

## Katrina Relief Package Includes Incentive For Cash Gifts to Charity by December 31

Congress recently enacted legislation providing relief for victims of Hurricane Katrina. The Katrina Emergency Tax Relief Act of 2005 includes a strong incentive for individuals to make large cash contributions to charity in 2005 — even to organizations that are not involved in hurricane relief.

### The Traditional Limits

- Ordinarily, the Internal Revenue Code limits the amount of the charitable deduction for gifts of cash in any one year to 50 percent of an individual's "contribution base" (generally her adjusted gross income or "AGI"). More stringent limitations apply in the case of contributions to private foundations or charitable split-interest trusts.
- For example, if a taxpayer's AGI is \$250,000, the most she could deduct that year would be \$125,000, before taking into account the limitation on total itemized deductions for taxpayers with AGI over \$145,950 in 2005 (or \$72,975 for a married person filing separately).
- Excess deductions may be "rolled over" and deducted over each of the following five years — which has the effect, economically, of diminishing the economic value of the deduction.

### Effect of the New Law

- In the above example, the new law would permit a deduction up to the full amount of the taxpayer's AGI (i.e., \$250,000), but only to the extent the traditional AGI limitation is exceeded by contributions of cash made between August 28 and December 31, 2005 to qualified charities (defined below).
- The limitation on total itemized deductions would not reduce the deduction for qualifying gifts under the new law, but would continue to limit the deduction for gifts that do not qualify (for example, gifts made before August 28 or gifts made to private foundations).

### Qualified Charities

Qualified charities include publicly supported charities *other than* donor-advised funds and so-called Type 3 supporting organizations. (Congress is currently examining donor-advised funds and Type 3 supporting organizations and may enact laws in the near future to tighten the rules that govern them.) Publicly supported charities include universities, schools, nonprofit hospitals, churches, mosques, synagogues, and charitable organizations that receive a substantial part of their support from the public (such as many disaster relief agencies, social services organizations, museums, symphonies, advocacy organizations, medical research organizations and environmental organizations). Private *operating* foundations also are qualified charities for this purpose, but other private foundations are not.

### Year-End Charitable Contribution Opportunity

If you are considering a large cash contribution to charity, Congress has offered a valuable incentive to do so before the new year. The application of the new rules, however, can be complicated, particularly if you have deduction carry-forwards from prior years, have made gifts to a private foundation or charitable split-interest trust, or have exceeded the 2005 deduction limitations that were in effect prior to August 28. You should speak with your attorney or accountant in order to structure charitable gifts in a way that will yield the greatest tax benefits for your unique situation.