

Tsunamis Occurring on December 26, 2004, Designated as a Qualified Disaster Under § 139 of the Internal Revenue Code

Notice 2005–23

This notice designates the Indian Ocean tsunamis occurring on December 26, 2004, as a qualified disaster for purposes of § 139 of the Internal Revenue Code, and describes the affected areas.

Tsunami Disaster

The Indian Ocean tsunamis were triggered by a magnitude 9.0 or greater earthquake off the west coast of Northern Sumatra, Indonesia. The tsunamis inflicted enormous damage throughout South Asia, Southeast Asia, and East Africa. Nearly 300,000 people were killed or are missing as a result of this disaster, and over one million were displaced from their homes. *USAID Fact Sheet No. 35* (February 18, 2005).

The world community has recognized the Indian Ocean tsunamis as one of the largest natural disasters in recent history. Many international humanitarian organizations, countries, and the United Nations have provided relief. The United States has taken steps to facilitate the delivery of relief in response to this unique disaster. *See Pres. Det. No. 2005–16, 70 Fed. Reg. 1787* (Jan. 10, 2005). In addition,

Congress enacted Pub. L. No. 109–1, 119 Stat. 3 (2005), which permits a taxpayer to treat a contribution made in January 2005 as if it were made on December 31, 2004, if it is a cash contribution made for the relief of victims in areas affected by the Indian Ocean tsunamis for which a charitable contribution deduction is allowable under § 170. This notice provides U.S. tax relief that will facilitate assistance to certain victims of the tsunamis.

QUALIFIED DISASTER RELIEF PAYMENTS EXCLUDED FROM RECIPIENT'S GROSS INCOME

Section 139(a) provides that gross income shall not include any amount received by an individual as a qualified disaster relief payment.

Section 139(b) provides that a qualified disaster relief payment includes any amount paid to or for the benefit of an individual—

(1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses (not otherwise compensated for by insurance or otherwise) incurred as a result of a qualified disaster, or

(2) to reimburse or pay reasonable and necessary expenses (not otherwise compensated for by insurance or otherwise) incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster.

Under § 139(c)(3) the term “qualified disaster” includes a disaster resulting from

an event that is determined by the Secretary to be of a catastrophic nature.

DESIGNATION AS QUALIFIED DISASTER

The Commissioner of Internal Revenue, pursuant to delegation by the Secretary, has determined that the Indian Ocean tsunamis occurring on December 26, 2004, are a catastrophic event under § 139(c)(3). Therefore, these tsunamis are designated as a qualified disaster under § 139 in the affected areas of these countries: Bangladesh, Burma, India, Indonesia, Kenya, Malaysia, Maldives, the Seychelles, Somalia, Sri Lanka, Tanzania, and Thailand.

SECTION 501(c)(3) ORGANIZATIONS

Because this notice designates the Indian Ocean tsunamis as a qualified disaster under § 139, employer-sponsored private foundations may choose to provide disaster relief to employee victims of the tsunamis. Like all organizations described in § 501(c)(3), private foundations should exercise due diligence when providing disaster relief as set forth in Publication 3833, *Disaster Relief: Providing Assistance Through Charitable Organizations*.

DRAFTING INFORMATION

The principal author of this notice is Sheldon A. Iskow of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this notice, contact Mr. Iskow at (202) 622–4920 (not a toll-free call).