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NEW: The Katrina Emergency Tax Relief Act of 2005 (KETRA)

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On September 23,2005, the President signed the Katrina Emergency Tax Relief Act of 2005 (KETRA). Some provisions of the Act are targeted at the victims of Hurricane Katrina. Other provisions are *not* related to the hurricane at all and may be used by anyone to increase their charitable deductions. Let's look at the primary benefits of each Section of the Act.

For victims of Hurricane Katrina

For an individual whose principal place of abode was in the Hurricane Katrina disaster area, the Act exempts up to $100,000 in qualified Hurricane Katrina distributions from the 10 percent penalty for early withdrawals from qualified plans and IRAs. A qualified distribution is defined as any distribution from an "eligible" retirement plan," made on or after August 25, 2005 and before January 1, 2007, to an individual whose principal place of abode was located in the Katrina disaster area, and who has sustained an economic loss due to Hurricane Katrina.

An eligible retirement plan is an IRA, an individual retirement annuity under Code Section 408(A), other than an endowment contract, a Code Section 401(a) qualified trust, a Code Section 403(a) qualified annuity plan, a Code Section 457(b) eligible deferred compensation plan maintained by a governmental employer, and Code Section 403(a) annuity contract.

The Act also provides that a qualified Hurricane Katrina distribution is included in the taxpayer's income ratably over the three tax year period beginning with the tax year the distribution is received.

Reminder: the above is only to exempt certain qualified plan distributions from the 10 percent early withdrawal penalty and only for Katrina victims.

Benefits for everyone

Here is the big deal for *every one* of your clients: for the balance of 2005, the Act temporarily increases an individual's cash contributions to qualified public charities (1).

For cash gifts to public charities between August 28, 2005 and December 31, 2005, the 50 percent limitation (of adjusted gross income or AGI) is suspended. In other words, your client may donate 100 percent of their adjusted gross income to a public charity. Furthermore, such donations are not subject to the 3 percent phase out of itemized deductions for high income donors and they are not treated as alternative

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minimum tax preference items. And, if the contribution is greater than AGI, the excess may be deducted in future years.

Further, the gift to a public charity by an individual need not be for Katrina relief. Corporations, on the other hand, may give up to 100 percent of their taxable income to a public charity but it must be Katrina relief.

Planning Opportunities

One opportunity is for the person over age 59 1/2 who would like to use his/her IRA monies to contribute to a public charity. When the funds are withdrawn, they are includible is his/her taxable income. But under the suspension of the 50 percent charitable deduction limitation through 2005, all of the withdrawn funds may be given to the public charity and 100 percent of the gift- up to adjusted gross income- is income tax deductible for 2005. Withdrawals may also be made from other qualified plans and then given to public charities and deducted without regard to the 50 percent limitation.

Note that this opportunity is for anyone wanting to make use of qualified funds to make a charitable contribution to a public charity this year, but is best suited to those over 59 1/2 because **the 10 percent early withdrawal penalty would still apply to those under age 59 1/2. (2)**

Another opportunity is for those wealthier individuals with higher adjusted gross incomes who are close to hitting the 50 percent limit for cash gifts this year and are interested in making a larger gift this year. What better way is there to leverage the value of that extra cash than to have the charity purchase life insurance on the donor's life?

The extra cash could be sufficient to pay a single premium toward a universal life policy, such as ContinUL with guarantee features, and amplify the value of the gift. The charity is normally the original owner and beneficiary of the policy in such cases, and, because of KETRA, the donor is likely to receive an income tax deduction for the full amount of the cash gift. Because the suspension of the 50 percent limitation is *only* for 2005, we suggest that your philanthropic client act promptly. To discuss a specific situation, and the application of life insurance to charitable contributions, please call advanced sales in Milwaukee.

(1) Gifts to private foundations, supporting organizations, donor advised funds, and gifts of property such as stock or real estate are not eligible for this relief.

(2) Recall that the relief from the 10 percent withdrawal penalty mentioned in the first paragraph of this Insights is only for those individuals who lived in the Katrina disaster area and suffered an economic loss.

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