Hurricane Michael Victims Deserve Tax Relief and Simplification

Within weeks of Hurricane Katrina's landfall, Congress passed a tax relief bill that played a pivotal role in the successful recovery of the Katrina communities and its victims. After Hurricanes Harvey, Irma and Maria in 2017, Congress acted quickly to enact similar legislative tax relief so those impacted by the named storms were assured tax relief was in place when it was time to file their returns. Unfortunately, those relief bills were temporary and applied only to those named storms. Although a federal tax relief bill has been introduced for the victims of the 2018 major disasters -- Florence, Michael and the California Wildfires (see H.R. 1148) -- the bill has stalled in Congress, exacerbated by the government shutdown, and now the 2018 tax filing season is upon us without any tax relief in place for the 2018 disasters. We need to act now! If we are not proactive in bringing attention to this issue, instead of merely suffering from the delay and uncertainty of relief, **we might not receive any tax relief at all**. If you think being forgotten and overlooked by the national media is bad, just wait until you understand the full implications of being forgotten and overlooked by Congress on disaster tax relief.

A 2018 tax relief bill would assure that taxpayers suffering from the 2018 named disasters are treated no less favorably than the victims of Katrina, Harvey, Irma and Maria. The table below illustrates, in simplified terms, some of the key differences in tax treatment with and without the passage of a 2018 disaster tax relief bill.

Current Law – Without the Proposed Tax Relief	**Benefits With the Proposed Tax Relief**
The casualty loss on personal residence property can only be deducted to the extent the loss exceeds 10% of the taxpayer's adjusted gross income.	The casualty loss on personal residence property is not limited by the taxpayer's adjusted gross income *(meaning more taxpayers would be entitled to a deduction)*.
A taxpayer who does not itemize deductions cannot claim any deduction for casualty loss on personal residence property.	A taxpayer who itemizes deductions and a taxpayer who does not itemize deductions (elects the standard deduction instead) are both entitled to claim a deduction for casualty loss on personal residence property. In the case of the taxpayer who does not itemize, the casualty loss deduction is added to the standard deduction. *(The standard deductions were significantly increased in 2018, so now fewer people will be itemizing which is why we need to be able to add casualty losses to the standard deduction.)*
Early distribution taken from a retirement plan incurs an additional 10% tax penalty.	Penalty-free access, up to $100,000, in early distributions from a retirement plan between the storm through December 31, 2019. (*This means taxpayers in our community who need to tap their retirement funds early to rebuild their homes, businesses or lives, would be able to do so without incurring a financial penalty.*)
A taxpayer can only use earned income from the present tax year to determine the earned income tax credit and the child tax credit.	A taxpayer impacted by the named disaster can use earned income from the immediately preceding year to determine the earned income tax credit and the child tax credit. (*This will be particularly meaningful to many of the low-income families in our area whose 2018 income was drastically reduced by Hurricane Michael. Without this relief, many of the lower income residents who previously received an earned income tax credit or a child tax credit, may receive less benefit*).

Employee Retention Credit for Employee Wages is not applicable.	Allows an "employee retention" tax credit for employers equal to 40% of the qualified wages paid to qualifying employees (up to $6,000 per employee). (*For Hurricane Michael proposed tax relief, those dates are most likely from the date your business was disrupted through the earlier of December 31, 2018 or the date when your business started back significant operations. Many employers in our area are struggling with whether they will survive and need this relief.*)

In addition to the disaster tax relief addressed above, **it is equally important, that we receive updated Cost Index Tables under Revenue Procedure 2018-09. These cost index tables provide for a simplified method to determine the value of damage to the personal residence under the casualty loss rules**. The Rev. Proc. 2018-09 tables described above, allow disaster victims to multiply the damaged square footage of the home by the associated cost index amount in the appropriate table, and the product can be used to support the taxpayer's potential casualty loss. At this point in time, only taxpayers impacted by the named 2017 storms, Hurricanes Harvey, Irma and Maria, are entitled to use the tables. The cost index tables cannot be released for use by 2018 disaster victims without the prior approval of the Acting Commissioner of the IRS, Mr. Charles Rettig. The release of updated Rev. Proc. 2018-09 is not a legislative issue; it simply requires the approval of the IRS Commissioner. To date, there is currently no plan to release the tables to the 2018 disaster victims.

Without the benefit of the above mentioned cost index tables, in order to calculate a personal residence casualty loss, a 2018 major disaster victim will have to substantiate the value of damage to the personal residence by (i) paying for an appraisal, (ii) obtaining multiple detailed contractor estimates, or (iii) completing the repairs prior to filing returns. So, as a practical matter, provisions available today for determining casualty losses, are tedious, costly, and difficult to secure given the overwhelming demand for contractors. Further, if estimates are used to support casualty calculations, the estimates must meet IRS standards which can be different than requirements of insurance companies. Again, the documentation required without the tables is a burden upon the taxpayer; we need Rev. Proc. 2018-09 cost index tables to relieve pressures victims are already facing in repairing their homes.

I must also caution you not to assume that 2018 disaster tax relief legislation is a foregone conclusion and has simply been delayed by the government shutdown. Disaster tax relief is not always granted, even though equitable tax treatment among disaster victims should be a no-brainer. Relief has proven to be an incredibly effective tool in helping communities recover from large scale disasters. The victims of Hurricane Sandy never received disaster tax relief that would put them in parity with victims of Hurricanes Katrina, Harvey, Irma and Maria. If we are not careful, we and the other victims of the named 2018 disasters will not get tax relief.

So, are you going to speak out? Or, are you going to be silent and victimized a second time by inequitable disaster tax treatment that render the hoped for tax relief a mere illusion? It was said after Hurricane Katrina that those most touched by the tragic destruction also became the most eloquent advocates for recovery. Rebuilding our city is not just an obligation of our community, it is an American obligation. Our congressional representatives are working hard for us, but we must also speak up. Please tell your story of how you are hurting and struggling to put your lives, businesses and homes back together. Write your Congressmen in Florida, and even outside Florida, and ask them to support a 2018 disaster tax relief bill (H.R. 1148). Also write the Commissioner to the IRS, Mr. Charles Rettig, to request updated Cost Index Tables under Revenue Procedure 2018-09. Sample letters and other resources that can be used to raise awareness and request relief for our area can be found at www.recover850.org. To individualize and make your letters personal, please consider including a picture of your damages. For mailed letters, also consider attaching a swatch of blue tarp along with your picture. You have a voice, let it be heard!