

Management Alert



IRS Allows Employees to Donate the Value of PTO for Hurricane Harvey Victims

By Jim Gehring

The IRS has announced a program that allows employees to donate the value of their vacation, sick time, or other paid time off (“PTO”) for the relief of victims of Hurricane or Tropical Storm Harvey. Under IRS Notice 2017-48, issued on September 5, employers may contribute the value of the PTO contributed by their employees as Harvey relief to a non-profit organization and will be entitled to a deduction that may be treated as a business expense, rather than a charitable contribution, as long as the donations are specifically for the relief of Harvey victims and are made by January 1, 2019.

The employees who make the donations will not be entitled to take charitable deductions, but will not be subject to income or social security taxes on the amounts donated.

This differs from a traditional leave donation program, under which employees can donate a portion of their PTO to be used in kind by employees who were affected by a natural disaster such as Harvey. The temporary relief announced by the IRS allows the value of the donated PTO to be converted into cash charitable contributions, making it more widely useful, particularly in the case of employers who do not have employees located in the area affected by Harvey.

This relief is in addition to the IRS announcement last week that it was relaxing the rules governing the documentation of hardship withdrawals and loans from 401(k) plans for employees located in the areas affected by Harvey. For more information on that relief, see our [management alert](#).

Finally, some clients have expressed an interest in using their affiliated private foundations (as opposed to public charities such as the Red Cross) to make charitable contributions for the relief of Harvey victims, so that the relief can be targeted to their employees located in the affected areas. After opposing this practice in the past, the IRS has changed its position and will now allow a private foundation to give priority to employees of the sponsoring employer in making individual hardship relief grants, as long as certain safeguards are met.

If you have any questions about actions that employers can take to help alleviate the hardships caused by Hurricane Harvey, please contact Jim Gehring at (312) 460-5856 or dgehring@seyfarth.com or Kelly Pointer at (713) 238-1841 or kpointer@seyfarth.com.

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Seyfarth Shaw LLP Management Alert | September 6, 2017

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