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Federal Disaster Tax Breaks Are Big But Which Declarations Count?

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Disaster victims get big tax benefits from federal disaster declarations. In fact, it [can make your wildfire settlement tax-free](#). As such, you might logically assume that it is always 100% whether your particular disaster gets the helpful federal nod from the Federal Emergency Management Agency. But in the case of wildfires, is it always so clear? The tax law defines a federally declared disaster as “any disaster subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act,” commonly known as the Stafford Act. It has three principal types of disaster relief declarations for wildfires:

1. Declared Emergencies under Section 501 of the Stafford Act;
2. Major Disaster Declarations under Section 401 of the Stafford Act; and
3. Fire Management Assistance Declarations under Section 420 of the Stafford Act.

Only two wildfires appear to have obtained their FEMA disaster declarations as Declared Emergencies since 2019: the 2020 Oregon Wildfires (designated EM-3542-OR) and the 2021 California Caldor Fire (designated EM-3571-CA). Declared Emergencies are less common for wildfires, perhaps because there is a separate avenue for wildfires: Fire Management Assistance Declarations under Section 420 of the Stafford Act.

Some wildfires are given Major Disaster Declarations, including the recent 2025 LA fires. Historically, so were the 2015 California Butte Fires (DR-4240-CA), the 2017 North Bay Fires (DR-4344-CA), and the 2018 Woolsey Fire and Camp Fire (DR-4407-CA). Major Disaster Declarations qualify victims for the widest scope of direct federal assistance through FEMA via [DisasterAssistance.gov](#).

Any wildfire with a Major Disaster Declaration clearly qualifies as a Federally declared disaster for tax purposes. Section 1.165-11(b)(1) of the IRS

Regulations says a federally declared disaster “includes both a major disaster declared under Section 401 of the Stafford Act and an emergency declared under section 501 of the Stafford Act.” These two types of declarations are specifically included within the definition of a Federally declared disaster for tax purposes.

Fire Management Assistance Declarations

How about the third category? Section 1.165-11(b)(1) is silent about Fire Management Assistance Declarations, the third major type of declaration for wildfires. But the statutory language suggests that a Federally declared disaster means *any* declaration under the Stafford Act. Plainly, Section 420’s Fire Management Assistance Declarations are federal relief so seem to be covered. Fire Management Assistance Declarations usually do not provide or authorize the same scope of *direct* federal assistance to wildfire victims as Major Disaster Declarations.

However, Section 165(i)(5) of the tax code *only* requires that the disaster be determined by the President to “warrant assistance by the Federal Government” under the Stafford Act. Providing money, equipment, supplies, and FEMA personnel to a State or local government to assist in wildfire containment and recovery efforts appears to fall within the definition of “assistance by the Federal Government” under the Stafford Act.

This Technical Issue Matters To Victims

Many recent major wildfires received disaster declarations under Section 420’s Fire Management Assistance provisions. The LA fires in 2025, including in Pacific Palisades were not originally Major Disaster Declarations, but Federal Management Assistance Declarations. However, on the day *after* they were granted relief under The Fire Management Assistance provisions of Section 420, they were then *also* the subject of a Major Disaster Declaration

under Section 401. This supplemental disaster declaration is important for victims for non-tax reasons, but the Fire Management Assistance Declaration was arguably already sufficient to qualify the fire as a Federally declared disaster for tax purposes.

Many wildfires remain disasters declared *only* under Section 420's Fire Management Assistance relief provisions without a Major Disaster Declaration, and this is arguably enough to unlock the tax benefits. Fire Management Assistance relief under Section 420 of the Stafford Act appears to often be granted for wildfires for the same purpose that a Declared Emergency declaration would be used outside of the wildfire context. There have only been two wildfires nationwide that have been identified as Declared Emergencies since 2019, compared to 305 fires that received a Fire Management Assistance Declaration.

There are differences between the two types of declarations. However, both are usually granted to help state and local governments deal with emerging disasters that need to be contained, or to help with rescuing and immediate medical treatment of victims. The regulations under Section 165 of the tax code suggest that Declared Emergencies under Section 501 of the Stafford Act are considered Federally declared disasters for tax purposes, regardless of whether they later result in a Major Disaster Declaration. It would be unusual if similar federal assistance usually provided in the wildfire context, and also under the Stafford Act, would not be treated similarly as a Declared Emergency for income tax purposes.

State Disasters

Some devastating wildfires are not designated as disasters by FEMA under *any* provisions of the Stafford Act. For example, the Mountain View Fire of 2020 burned for nearly a month, consuming nearly 21,000 acres in California, destroying 80 buildings (damaging many more) and killing at least

one person. This fire was not large enough for FEMA to consider it outside of the combined capability of the California state and local governments and relief organizations to address without federal involvement. Therefore, the Mountain View Fire was designated by *California* as a *state* disaster, but not a *federal* disaster by FEMA.

A disaster declaration by a state is *not* sufficient to qualify a disaster as a federally declared disaster for federal tax purposes. It is easy to get confused, but no state-declared disaster that is *not* a federally declared disaster has a disaster description and designation on the FEMA website. There is *no* FEMA disaster declaration page for the 2020 Mountain View Fire, under the EM, DR, or FM prefixes.

For state-declared disasters that are not a federally declared disaster, the main *federal* recognition of the disaster is not by FEMA. The SBA may offer relief, but that is not sufficient to make a state-declared disaster a federally declared disaster for income tax purposes.