

PUBLICATION

IRS Provides Guidance Addressing Leave-Based Donations Benefiting Louisiana Storm Victims

Authors: Christopher Tyler Ball

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In the wake of several severe storms and widespread flooding in Louisiana, many local residents and businesses are dealing with catastrophic property damage and loss. These burdens have resulted in an overwhelming need for charitable support in several communities. In response to this need, many businesses have instituted or are considering instituting programs that allow their employees to forgo accrued vacation, sick and other paid leave time in exchange for cash contributions made by the employer to one or more charitable organizations benefiting storm relief efforts in Louisiana.

In response to the creation of so many of these leave-based donation programs, the Internal Revenue Service has published Notice 2016-55. This Notice confirms that the IRS will not assert that cash payments an employer makes to a qualified charitable organization benefiting the victims of the Louisiana storms can be included in the electing employees' gross incomes if the payments are made prior to January 1, 2018.

The Notice also provides that although an employer is afforded a deduction for payments made to qualifying charitable organizations (which the employer may be able to deduct as a trade or business expense), its employees are not allowed to claim corresponding deductions. This result may seem unfair, but it is appropriate considering that these employees are not required to include any portion of these cash payments in their respective gross incomes. In fact, because some individual taxpayers' charitable contribution deductions are limited in a given year due to certain applicable percentage-based maximums, these types of leave-based gifts have the potential to be even more beneficial than a traditional cash or other direct gift to charity.

For additional information regarding this guidance or other matters pertaining to the deductibility of charitable donations, please contact Tyler Ball or any of the attorneys in the Baker Donelson's Tax Group.