

## Wildfire Victims Face Dec. 12 Deadline For Certain IRS Tax Refunds

By Robert W. Wood

There's been considerable confusion over the federal and state exclusions that can shield wildfire lawsuit recoveries from income. We can't reprise all of those issues here, but we can stress the most urgent one. If you received a lawsuit recovery in 2020 or 2021 in connection with a federally declared wildfire and paid taxes on your recovery, you may be entitled to a tax refund if you act quickly.

In late 2024, Congress enacted legislation to make many wildfire legal settlements free of federal taxes if they were received during 2020 through 2025 in connection with a federally declared wildfire disaster. Payments received in 2020 and 2021 require particular attention, since amended tax returns for these years must be filed with the IRS by December 12, 2025. If you qualify and have not yet filed, you should contact your tax preparer as soon as possible.

The looming December 12, 2025 deadline is only for filing amended 2020 and 2021 tax returns. For the other years covered by the federal exclusion (2022, 2023, 2024 and 2025), the deadline is the usual deadline for filing amended returns. That is, you have three years from the date you filed your original tax return to file an amended return for that year to claim a refund. If you filed your return early, say in February or March, your three years would run from the normal return filing due date, April 15.

Thus, if you filed your tax return for 2022 on or before April 15, 2023, you generally have until April 15, 2026, to amend your 2022 return and claim any refund that you are now owed as a result of the federal tax exclusion. If, instead, you filed your 2022 tax return on extension on June 1, 2023, you have until June 1, 2026, to amend your return and claim a refund. Most tax preparers should be aware of this standard three-year rule, so it is the 2020 and 2021 amended returns that are more likely to require special attention.

Because the regular three-year deadline for filing amended returns for 2020 or 2021 tax returns has already expired, the new legislation created the special December 12, 2025, extended deadline for 2020 and 2021 returns. Even so, some reports have suggested that the IRS has erroneously denied some 2020 and 2021 refund requests as untimely, even though they were filed before the December 12, 2025 deadline. The IRS recently updated its Internal Revenue Manual (IRM) for IRS employees to include a section specifically confirming the extended deadline for 2020 and 2021 returns under the new exclusion.

Apart from the usual ways the IRS says to prepare an amended tax return, the IRS has asked that you be sure to write the name of the wildfire on the top of any printed amended return submitted by mail, and for all amended returns, to include the name of the wildfire in the Explanation of Changes section of the Form 1040-X. Although the IRM does not require it, it might also be helpful to identify the FEMA disaster declaration number for the relevant wildfire in the same locations.

If you do not know the FEMA disaster declaration number for your wildfire, it can be found by searching for your wildfire on FEMA's website. To qualify for the federal tax exclusion, your fire must be a federal declared disaster, so your tax issues can hinge on the type of disaster declaration you received. The FEMA disaster declarations do not always refer to the wildfires they describe by the commonly used name for that wildfire. Some disaster declarations have more generic names like "California Wildfires." In these cases, whether the declaration describes your wildfire should be based on the date range for the fire described in the declaration, and the counties covered by the declaration description.

If a disaster declaration covers fires in your county, and your wildfire occurred in the date range described for the declaration, that should be sufficient to say that the declaration covers your fire, even if does not refer to your fire by its common name. You can search for disaster declarations on FEMA's website by state, year-of-disaster, and disaster type (fire), and that can help narrow down the possible declarations that may apply to your wildfire.

Some wildfires received multiple types of disaster declarations, such as a major disaster declaration (whose designation number begins with "DR"), an emergency declaration (whose designation begins with "EM"), and/or a fire management assistance declaration (whose designation begins with "FM"). In that case, if you do not want to list all of the disaster declarations that apply to your wildfire, you may want to prioritize citing the major disaster declaration number if there is one. If there is not a major disaster declaration for your fire, it might help to add the emergency declaration number if there is one.

**Robert W. Wood** practices law with [www.WoodLLP.com](http://www.WoodLLP.com), and is the author of "Taxation of Damage Awards & Settlement Payments" ([www.TaxInstitute.com](http://www.TaxInstitute.com)). This discussion is not intended as legal advice.