



IRS Announces Qualified Disaster Treatment for Haiti

On Friday, January 22, 2010 the IRS designated the January 2010 earthquake in Haiti as a qualified disaster for federal tax purposes. This allows recipients of qualified disaster relief payments to exclude those payments from income on their tax returns. Also, the guidance allows employer-sponsored private foundations to assist victims in areas affected by the earthquake in Haiti without affecting their tax-exempt status. Read the [notice](#) and [full announcement](#) from the IRS.

To assist its members—particularly those corporate foundations—with the implications of this designation, the Council prepared this brief guide.

What does the qualified disaster declaration mean for corporate grantmakers?

The rules for assisting employees in a disaster vary depending on whether the disaster has been classified as a "qualified disaster." On January 22, 2010 the Secretary of Treasury declared the earthquake in Haiti a "qualified disaster." With this declaration, a company-sponsored private foundation is permitted to make qualified disaster relief payments to employees and their families as long as the class of beneficiaries is large or indefinite and the recipients are selected based on an objective determination of need by an independent selection committee (or by other substitute procedures to ensure that any benefit to the employer is incidental and tenuous). Qualified disaster relief payments include payments or reimbursements attributable to a qualified disaster for reasonable and necessary personal, family, living or funeral expenses and reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or the repair or replacement of its contents. More details about grants to employees affected by a qualified disaster are available in "[Disaster Relief: Providing Assistance Through Charitable Organizations](#)." Also see the Council's [Legal FAQs on Disaster Grantmaking](#).

Additionally, since the earthquake has been declared a qualified disaster, corporations can pay or reimburse affected employees or their family members for personal, family and living expenses incurred in connection without the payments constituting taxable income to the employees under U.S. law.

What does the qualified disaster declaration mean for community foundations and other public charities with employer-connected disaster relief funds?

The qualified disaster declaration also means that employer-connected funds established at community foundations or other public charities for disaster relief, may also make qualified disaster relief payments. In accordance with [IRS Notice 2006-109](#), a fund will not be classified as a donor advised fund, and therefore may provide grants to individuals, if the fund meets the following requirements:

- Have as its sole purpose providing relief in the case of a “qualified disaster.”
- Serve a charitable class
- Select recipients based on objective determinations of need
- Use either an independent selection committee or one that is independent (a majority of its members are not in a position to exercise substantial influence over the affairs of the employer)
- Make no payment to anyone who is a director, officer, or trustee of the sponsoring organization (e.g., the community foundation) or to any member of the selection committee, and
- Maintain adequate records demonstrating the recipients’ need for the relief provided.

These rules are discussed in more detail in the IRS publication, [Disaster Relief: Providing Assistance Through Charitable Organizations](#).