disaster Loan Assistance: Home and Personal Property Loans, disasterloan.sba.gov/ela/Information/HomePersonalPropertyLoans.

ELIGIBLE IMMIGRATION STATUS: Unclear. The regulations at 13 C.F.R. § 123 do not refer to eligibility based on citizenship or immigration status.

However, Ann Roche called the SBA Disaster Hotline in November 2017 and was told that only citizens are eligible because the loan is administered by the federal government. The SBA representative could not refer to any statutes, regulations, policy, guidelines, or other written materials to support this assertion, even when pressed.

Note: The application requires a SSN, asks whether the applicant is a citizen (yes or no), and requires applicants to explain on a separate page if “no.” U.S. Small Business Administration Disaster Home Loan Application 3, [disasterloan.sba.gov/ela/Documents/Disaster%20Home%20Loan%20Application%20\(SBA%20Form%205c\).aspx](https://disasterloan.sba.gov/ela/Documents/Disaster%20Home%20Loan%20Application%20(SBA%20Form%205c).aspx).

LINKS TO APPLY/NEXT STEPS: After registering with FEMA:

- Apply online at disasterloan.sba.gov/; or
- Mail completed applications to:
 - Processing and Disbursement Center
 - 14925 Kingsport Road
 - Fort Worth, TX 76155; or
- Apply in person at any FEMA-State Disaster Recovery Center or SBA Disaster Loan Outreach Center. For assistance with finding a location nearby or help applying by mail, contact the SBA Customer Service Center at 1-800-659-2955 or by email at DisasterCustomerService@sba.gov.

Benefits.gov, Home and Property Disaster Loans, benefits.gov/benefits/benefit-details/1503.

SBA reviews applications and credit histories, estimates the physical damage, and assigns a loan officer and case manager to work with applicants.

Federal Assistance to Individuals and Households Program (IHP) - Other Needs Assistance (ONA)

U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA)

DESCRIPTION: Provides money, up to the program maximum, for necessary expenses and serious needs, not housing related, that can't be met through other means.

Other needs assistance under IHP includes:

- Personal property
- Childcare
- Medical and dental expenses
- Funeral expenses
- Moving and storage expenses
- Transportation

42 U.S.C. § 5174(e); 44 C.F.R. § 206.119; FEMA, FP 104-009-03, Individual and Households Program Unified Guidance (IHPUG) 6 (2016), [fema.gov/media-library-data/1483567080828-1201b6eebf9fbbd7c8a070fdb308971/FEMAIHPUG_CoverEdit_December2016.pdf](https://www.fema.gov/media-library-data/1483567080828-1201b6eebf9fbbd7c8a070fdb308971/FEMAIHPUG_CoverEdit_December2016.pdf) [hereinafter IHPUG])

ELIGIBLE IMMIGRATION STATUS: The applicant or an adult household member must be a U.S. citizen, a non-citizen national, or a qualified alien. In addition, the parent or legal guardian of a minor child who meets the criterion can apply for assistance on behalf of the child as long as they live in the same household. The parent or legal guardian must register as the co-applicant. Individuals self-certify their citizenship status on a Declaration and Release form (FEMA Form 009-0-3) that asks applicants to declare, under penalty of perjury, that they have an eligible status. IHPUG 11-12.

See FEMA, FEMA Citizenship/Immigration Requirements, [fema.gov/faq-details/FEMA-Citizenship-Immigration-requirements-1370032118159](https://www.fema.gov/faq-details/FEMA-Citizenship-Immigration-requirements-1370032118159) (last updated Dec. 2, 2015) (“[U]ndocumented individuals can apply [for IHP] on behalf of a minor child who is a citizen and has a social security number. ... If you cannot sign the Declaration and Release [form stating that you are a U.S. Citizen, Non-Citizen National, or a Qualified Alien], another adult household member who is eligible can sign it and no information regarding your status will be gathered.”).

LINKS TO APPLY/NEXT STEPS: Options to apply include:

- [disasterassistance.gov](https://www.disasterassistance.gov);
- Downloading the FEMA application for smartphones at [fema.gov/mobile-app](https://www.fema.gov/mobile-app) or their mobile provider's application store;
- Calling 800-621-3362;
- Visiting a Disaster Recovery Center (DRC) in person; or
- Applying in person with Disaster Survivor Assistance (DSA) Teams, which FEMA sends into affected communities.

Disaster Unemployment Assistance (DUA)

FEMA; administered by the U.S. Department of Labor (DOL)

DESCRIPTION: Provides unemployment benefits and reemployment services to individuals who have become unemployed as a result of a Presidential disaster declaration and are ineligible for regular state unemployment insurance.

Benefits are paid for up to 26 weeks beginning with the first week following the date the major disaster began, as long as the individual's unemployment continues to be a direct result of the disaster.

FEMA, Fact Sheet: Disaster Unemployment Assistance (Aug. 9, 2017), fema.gov/media-library-data/1502303598195-3dc608049769c5e1e928cbbb5c3077af/FACTSHEETDisasterUnemployment.pdf.

ELIGIBLE IMMIGRATION STATUS: Only U.S. citizens, U.S. nationals, and qualified aliens are eligible.

FEMA, Fact Sheet: Disaster Unemployment Assistance (Aug. 9, 2017), fema.gov/media-library-data/1502303598195-3dc608049769c5e1e928cbbb5c3077af/FACTSHEETDisasterUnemployment.pdf.

LINKS TO APPLY/NEXT STEPS: In the event of a disaster, the affected state will publish announcements about the availability of DUA. To file a claim, individuals who are unemployed as a direct result of the disaster should contact their State Unemployment Insurance agency. Individuals who have moved or have been evacuated to another state should also contact the state agency. Please see: twc.state.tx.us/jobseekers/disaster-unemployment-assistance for more detail in determining eligibility.

- TWC Unemployment Benefit Services website: apps.twc.state.tx.us/UBS/changeLocale.do?language=en&country=US&page=/security/logon.do; or
- Call a Tele-Center at 800-939-6631.

If your IRS taxpayer address of record is in a disaster area declared for FEMA IA, your tax account is auto-coded for the filing and payment relief.

Use to report a gain or deductible loss: irs.gov/pub/irs-pdf/f4684.pdf

Disaster Assistance and Emergency Relief Program for Individuals and Businesses

U.S. Department of the Treasury, Internal Revenue Service (IRS)

DESCRIPTION: Special tax law provisions may help taxpayers and businesses recover financially from the impact of a disaster, especially when the federal government declares their location to be a major disaster area. Depending on the circumstances, the IRS may grant additional time to file returns and pay taxes. Both individuals and businesses in a federally declared disaster area can get a faster refund by claiming losses related to the disaster on the tax return for the previous year, usually by filing an amended return. 26 U.S.C. § 7508A; IRS, Disaster Assistance and Emergency Relief for Individuals and Businesses, irs.gov/businesses/small-businesses-self-employed/disaster-assistance-and-emergency-relief-for-individuals-and-businesses-1 (Sept. 29, 2017).

Casualty losses are deductible during the taxable year that the loss occurred. A casualty is the damage, destruction, or loss of property resulting from an identifiable event, including a natural disaster. For detailed information about the tax treatment of casualty losses, see IRS Publication 547 at irs.gov/publications/p547#idm140719118413184.

ELIGIBLE IMMIGRATION STATUS: N/A.

The term “taxpayer” means any person subject to any internal revenue tax. 26 U.S.C. § 7701(a)(14).

LINKS TO APPLY/NEXT STEPS: If your IRS taxpayer address of record is in a disaster area declared for FEMA IA, your tax account is auto-coded for the filing and payment relief.

Use to report a gain or deductible loss: irs.gov/pub/irs-pdf/f4684.pdf

Business Disaster Loans

US Small Business Administration (SBA)

DESCRIPTION: SBA offers low-interest, fixed-rate loans to small businesses to help them recover from economic injury caused by disasters. 13 C.F.R. § 123.2.

Loans (for physical and economic injury) may not exceed the lesser of the uncompensated physical loss and economic injury or \$2 million. SBA may waive the \$2 million limitation if a business is a major source of employment in the disaster area. 13 C.F.R. § 123.202.

SBA announces interest rates for physical disaster business loans with each disaster declaration. If a business has credit elsewhere, its interest rate is set by a statutory formula, but will not exceed 8% per annum. If a business does not have credit elsewhere, its interest rate will not exceed 4% per annum. The maturity of the loan depends on the business’ repayment ability, but cannot exceed seven years if it has credit elsewhere. 13 C.F.R. § 123.203(a).

An economic injury disaster loan will have an interest rate of 4% per annum or less. 13 C.F.R. § 123.302.

ELIGIBLE IMMIGRATION STATUS: Unclear. The regulations at 13 C.F.R. § 123 do not refer to eligibility based on citizenship or immigration status.

However, Ann Roche called the SBA Disaster Hotline in November 2017 and was told that only citizens are eligible because the loan is administered by the federal government. The SBA representative could not refer to any statutes, regulations, policy, guidelines, or other written materials to support this assertion, even when pressed.

Based on this information, all owners of 20% or more of the business (who must be listed as part of the application) must be U.S. Citizens.

The application requires a SSN, asks whether the applicant is a citizen (yes or no), and requires applicants to explain on a separate page if "no."

LINKS TO APPLY/NEXT STEPS:

Apply:

- Online: disasterloan.sba.gov/ela
- In-person at a disaster center; or
- By mail.

SBA, The Three-Step Process: Disaster Loans, disasterloan.sba.gov/ela/Documents/Three_Step_Process_SBA_Disaster_Loans.pdf (Aug. 2017).
