



January 29, 2010

Haiti Earthquake Relief Donations Made before March 2010...May be Deducted on 2009 Returns

On Jan. 22, President Obama signed into law H.R. 4462 (the Act, P.L. 111-126), which allows taxpayers to claim a charitable contribution deduction in tax year 2009 for donations made through Mar. 1, 2010, for the relief of victims in areas affected by the Jan. 12, 2010 earthquake in Haiti. This option is available only for cash contributions which otherwise meet the requirements for charitable contribution deductions under Code Sec. 170.

If you are a taxpayer who itemizes, you will then be in a position to deduct the contribution in either 2009 or 2010 whichever produces the greater tax savings. These contributions will still be subject to the normal rules for charitable deductions.

While tax savings will be realized sooner if 2009 is chosen, a taxpayer may not want to choose 2009 if more taxes would be saved in 2010, taking into account his highest marginal tax bracket in each year. A taxpayer should try to determine whether his income will be much higher (or other deductions much lower) in 2009 or 2010.

Also note that the same deduction can not be taken in both years. Donors should keep Haiti earthquake relief contribution records for which 2009 deductions are chosen with their 2009 tax documents. This should help prevent you from inadvertently attempting to take a double deduction by taking those same contributions in 2010.

The Act doesn't change the charitable contribution percentage limitations and carryover rules. If you take advantage of the law, the 2009 percentage limitations of the taxpayer apply to the contribution and any excess amount is treated as a carryover of a contribution made in 2009.

In addition, while taxpayers in States that mirror Federal tax law will receive the same tax treatment for Haiti relief contributions, taxpayers are advised to verify that this State tax treatment in fact applies to your specific state. For example, in New York, depending on your income level, you may not receive full benefit for your charitable donation.

Contributions that Qualify for the Election

The contributions must be made specifically for the relief of victims in areas affected by the Jan. 12 earthquake in Haiti. It appears that only contributions fully earmarked for the Haiti earthquake relief qualify for the election. Therefore, donations made to a charity or fund that generally provides a different type of relief, or for victims of other disasters, may not qualify.

Eligible Donors

It should be noted that the election is not limited to individuals. Corporations and other entities also can choose to deduct otherwise deductible earthquake relief contributions as though they were made on Dec. 31, 2009.

For further information and clarification on these matters, please contact [Cheryl A. Prout, CPA and Partner, at \(716\) 250-6600.](#)

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