

Frequently Asked Questions
About Charitable Organizations Providing Disaster Relief
Updated September 13, 2010

A. QUESTIONS ABOUT PROVIDING DISASTER RELIEF THROUGH AN EXISTING CHARITABLE ORGANIZATION

1. What are the standards for charities that provide disaster relief to individuals?

In general, providing relief to victims of a disaster is a charitable activity because it aims to relieve human suffering - charity in its most basic form. To further this purpose, an organization must benefit a [*charitable class*](#). Thus, the organization must apply a [*needs-based test*](#) and maintain [*appropriate documentation*](#).

2. In general, what types of assistance may a charitable organization provide?

Disaster relief organizations may provide short-term (emergency) assistance and longer-term aid to ensure that victims have the basic necessities, such as food, clothing, housing, transportation, and medical assistance (including psychological counseling). Assistance may also be provided in the form of cash grants or vouchers for goods or services. The type of aid that is appropriate depends on the individual's needs and available resources.

For example, immediately following a devastating flood, a family may be in need of food, clothing, and shelter, regardless of their financial resources. They may not require longer-term assistance, however, if they have adequate resources (such as savings, wages, and insurance) upon which to draw. Individuals who are financially needy or otherwise distressed are appropriate recipients of charity.

3. What is meant by *charitable class*?

A *charitable class* is a group of individuals that may properly receive assistance from a charitable organization. A charitable class must be either large enough that the potential beneficiaries cannot be individually identified, or sufficiently indefinite that the community as a whole, rather than a pre-selected group of people, benefits when a charity provides assistance. For example, a charitable class could consist of all individuals located in a city, county, or state. This charitable class is large and benefits to it benefit the entire geographic community.

If the group of eligible beneficiaries is more limited, such as employees of a particular employer, the group of individuals eligible for disaster assistance (the class) must be indefinite. Otherwise, the charitable class would consist of a pre-selected group of people, which is prohibited. To benefit an indefinite charitable class, the relief program must be open-ended and include employees affected by the current disaster and those who may be affected by a future disaster. In this situation, the total number of potential members making up the charitable class cannot be counted or identified. Thus, while it may be possible to identify the employees who were victims of a present disaster (which is prohibited as pre-selection), it is not possible to identify employees who could be affected by future disasters. Accordingly, if a charity follows a policy of assisting employees who are victims of all disasters, present and future, it would be providing assistance to an indefinite charitable class.

Caution: If the facts and circumstances indicate that a newly established disaster relief program to help employees is intended to benefit only current beneficiaries without any intention to provide for future disasters, a charitable class would not be present

4. What is meant by *needs-based test*?

Under the law, disbursements of aid to victims of a disaster are to be based on “an objective evaluation of the victim’s needs at the time the grant is made.” [Publication 3833](#), *Disaster Relief, Providing Assistance through Charitable Organizations*, articulates this standard.

The Service applies this rule with common sense and sympathy for the plight of victims:

- In the chaotic and disorienting aftermath of a disaster, a charity can attend to a victim’s immediate needs without regard to financial means. When flood waters drive people from their homes, everyone urgently needs shelter, warmth, food, clothing, medicine, transportation, and some cash for incidental expenses. A charity may provide this immediate aid to everyone without pausing to conduct an individual needs assessment. However, the charity is still responsible for documenting and maintaining records of this type of assistance.
- But as time goes on, the danger recedes, and people are able to call upon their individual resources, it becomes increasingly appropriate for charities to conduct individual financial needs assessments. Those who require additional assistance can have it, but those who do not need such continuing assistance should not use charitable resources. For example, families

displaced by a hurricane may have a need for longer term emergency housing assistance if they do not have adequate resources to meet basic living needs.

- [Appropriate documentation](#) is needed to support activities undertaken to carry on a relief program. Supporting documents should show the amounts paid, the purpose of the payments, and information to establish that distributions were made to meet charitable purposes and victims' needs.

5. Can a charity help businesses affected by a disaster?

If a charity benefits the poor and distressed or underprivileged directly, the intended charitable purpose is clear. By assisting businesses located in a disaster area, a charity may indirectly accomplish a charitable purpose, such as combating community deterioration or lessening the burdens of government. This is permissible as long as (1) the assistance is reasonably related to the accomplishment of an exempt purpose, and (2) private benefit to the business is incidental. Although a business is not itself a member of a charitable class, and thus not an appropriate charitable object, it may be the means to accomplish charitable purposes.

Evidence of incidental private benefit would include a showing that the business does not have adequate resources from its own assets, conventional financing, or insurance to recover from the disaster. Moreover, a charity would need to determine that without its intervention the business would not locate or remain in the area.

6. What kind of records must a charity maintain to document its relief activities?

An organization must maintain adequate records that show the amounts paid, the purpose of the payments, and information to establish that distributions were made to meet charitable purposes and victims' needs. Documentation should include:

- a complete description of the assistance
- cost of the assistance
- the purpose for which the assistance was given
- the charity's objective criteria for disbursing assistance under each program
- how the recipients were selected
- the name, address, and amount distributed to each recipient (but see below regarding short-term emergency assistance)
- any relationship between the recipient and officers, directors, or key employees of or substantial contributors to the organization

- the composition of the selection committee approving assistance

A charitable organization that is distributing short-term emergency assistance should maintain the documentation noted above except for records of the name, address, and amount distributed to each recipient. Instead, organizations providing short-term emergency assistance should maintain records that describe the date, place, and estimated number of victims assisted. Examples of such short-term emergency aid would include blankets, hot meals, crisis shelter, electric fans, coats, hats, and gloves.

7. Can a qualified charitable organization that does not do disaster relief give money to a disaster relief organization helping the victims of a particular disaster?

Yes. One qualified section 501(c)(3) charity can give money to another qualified charity to carry out disaster relief.

8. May an organization provide disaster relief to victims of a particular disaster even though disaster relief was not specified in its exemption application?

Yes. An organization that is qualified under section 501(c)(3) may engage in other activities that accomplish charitable purposes even though those activities were not described in its exemption application, without having to obtain permission from the IRS. It should report new activities on its [annual return](#).

The organization may also report these changes to the Exempt Organizations Determinations Office at Internal Revenue Service, P.O. Box 2508, Cincinnati, Ohio 45201; however, such reporting does not relieve the organization from reporting the changes on its annual return. When reporting new activities, include an employer identification number on all correspondence with the Internal Revenue Service.

B. QUESTIONS ABOUT CREATING A CHARITABLE ORGANIZATION TO PROVIDE DISASTER RELIEF

1. What are the federal tax requirements to form a charity to help disaster victims?

A new charitable organization with anticipated annual gross receipts over \$5,000 must apply for tax-exempt status from the IRS. (There are exceptions to this general rule - churches, synagogues, temples, and mosques may, but are not required to, apply for recognition

of tax-exempt status). [Publication 3833](#), *Disaster Relief: Providing Assistance Through Charitable Organizations*, discusses establishing a new charitable organization to provide disaster relief. For information about creating an organization that will qualify for tax-exempt status under Internal Revenue Code section 501(c)(3), see [Life Cycle of a Public Charity - Starting Out](#).

An organization must use [Form 1023](#), *Application for Recognition of Exemption*, to apply for recognition of tax-exempt status. [Applying to the IRS](#) provides more information on the application process.

2. Do you intend to provide a model application for disaster relief organizations to apply?

[Form 1023](#), **Application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code**, [Publication 557](#), *Tax-Exempt Status for Your Organization*, and [Life Cycle of a Public Charity](#), provide detailed information about applying for exemption. A prototype application would not be particularly helpful because each organization must provide detailed information about its own activities, finances, governing board, and other types of information particular to an applicant.

C. QUESTIONS ABOUT CHARITABLE ORGANIZATIONS PROVIDING RELIEF TO EMPLOYEES OF PARTICULAR EMPLOYERS

1. Can a charity provide disaster relief limited to affected employees of a company?

An organization can be exempt as a charitable organization if it benefits a [charitable class](#). Beneficiaries must be [needy or distressed](#). Therefore, aid recipients must be selected based on an objective determination of need or distress, and the selection must be made using either an independent selection committee or substitute procedures adequate to ensure that any benefit to the employer is incidental and tenuous. See [Publication 3833](#) for more information on employer-sponsored assistance programs. Special rules apply to certain payments by [employer-sponsored private foundations](#).

2. Will a large donation made by an employer to an employer-sponsored public charity to provide funds for disaster relief programs cause the charity to fail its public support test and become a private foundation?

A large donation made by the sponsoring employer may cause an employer-sponsored public charity that normally satisfies the one-third public support test to fail that test. The organization may still satisfy the

facts and circumstances test to remain a [public charity](#) and avoid private foundation status, however. To satisfy the facts and circumstances test, the organization must receive at least 10 percent of its support from donations from public sources and operate in a manner designed to attract donations from the general public, community, or membership group. For more information about the facts and circumstances test, see [Publication 557](#), *Tax-Exempt Status for Your Organization*.

3. If an employer provides assistance directly to employees who are in need because of a qualified disaster without going through a charitable organization, is such assistance taxable income to employees?

Amounts paid to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster, or to repair or rehabilitate a personal residence, are not subject to federal income taxation to the extent any such expense is not otherwise reimbursed, such as by insurance. An [IRS guidance document](#) provides more information.

4. With an employer leave donation program, how is financial support contributed to a qualified tax-exempt organization treated for purposes of computing the organization's public support under section 170(b)(1)(A)(vi) of the Internal Revenue Code?

In determining if an organization qualifies as publicly supported under section 170(b)(1)(A)(vi) of the Code, support from an individual or corporation is included as support from the general public only to the extent that total contributions from such individual or corporation for a computation period do not exceed two percent of the organization's total support. Because employees in a [leave donation program](#) authorize the use of their leave to provide financial support to a qualified tax-exempt organization, amounts received by an organization from such a program are treated as numerous grants from employees (rather than one large grant from the employer) for purposes of computing public support under section 170(b)(1)(A)(vi).

For more information about the public support computation, see [Publication 557](#), *Tax-Exempt Status for Your Organization*. For more information about the tax rules that apply to leave donation programs, see [Notice 2005-68](#). Note in particular that certain conclusions reached with respect to leave donation programs apply only to relief provided for relief of victims of Hurricane Katrina, paid to qualified organizations before January 1, 2007.

Caution: An organization reviewing contributions for public support purposes would need to know the cash value of leave donations from each employee to determine which contributions fall below two percent of the organization's total support. This type of information could be obtained from employers participating in a leave donation program.

Amounts paid by employers that match the value of the amounts attributable to employees' donations of leave are not treated as numerous grants from employees for purposes of computing public support under section 170(b)(1)(A)(vi).

5. May an employer-sponsored private foundation provide disaster relief to employees of a related employer?

A private foundation that is employer-sponsored may make qualified disaster relief payments. A [qualified disaster](#) includes a disaster that results from certain terrorist or military actions, a Presidentially declared disaster, a disaster that results from an accident involving a common carrier or any other event that the Secretary of the Treasury determines is catastrophic.

The IRS will presume that **qualified disaster** payments made by a private foundation to employees (or their family members) of an employer that is a [disqualified person](#) (such as a company that is a substantial contributor) are consistent with the foundation's charitable purposes if:

- the class of beneficiaries is large or indefinite (a [charitable class](#)),
- the recipients are selected based on objective determinations of need, and
- the selection is made using either an independent selection committee or adequate substitute procedures to ensure that any benefit to the employer is incidental and tenuous. The foundation's selection committee is independent if a majority of the members of the committee are persons who are not in a position to exercise substantial influence over the affairs of the employer.

If the requirements of this presumption are met, then the foundation's payments in response to a qualified disaster (1) are treated as made for charitable purposes; (2) do not result in prohibited [self-dealing](#) merely because the recipient is an employee (or a family member of an employee) of the employer-sponsor; and (3) do not result in taxable compensation to the employees. See [Publication 3833](#) for more

information about this presumption, and the general rules that apply to payments by an employer-sponsored foundation.

6. Where can I find more information about leave-based donation programs?

For more information about leave-based donation programs, see [Hurricane Katrina Leave Donation Programs](#).

D. QUESTIONS ABOUT CHARITABLE CONTRIBUTIONS FOR DISASTER RELIEF

1. I want to hold a fundraising event to benefit charities. Are there any special rules?

To ensure that donors can deduct contributions made at a fundraising event, one or more qualified charities must conduct the event, so that the contributor can document that the gift was made to a qualified charitable donee. If someone other than a charity is conducting the event, the charity must clearly authorize that person to act as its agent in raising funds. The IRS provides [assistance to donors](#) in verifying that a charity is qualified.

Many states have laws that require soliciting charities to register with a state agency before soliciting the state's residents for contributions. State laws may impose additional requirements on fundraising activity involving paid solicitors and fundraising counsel. To learn more about state regulation of charitable solicitation, see the website of the [National Association of State Charity Officials](#).

Federal tax law applies substantiation and disclosure requirements to charities that receive deductible charitable contributions. For a complete explanation, see [Publication 1771](#), *Charitable Contributions: Substantiation and Disclosure Requirements*.

2. How can I find out whether an organization is listed with the IRS as a qualified charitable organization eligible to receive tax-deductible contributions?

The IRS website (IRS.gov) has an [on-line search feature](#) that allows people to find qualified charities. Some organizations, such as churches and governments, may be qualified even though they are not listed. Newly qualified charities that provide disaster relief are listed in an [addendum](#) section.

3. Are contributions to United States charitable organizations for international disaster relief deductible as charitable contributions?

Contributions to domestic, tax-exempt charitable organizations that provide assistance to individuals in foreign lands qualify as tax-deductible contributions for federal income tax purposes if the U.S. organization has full control and discretion over the uses of the funds. If the contributor is a corporation, its contributions for use in a foreign country are not deductible unless the domestic charity is itself organized as a corporation for federal tax purposes.

Contributions to foreign organizations are generally not tax-deductible. See [Publication 526](#), *Charitable Contributions*.

E. OTHER QUESTIONS FOR CHARITIES ABOUT DISASTER RELIEF

1. I have looked at [Publication 3833](#), *Disaster Relief: Providing Assistance Through Charitable Organizations*. Where can I go to find information on the legal requirements on which it is based?

The IRS website contains a wealth of [resources for charities and contributors](#) about disaster relief.