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DEATH, TAXES, INSURANCE, OH MY!

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At some point, death, taxes and insurance are inevitable. But what happens when insurance intersects with taxes? If you suffer some type of property loss and you receive insurance proceeds, is that benefit taxable?

The Internal Revenue Code provides that an individual can generally deduct "losses of property not connected with a trade or business or a transaction entered into for profit, if such losses arise from fire, storm, shipwreck, or other casualty, or from theft," subject to certain limitations. See 26 U.S. Code §165 (c)(3).

One limitation is the receipt of insurance proceeds. Casualty losses covered by insurance are deductible as long as the loss is reduced by the amount of reimbursement from the insurance company. Moreover, the deductions are subject to certain limitations connected to a taxpayer's overall income. Investment and commercial property have different considerations and rules under the Internal Revenue Code.

The Internal Revenue Code also addresses the tax consequences of a loss attributable to a federally declared disaster. IRS Publication 547 states: "A federally declared disaster is a disaster that occurred in an area declared by the President to be eligible for federal assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. It includes a major disaster or emergency declaration under the Act." Hurricanes and other catastrophes may qualify for this designation. What makes a loss from a federally declared disaster different from a tax perspective is that the loss can be claimed in the year it occurred or the year prior to the event to potentially allow for greater tax savings. Normally, the loss can only be declared in the year it occurred. This provision applies to both business and personal casualty losses.

Lastly, if a taxpayer's reimbursement from the insurance company exceeds the adjusted basis of the property to which the loss occurred, he or she may have to pay tax on the gain received from the insurance company.

Because the relevant considerations as to tax consequences can be multi-varied when dealing with an insurance claim for losses sustained to one's personal or business property, you should consult with a professional who has the knowledge and experience with these issues.

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