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COVID-19 Disaster Relief Payments to Employees Not Considered Taxable Income by IRS

Tax Planning & Structuring

Human Resources & Employment

In addition to benefits available under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and the Families First Coronavirus Response Act (Response Act), an existing benefit under the Internal Revenue Code (IRC) may be helpful to employers looking to provide financial assistance to employees impacted by the COVID-19 pandemic.

Generally, payments made by an employer to or for the benefit of an employee must be included in the employee's gross income and cannot be treated as a tax-free gift.

However, under [IRC Section 139](#), employers may make tax-free qualified disaster relief payments to employees for reasonable and necessary personal, family, living or funeral expenses incurred as a result of the COVID-19 pandemic. Such expenses may include:

- Medical expenses not compensated by insurance (e.g., co-pays, deductibles, over-the-counter medications, vitamins and supplements)
- Expenses associated with enabling an employee to work from home throughout the pandemic (e.g., enhanced internet connections, computer monitors, cell phone, laptops, printers, office supplies and increased utility costs)
- Housing for additional family members (e.g., transportation and living expenses for college students returning home)
- Nonperishable food purchases/reserves
- Increased childcare expenses
- Funeral costs of an employee or a member of an employee's family
- Expenses to enhance mental health and physical well-being from social distancing (e.g., meditation apps and home health fitness)
- Alternative commuting means in place of mass transit

Qualified disaster relief payments do not include:

- Payments for expenses that are not reasonable and necessary
- Income replacement payments (e.g., payments for lost wages, lost business income or unemployment benefits)
- Payments reimbursed or reimbursable by insurance or otherwise

There is no limitation on the amount of qualified disaster relief payments an employer may make to its employees, as long as the payments are reasonable and necessary.

Qualified disaster relief payments are excluded from gross income and wages for payroll tax purposes and are not subject to information reporting on Form W-2 or Form 1099-MISC. Additionally, such payments should be deductible to the employer to the same extent they would have been deductible if they had been included in the employee's income.

No formal plan or documentation is required to be maintained by employers. However, employers may want to document their intention to make qualified disaster relief payments and to obtain an affirmative statement from the employee requesting funds that such funds are necessary for expenses associated with the COVID-19 pandemic and that such expenses are not reimbursable by

insurance. Additionally, employers may want to document amounts paid and to whom, the start and end date of any Section 139 “program” and a general listing of the expenses that will be paid or reimbursed on behalf of the employees.

For more information on qualified disaster relief payments, please contact a member of our [Tax Planning and Compliance Practice](#) or our [Human Resources and Employment Practice](#).