

Part III - Administrative, Procedural, and Miscellaneous

China Earthquake Occurring in May 2008 Designated as a Qualified Disaster under § 139 of the Internal Revenue Code

Notice 2008-57

This notice designates the China earthquake occurring in May 2008 as a qualified disaster for purposes of § 139 of the Internal Revenue Code.

EARTHQUAKE DISASTER

On May 12, 2008, a magnitude 7.9 earthquake with hundreds of resulting aftershocks affected a large region of China (“China earthquake”). More than 67,000 people were killed, more than 292,000 were injured, and at least 5,470,000 were displaced from their homes as a result of this disaster. *USAID China-Earthquake Fact Sheet No. 4* (May 27, 2008); *USAID China-Earthquake Fact Sheet No. 2* (May 15, 2008).

This notice enables employer-sponsored private foundations to assist certain victims in areas affected by the China earthquake and enables recipients of this assistance to exclude the relief payments from gross income.

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 China earthquake occurring in May 2008 is an event of a catastrophic nature under § 139(c)(3). Therefore, the China earthquake is designated as a qualified disaster under § 139.

SECTION 501(c)(3) ORGANIZATIONS

Employer-sponsored private foundations may choose to provide disaster relief to employee victims of the China earthquake. 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 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).