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# Donating To Employees Affected By Hurricane Harvey

By Elizabeth A. Copeland / Sep 13, 2017

According to a recent estimate from the U.S. Chamber of Commerce, companies have pledged more than \$157 million to relief efforts addressing the devastation of Hurricane Harvey<sup>1</sup>. But when your own employees are the people in need of assistance, how can your company help without running afoul of the IRS?

**Disaster relief payments or gift cards given by employers (and even non-employers) to persons affected by Hurricane Harvey are NOT considered income to the recipients.**

The clearest guidance on this is found in Rev. Rul. 2003-12, situation 3. There, the government states that grants received by employees under an employer's program "to pay or reimburse certain reasonable and necessary medical, temporary housing, or transportation expenses they incur as a result of a flood" are excluded from the employees' gross income. The payor does not have to be an employer for the employee to be able to exclude amounts from income. The employer simply needs to establish a business reason for making the payment – like community goodwill/advertising.

Strasburger recommends employers draft an e-mail or letter that clearly states:

- this is a one-time-only grant, and
- defines the purpose of that grant (i.e. to assist individuals with payments for "reasonable and necessary personal, family, living, ... expenses incurred as a result of Hurricane Harvey" or for "reasonable and necessary expenses 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 Hurricane Harvey.")

For non-employer payors, we recommend NOT using the word "reimbursement" since that tends to sound more like an employment term.

The Rev. Ruling is based on the text of Internal Revenue Code Section 139, which reads as follows:

## **QUALIFIED DISASTER RELIEF PAYMENT DEFINED**

For purposes of this section, the term "qualified disaster relief payment" means 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 incurred as a result of a qualified disaster,
2. to reimburse or pay reasonable and necessary expenses 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 disasters,
3. by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or
4. if such amount is paid by a Federal, State, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare,

but only to the extent any expense compensated by such payment is not otherwise compensated for by insurance or otherwise.

Please contact Strasburger if you have any questions on how your company can provide support for its employees as they continue to recover the impact of Hurricane Harvey.