



HAITI RELIEF CONTRIBUTIONS AND GUIDANCE FOR CHARITIES PROVIDING RELIEF



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New legislation, enacted on January 22, 2010, allows taxpayers who make contributions to the Haiti earthquake relief effort, after January 11 and before March 1 of this year, the option of taking the deduction for such contribution on their 2009 tax return. The news media and the IRS are getting the word out to encourage contributions to help victims in areas affected by the Haiti earthquake. There are some key conditions to bear in mind. Only cash contributions restricted by the donor for this purpose during the specified period will qualify. In addition, only taxpayers who itemize their deductions can take advantage of this benefit. Such taxpayers have a choice to take the deduction in either 2009 or 2010 but not both. Taxpayers must make the donation to a qualified charitable organization for which a deduction is allowable under Section 170 of the Internal Revenue Code. Foreign organizations are often not qualified to receive deductible contributions. The legislation also relaxes the recordkeeping requirement for such contributions. For donations made via text or other means that would show up on the donor's telecommunications bill, the telephone bill would satisfy the recordkeeping requirements as long as it shows the name of the donee organization, the date of the contribution, and the amount of the contribution.

The IRS issued guidance the same day the legislation was enacted designating the Haiti earthquake as a qualified disaster for federal tax purposes. Charitable organizations wanting to provide disaster relief to victims of a disaster may do so even though disaster relief is not an activity specified in the organization's exemption application. The activity is still charitable and thus they don't need permission from the IRS. However, the organization should report the new activity on its annual return (Form 990). Organizations not already providing relief in Haiti do need to make sure that they are providing relief to a large enough charitable class and not serving private interests. Organizations also must do their due diligence to assure that the persons receiving the assistance are in need at the time the assistance is provided.

The IRS guidance also allows employer-sponsored private foundations to assist victims, including employee victims, in areas affected by the earthquake without affecting their tax exemption status. The guidance enables recipients of such aid to exclude qualified disaster relief payments from gross income. However, in order to make sure that the class of charitable recipients is large enough, the IRS recommends in their FAQs that the charitable organization create an open ended relief program that would include employees affected by not only the current disaster, but also any future disaster. Like all organizations described in § 501(c)(3), private foundations should exercise the same due diligence when providing disaster relief as would be necessary for any other grants or assistance they provide.

Qualified disaster relief includes amounts paid to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster, or to repair or rehabilitate a personal residence or repair or replace contents damaged or lost due to a qualified disaster.

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We would be happy to assist you with any of your questions. Please call us at 941-365-4617 or email Rob Lane at rlane@kgrp.com or Patricia Entsminger at pentsminger@kgrp.com.