

Trusts and Estates

February 2, 2010

U.S. Government Acts Quickly to Help Haiti with Tax Benefits for Donors

While the U.S. Congress has not been able to address much needed estate tax or health care reform, it has acted remarkably quickly to provide a financial incentive to help respond to the Haitian earthquake on January 12. On January 22, President Obama signed into law H.R. 4462, a bill that allows donors to accelerate the income tax benefits of making charitable contributions for the relief of victims of the earthquake.

Taxpayers who itemize deductions on their 2009 return qualify for this special tax relief provision. Only cash contributions made to these charities after January 11, 2010, and before March 1, 2010, are eligible. Taxpayers, who are probably already working on their 2009 income tax returns, which are due on April 15, can benefit from their donations almost immediately.

The new law applies only to cash (as opposed to property) contributions. Cash, however, includes contributions made by text message, check, credit card or debit card. The contributions must be made specifically for the relief of victims in areas affected by the January 12 earthquake in Haiti. Taxpayers have the option of deducting these contributions on either their 2009 or 2010 returns, but not both. To get a tax benefit, taxpayers must itemize their deductions on Schedule A. Those who claim the standard deduction, including all short-form filers, are not eligible.

Taxpayers should be sure their contributions go to qualified charities. Most organizations eligible to receive tax-deductible donations are listed in a searchable online database available on IRS.gov under "Search for Charities." Some organizations, such as churches or governments, may also be qualified even though they are not listed on IRS.gov. The FBI has issued an alert about dozens of "scam charities" trying to solicit funds and profit privately from this tragedy. Donors can find out more about organizations helping Haitian earthquake victims from agencies such as USAID. Bear in mind, however, that contributions to foreign organizations generally are not deductible (see IRS Publication 526).

Federal law requires that taxpayers keep a record of any deductible donations they make, but the rules have been relaxed somewhat for these limited purposes. For donations by text message, a telephone bill will meet the recordkeeping requirement if it shows the name of the donee organization, the date of the contribution and the amount of the contribution. For cash contributions made by other means, donors should keep a bank record, such as a cancelled check or a receipt from the charity showing the name of the charity and the date and amount of the contribution.

Note that the Act does not change the otherwise applicable charitable contribution percentage limitations and carryover rules. In addition, while state rules tend to follow federal, taxpayers should independently verify that similar state treatment will be accorded.

This year's special Haiti relief provision is modeled on a 2005 law that, in the wake of the December 26, 2004, Indian Ocean tsunami, allowed taxpayers to deduct donations they made during January 2005 as if they had made the donations in 2004.

We Can Help

For more information about the tax benefits for charitable cash contributions for the relief of victims of the earthquake in Haiti, please contact your Katten Muchin Rosenman LLP attorney, or any member of Katten's Trusts and Estates Practice.

CHARLOTTE

A. Victor Wray, Charlotte Chair	704.444.2020	victor.wray@kattenlaw.com
Diane E. Blackburn, Associate	704.344.3153	diane.blackburn@kattenlaw.com
William E. Underwood, Jr., Of Counsel	704.444.2010	bill.underwood@kattenlaw.com

CHICAGO

Michael O. Hartz, Chicago Chair	312.902.5279	michael.hartz@kattenlaw.com
David M. Allen, Associate	312.902.5260	david.allen@kattenlaw.com
Alan M. Berry, Of Counsel	312.902.5202	alan.berry@kattenlaw.com
Victor H. Bezman, Partner	312.902.5204	victor.bezman@kattenlaw.com
Samuel M. Dotzler, Associate	312.902.5249	samuel.dotzler@kattenlaw.com
Anthony L. Engel, Associate	312.902.5316	anthony.engel@kattenlaw.com
Juli D. Gilliam, Associate	312.902.5328	juli.gilliam@kattenlaw.com
Jonathan Graber, Associate	312.902.5317	jonathan.graber@kattenlaw.com
Stuart E. Grass, Partner	312.902.5276	stuart.grass@kattenlaw.com
Charles Harris, Partner	312.902.5213	charles.harris@kattenlaw.com
Melvin L. Katten, Of Counsel	312.902.5226	melvin.katten@kattenlaw.com
Tye J. Klooster, Associate	312.902.5449	tye.klooster@kattenlaw.com
Emily M. Litznerski, Associate	312.902.5299	emily.litznerski@kattenlaw.com
Allan B. Muchin, Of Counsel	312.902.5238	allan.muchin@kattenlaw.com
Kelli Chase Plotz, Associate	312.902.5347	kelli.plotz@kattenlaw.com
Philip J. Tortorich, Partner	312.902.5643	philip.tortorich@kattenlaw.com
Neil H. Weinberg, Partner	312.902.5646	neil.weinberg@kattenlaw.com

LOS ANGELES

Abby L. T. Feinman, West Coast Co-Chair	310.788.4722	abby.feinman@kattenlaw.com
Carol A. Johnston, West Coast Co-Chair	310.788.4505	carol.johnston@kattenlaw.com
Amy I. Dunphy, Associate	310.788.4554	amy.dunphy@kattenlaw.com
Heather Van Vactor, Associate	310.788.4531	heather.vanvactor@kattenlaw.com
Boryana V. Zeitz, Associate	310.788.4548	boryana.zeitz@kattenlaw.com

NEW YORK

Joshua S. Rubenstein, National Chair	212.940.7150	joshua.rubenstein@kattenlaw.com
Ronni G. Davidowitz, New York Chair	212.940.7197	ronni.davidowitz@kattenlaw.com
Mal L. Barasch, Counsel	212.940.8801	mal.barasch@kattenlaw.com
Lawrence B. Buttenwieser, Counsel	212.940.8560	lawrence.butenwieser@kattenlaw.com
Neil V. Carbone, Partner	212.940.6786	neil.carbone@kattenlaw.com
Alexandra Copell, Associate	212.940.8588	alexandra.copell@kattenlaw.com
Kimberly A. DeMaro, Associate	212.940.6632	kimberly.demaro@kattenlaw.com
Marla G. Franzese, Counsel	212.940.8865	marla.franzese@kattenlaw.com
Robert E. Friedman, Counsel	212.940.8744	robert.friedman@kattenlaw.com
Jacqueline Garrod, Associate	212.940.6661	jacqueline.garrod@kattenlaw.com
David Goldstein, Associate	212.940.6740	david.goldstein@kattenlaw.com
Lauren M. Goodman, Associate	212.940.6344	lauren.goodman@kattenlaw.com
Jasmine M. Hanif, Partner	212.940.6491	jasmine.hanif@kattenlaw.com
Milton J. Kain, Counsel	212.940.8750	milton.kain@kattenlaw.com
Dana B. Levine, Special Counsel	212.940.6668	dana.levine@kattenlaw.com
Shelly Meerovitch, Partner	212.940.8680	shelly.meerovitch@kattenlaw.com
Patience J. O'Neil, Special Counsel	212.940.3888	patience.oneil@kattenlaw.com
Yvonne M. Perez-Zarraga, Associate	212.940.6320	yvonne.perez-zarraga@kattenlaw.com
Kara B. Schissler, Associate	212.940.6662	kara.schissler@kattenlaw.com
Marianna Schwartzman, Associate	212.940.8581	marianna.schwartzman@kattenlaw.com
Beth Tractenberg, Partner	212.940.8538	beth.tractenberg@kattenlaw.com
Kathryn von Matthiessen, Partner	212.940.6631	kathryn.vonmatthiessen@kattenlaw.com

Katten

www.kattenlaw.com

KattenMuchinRosenman LLP

CHARLOTTE CHICAGO IRVING LONDON LOS ANGELES NEW YORK WASHINGTON, DC

Published as a source of information only. The material contained herein is not to be construed as legal advice or opinion.

©2010 Katten Muchin Rosenman LLP. All rights reserved.

Circular 230 Disclosure: Pursuant to regulations governing practice before the Internal Revenue Service, any tax advice contained herein is not intended or written to be used and cannot be used by a taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. Katten Muchin Rosenman LLP is an Illinois limited liability partnership including professional corporations that has elected to be governed by the Illinois Uniform Partnership Act (1997). London affiliate: Katten Muchin Rosenman Cornish LLP.