



LEGAL UPDATE

IRS Issues Guidance on Leave Donation Programs for COVID-19

Employee leave donated to COVID-19 charities through employer-based programs will not be taxed as income of the donor employees, according to recent guidance by the IRS.

Employer Leave Donation Programs

Under leave-based donation programs, employees can elect to forgo vacation, sick or personal leave in exchange for cash payments the employer makes to IRS Code Section 170(c) charitable organizations.

IRS Guidance on Leave Donation for COVID-19 Charities

In [Notice 2020-46](#), the IRS said that cash payments an employer makes in exchange for vacation, sick or personal leave that its employees elect to forgo will not be treated as wages or compensation, or otherwise included in the gross income of the employees, if the payments are:

- ☒ Made to a Section 170(c) organization for the relief of victims of the COVID-19 pandemic in affected geographic areas; and
- ☒ Paid to a Section 170(c) organization before Jan. 1, 2021.

“Affected geographic areas” are each of the 50 states, the District of Columbia, and five U.S. territories, which have all been declared major disaster areas by President Donald Trump in response to the COVID-19 pandemic.

The amount of cash payments should **not** be included in Box 1, 3 or 5 of the Form W-2. Electing employees may not claim a charitable contribution deduction under section 170 for the value of forgone leave.

Important Dates

March 13, 2020

President Trump declares nationwide emergency under the Stafford Act.

June 11, 2020

The IRS issues Notice 2020-46 on tax treatment of employee leave donated to charities for relief of COVID-19 victims.

Jan. 1, 2021

Deadline for employer payments to charities if employee donations are to receive favorable tax treatment.

Employer leave donation programs allow employees to forgo leave in exchange for payments the employer makes to charities.

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