

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

Congress's package of Hurricane Katrina relief includes a strong incentive for 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 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 in a future tax year for up to five years. This deferral has the effect of diminishing the economic value of the deduction to the taxpayer.

Effect of the New Law

- The new law permits a taxpayer to deduct up to the full amount of the taxpayer's AGI (\$250,000 in the example above), but only to the extent the traditional AGI limitation is exceeded by cash contributions 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).
- Cash contributions in excess of the special 2005 deductibility limits may be carried forward and deducted for up to five years.

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.

Gifts by Corporations

Similar special rules also apply to corporations, which ordinarily may not deduct more than 10% of their AGI. However, corporate contributions qualify only if they relate to Hurricane Katrina relief efforts.

Year-End Fundraising Opportunity

Charities may wish to let donors know that Congress has offered the public a valuable incentive to make large contributions of cash before January 1, 2006. The application of the new rules, however, can be complicated, particularly if a donor has deduction carry-forwards from prior years, has made gifts to a private foundation or charitable split-interest trust, or has exceeded the 2005 deduction limitations that were in effect prior to August 28. Donors should speak with their own professional advisors in order to structure charitable gifts to yield the greatest tax benefits.