

## Freeze, drought raise casualty questions

Nursery firms will be facing questions this year as to the availability of Federal income tax casualty loss deductions, due to the recent cold winter conditions in the North and East and continuing drought in the West. The American Association of Nurserymen's legal counsel offers this advice:

The IRS take the position that damage caused by drought cannot be deductible casualty loss, since it does not occur suddenly. Nevertheless, some courts have allowed such deductions, and taxpayers may wish to seek legal or accounting advice on their allowability in appropriate cases.

The IRS does not recognize that plant damage caused by freezing

conditions can be a deductible casualty loss, where the freeze is unusual. This depends on normal condition in the particular area.

The amount of allowable deduction differs depending on whether the damaged property is inventory property or is customer property. In the case of customer property, it differs further depending on whether the property is used in a business or represents landscaping of a home or other non-business property.

Inventory losses not covered by insurance do not generate a casualty loss deduction because they will automatically result in a greater deduction for cost of good sold.

When covered by insurance, inventory losses may either be re-

flected in cost of goods sold based on closing inventory, with inclusion of the insurance recovery as gross income; or alternately, the taxpayer may ignore the insurance recovery and remove the loss from the cost of goods sold.

In the case of landscaping on a customer's business premises, the taxpayer may claim a loss based on the "before" and "after" value of the damaged plants, but the loss may not exceed the adjusted basis (depreciated cost.)

Where the plants represent landscaping on non-business property, the legal question is the amount of loss reflected in the "before" and "after" value of the entire premises. □

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