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ALERT!

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TRUSTS & ESTATES PRACTICE GROUP

ARE PIGS FLYING? BECAUSE CONGRESS IS BEING GENEROUS WITH TAX DEDUCTIONS!

It's been said that bad times bring out the best in people. Unless you've been under a rock or hiding in a hole somewhere in Tikrit for the past several months, you have undoubtedly heard of Hurricane Katrina and her conjuring of speechless havoc. Katrina justly epitomizes "bad times." But, who knew that bad times would bring out the best in Congress?

The unprecedented generosity of individuals and corporations to the victims of Hurricane Katrina has spurred Congress to be—believe it or not—equally generous to those donors. Under the Katrina Emergency Tax Relief Act, individuals donating cash to any public charity (that's right, any public charity) are allowed to deduct the whole amount of the donation from their adjusted gross income. Of course, the deduction cannot exceed the donor's adjusted gross income, but this deduction is double the regular limit of 50% of a donor's adjusted gross income.

The reason for Congress's generosity was the fear that donations for the Katrina relief would take away donations from other organizations such as cultural institutions and schools. This fear is valid because that was exactly what happened after 9/11.

If you are not aware, the world's savviest fundraisers among nonprofit organizations are universities. Universities have boarded the Katrina tax relief bandwagon in droves, with some schools aggressively promoting its benefits. So, if you are a donor to a university, you may have already received a phone call, a letter, or other promotions regarding the Katrina tax relief.

The Katrina tax bill is optimized for individuals having assets substantially larger than their income. To take advantage of the tax bill, some donors may consider increasing this year's amount of donations or accelerating gift pledges rather than making future donations. Others may be able to take deductions this year for donations made in previous years.

And for some, they may want to withdraw assets from IRAs or other qualified retirement plan. If this withdraw opted, the donor must be wary of other tax implications because the tax bill has a minimum age requirement of 59 ½ and the withdrawn amount is

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added to the donor's adjusted gross income, which may affect certain itemized deductions such as medical expenses. This cautious approach is applicable to the sale of securities and applying the proceeds for charity contribution as well.

If your assets are not substantially larger than your income, you can still take advantage of the tax bill in several enumerated ways. For example, if, in 2005 or 2006, you provided shelter to individuals displaced by Hurricane Katrina, you may take an additional personal exemption of $500 per person, up to four people, or $2000 in personal exemptions. If, in fall 2005 or anytime in 2006, you used your vehicle to provide relief related to Hurricane Katrina, you may take an itemized deduction using 70% of the IRS business mileage rate rather than the IRS charitable mileage rate set at 14 cents per mile.

Believe it or not, corporate donors are also included in the tax bill. The taxable income limit of 10% for corporate donors is waived. However, to take advantage of the tax relief, corporations must contribute to public charities that provide relief to those affected by Hurricane Katrina. C-corporations may take an enhanced deduction, in excess of basis, for donations of food inventory made between August 25, 2005 and December 31, 2005. Corporations other than C-corporations may deduct up to 10% of their net income from business entity or entities from which the inventory donation is made.

Several restrictions must be met to benefit from the tax bill, among them are:

- Contributions must be cash; securities and real property does not qualify;
- Contributions must be made between the limited window of August 25, 2005 and December 31, 2005. Any contributions made prior to or after the window will be subject to the regular 50% deduction rate of a donor's adjusted gross income; and
- Charitable organizations must fall under §170(b)(1)(A) of the Internal Revenue Code.

Take note that other restrictions must be met to take advantage of the tax relief.

At Hill Wallack, whether you are an individual or corporation, we can help you to incorporate the Katrina tax bill into your estate plan. Because the window of opportunity lapses on December 31, 2005, we recommend that you do not hesitate in seeking help.

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