Disaster relief
Workforce considerations for employers
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Disaster relief: workforce considerations for employers

by Debera Salam, CPP, and Deborah Spyker, CPP

In consideration of the several hurricanes this year that impacted the US and its possessions and territories, this special report provides an overview of the relief available to employers and employees in consideration of a presidentially declared emergency or disaster, their employment tax implications, and how to determine the geographic areas where these relief provisions apply.

A summary of the specific relief available for Hurricanes Harvey, Irma and Maria begins on page 9.

What is a qualified area for disaster relief?

In response to the 2001 terrorist attacks and Hurricanes Katrina and Rita, a number of laws were enacted that encourage employers to assist their employees when they are the victims of a presidentially declared disaster.

Integral to understanding and implementing disaster relief provisions, be they tax filing extensions, employer-provided disaster assistance, or leave banks, is an understanding of the difference between a major disaster declaration for public assistance only, a major disaster area for individual and public assistance, and an emergency declaration.

Knowing these terms is important because disaster relief provisions available for events, such as the hurricanes in 2017, turn on determinations made by the Federal Emergency Management Agency (FEMA), rather than tax law alone.

Under federal law (the Robert T. Stafford Disaster Relief and Emergency Assistance Act), the president can declare events like hurricanes, floods or fires as major disasters.

Alternatively, the president can declare an emergency for occasions in which states need federal assistance to (1) preserve lives or property, or (2) lessen or avert the threat of catastrophe. Evacuations for instance have a cost impact on state/local governments and individuals even if the flood, fire or other impending disaster doesn’t ultimately strike the areas of evacuation.

Timeline of disaster-related federal tax relief

FEMA declarations main page  IRS disaster relief main page

1. President approves emergency at request of state – FEMA declaration is posted for individual assistance.
2. President approves major disaster area at request of state – FEMA declaration is posted for individual assistance.
3. IRS announces tax relief based on FEMA major disaster declaration.

- Disaster relief payments are tax free in declared states for expenses incurred in connection with the declared (often impending) disaster.
- Leave sharing is allowed for qualified disaster areas of the state.
- Disaster unemployment assistance is available through the state workforce agencies.
- Tax filing extensions and abatement of payroll deposit penalties
- Leave-based donations
- Qualified retirement plan relief
A major disaster or emergency declaration generally makes three types of assistance available to the affected area: individual assistance (assistance to individuals and households); public assistance (assistance to state and local governments and some nonprofits); or both. FEMA decides which types of assistance a major disaster or emergency area will receive. It publicizes its decision by specifying if the area is eligible for individual assistance, public assistance or both.

For additional information, see the discussion on disaster declarations on FEMA's website.

Qualified disaster relief payments under IRC §139 apply to emergency or major disaster areas eligible for individual or individual and public assistance. However, in the case of a major disaster area, the IRS is allowed under IRC §7508A to postpone various tax-related deadlines up to one year and to provide other relief such as the allowance of leave sharing, leave-based donations, and relaxation of the documentation requirements for hardship distributions and loans from qualified retirement plans. The IRS usually limits this relief to major disaster areas eligible for (1) individual assistance or (2) individual and public assistance; however, exceptions can apply, as with Hurricane Maria.

For a complete list of the acts the IRS may postpone, see IRS Reg. §301.7508A-1(c)(1) and Rev. Proc. 2007-56, 2007-2 CB 388.

Employee assistance for disaster-related expenses

Employers may wish to give financial assistance to employees suffering personal losses as the result of a presidentially declared emergency or major disaster. Payments to employees under these circumstances may be excluded from taxable wages under IRC §139. (Revenue Ruling 2003-29.)

IRC §139, created by the Victims of Terrorism Tax Relief Act of 2001, provides that gross income does not include any amount received by an individual as a “qualified disaster relief payment.” IRC §139(d) further specifies that a qualified disaster relief payment also will not be treated as wages for employment tax purposes or as net earnings from self-employment for self-employment tax purposes. As a result, qualified payments are exempt from federal income tax, federal income tax withholding, Social Security/Medicare (FICA) and federal unemployment insurance. The amounts are not reported on Form W-2.

The term “qualified disaster relief payment” means any amount paid to, or for the benefit of, an individual:

• To reimburse or pay reasonable and necessary personal, family, living or funeral expenses incurred as a result of a qualified disaster

• 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 such need is attributable to a qualified disaster

Or

• 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

Qualified disaster relief payments do not include payments for any expenses compensated by insurance or otherwise.

The legislative history to IRC §139 indicates that a qualified disaster relief payment may be from any source, including an employer. The legislative history further provides that “in light of the extraordinary circumstances surrounding a qualified disaster, it is anticipated that individuals will not be required to account for actual expenses in order to qualify for the exclusion, provided that the amount of payments can be reasonably expected to be commensurate with the expenses incurred.”

Many businesses require that benefit recipients sign an affidavit attesting that the amounts received meet the requirements of IRC §139 (e.g., the employer’s benefit is not in excess of actual expenses incurred less insurance proceeds or other assistance received from other sources).
In Rev. Rul. 2003-12, 2003-1 CB 283, the housing and transportation expenses incurred as a result of a presidentially declared disaster (which were not reimbursed through insurance or otherwise) were excludable from income, even though the employees were not required to provide proof of actual expenses in order to receive a grant. However, the IRS indicated that the employer program at issue contained requirements to ensure that the grant amounts were reasonably expected to be commensurate with the amount of unreimbursed reasonable and necessary medical, temporary housing and transportation expenses incurred as a result of the disaster.

- **Signed employee statements.** Many businesses require that benefit recipients sign an affidavit attesting that the amounts received meet the requirements of IRC §139 (e.g., the employer’s benefit is not in excess of actual expenses incurred less insurance proceeds or other assistance received from other sources). Signed affidavits, if obtained, should be maintained in the employer’s tax files. Employers should see their tax advisor for the suggested wording of the employee affidavit.

- **Taking a business deduction for relief payments.** The legislative history to IRC §139 states that no change from prior law was intended as to the deductibility of qualified disaster relief payments made by an employer merely because the payments are excludable by recipients. “Thus, it is intended that payments excludable from income under the provision are deductible to the same extent they would be if they were includable in income.”

### Leave sharing

Under IRC §139, employers may offer “qualified disaster payments” to employees affected by a FEMA-declared emergency or major disaster that is eligible for individual or individual and public assistance.

For leave-sharing programs, the rules are slightly different. Under IRS Notice 2006-59, 2006-2 CB 60, non-federal employers may establish leave-sharing programs for employees only in “major disaster areas.”

Unlike the Stafford Act, however, IRS Notice 2006-59, 2006-2 CB 60 defines “major disaster areas” as areas that FEMA has designated eligible for individual assistance or individual and public assistance. As such, non-federal employees in major disaster areas eligible only for public assistance do not qualify for participation in tax-favored leave-sharing programs. (See 5 U.S.C. §6391 for the provisions governing federal government leave-sharing plans.)

If an employee is unable to work as a result of a disaster, due to, for instance, lack of transportation, an office or branch closing, or other similar situations, a leave-sharing program gives employees not affected by disaster a chance to help their colleagues. Under a leave-sharing program, employees can donate their accrued leave to those co-workers who need the paid time off.

Leave-sharing programs are announced by the IRS subsequent to a qualifying disaster, and, when announced, they are generally available to victims of a major disaster, defined as (a) a major disaster, as declared by the president under §401 of the Stafford Act, 42 U.S.C. §5170, that warrants individual assistance or individual and public assistance from the federal government under that Act; or (b) a major disaster or emergency, as declared by the president pursuant to 5 U.S.C. §6391, in the case of federal employers and employees as described in that statute.

Under the written plan of an employer, employees may donate their accrued leave into an employer-sponsored leave bank for use by other employees who have been adversely affected by a disaster.

An employee is considered to be adversely affected by a major disaster if the disaster has caused severe hardship to the employee or a family member of the employee that requires the employee to be absent from work. The amount of leave donated represents taxable wages to the recipient and not to the donor. The donor may not claim a tax deduction for the donated leave.

The dollar value of the donated leave can be contributed into the leave bank such that, for instance, one hour of leave donated by a $100-per-hour employee equates to 10 hours of leave granted to a $10-per-hour employee.

Under a leave-sharing program, employees can donate their accrued leave to those co-workers who need the paid time off.
Disaster relief: workforce considerations for employers

Continued

The plan must meet the following requirements:

- The plan does not allow a leave donor to deposit leave for transfer to a specific leave recipient.
- The amount of leave that may be donated by a leave donor in any year generally does not exceed the maximum amount of leave that an employee normally accrues during the year.
- A leave recipient may receive paid leave (at his or her normal rate of compensation) from leave deposited in the leave bank. Each leave recipient must use this leave for purposes related to the major disaster.
- The plan adopts a reasonable limit, based on the severity of the disaster, on the period of time after the major disaster occurs during which a leave donor may deposit the leave in the leave bank and a leave recipient must use the leave received from the leave bank.
- A leave recipient may not convert leave received under the plan into cash in lieu of using the leave.
- A leave recipient may use leave received under the plan to eliminate a negative leave balance that arose from leave advanced to the leave recipient because of the effects of the major disaster.
- A leave recipient also may substitute leave received under the plan for leave without pay used because of the major disaster.
- The employer must make a reasonable determination, based on need, as to how much leave each approved leave recipient may receive under the leave-sharing plan.
- Leave deposited on account of one major disaster may be used only for employees affected by that major disaster.
- Except for an amount so small as to make accounting for it unreasonable or administratively impractical, any leave deposited under a major disaster leave-sharing plan that is not used by leave recipients by the end of the specified period must be returned within a reasonable period of time to the leave donors (or, at the employer’s option, to those leave donors who are still employed by the employer) so that the donor will be able to use the leave.
- The amount of leave returned to each leave donor must be in the same proportion as the amount of leave donated by the leave donor bears to the total amount of leave donated on account of that major disaster.

Leave-based donations

In the event of a major disaster, the IRS may issue an announcement allowing for leave-based donations. In contrast to a leave-sharing program, a leave-based donation program allows employees to elect to donate the cash equivalent of their vacation, sick or personal leave to an IRC §170(c) organization that provides relief to disaster victims. Absent specific IRS guidance otherwise, such leave donations are included in gross taxable wages at the time an employee elects to make such donation.

The value of the leave donations that an employer makes to an IRC §170(c) organization is excluded from wages subject to federal income tax, federal income tax withholding, Social Security, Medicare and federal unemployment insurance, provided that the leave donations are:

- Made to §170(c) organizations for the relief of victims of a major disaster area
- Paid to the §170(c) organizations before the IRS-specified deadline.

The following requirements also apply to qualifying leave-based donations:

- The opportunity to make the election to donate leave does not result in the constructive receipt of gross income or wages to the employees making such election.
- Leave-based donations meeting these requirements are not reported on Form W-2 in boxes 1, 3 or 5.
- Employers are permitted to deduct such cash payments as wages under the rules of IRC §162.
- Employees donating leave are not allowed to claim a charitable deduction under IRC §170 for the value of leave donations that is excluded from compensation and wages.

In contrast to a leave-sharing program, a leave-based donation program allows employees to elect to donate the cash equivalent of their vacation, sick or personal leave to an IRC §170(c) organization that provides relief to disaster victims.
Relief for qualified retirement plans

In the event of a major disaster, the IRS is authorized to provide relief from the rules that normally govern hardship distributions and loans from qualified retirement plans.

The relief in the IRS announcement for the specified major disaster allows an employer to expand the types of financial events that are eligible for a hardship distribution. For example, a plan might not cover the hardship of a parent, but the financial losses of a parent working or residing in the disaster zone will be deemed to be eligible under the IRS announcement if the employer chooses to utilize this relief. In addition, the IRS announcement allows the employer to waive any provision in the plan that prohibits the employee from making contributions for at least six months after the hardship distribution.

These IRS announcements do not change the standards for determining the amount available for hardship distribution, which generally is limited to the maximum amount that would be permitted to alleviate the financial need and that is not otherwise reimbursed by insurance. However, the IRS announcement will state that an employer can rely on the employee's representation of the need (unless the employer has direct actual knowledge to the contrary.)

With respect to plan loans, the IRS announcement does not waive the requirements for plan loans; however, it will provide that an employer may temporarily suspend certain documentation requirements for loans (such as requiring a death certificate of a spouse where spousal consent otherwise would be required). However, the IRS announcement will specify that the employer needs to obtain the appropriate documentation by a specified deadline.

- **Covered plans.** For purposes of this relief, a qualified retirement plan means a plan or contract meeting the requirements of § 401(a), 403(a) or 403(b), and, for purposes of the hardship relief, that could, if those plans contained enabling language, make hardship distributions. Relief is also available to plans described in § 457(b) maintained by an eligible employer described in § 457(e)(1)(A), and any hardship arising from the disaster is treated as an “unforeseeable emergency” for purposes of distributions from such plans.

IRA participants are barred from taking out loans, but they may still be eligible for hardship distributions.

- **Covered persons.** For the covered plan above, this relief is available to employees and former employees whose principal residence was located in one of the covered major disaster areas or whose lineal ascendant or descendant, dependent or spouse had a principal residence or place of employment in the covered area on that date.

In the event of a major disaster, the IRS is authorized to provide relief from the rules that normally govern hardship distributions and loans from qualified retirement plans.
Disaster relief: workforce considerations for employers

Disaster-related unemployment insurance benefits

When there is a loss in wages due to a major disaster, it is easier for workers to obtain unemployment insurance (UI) benefits. That's largely because federal law, first enacted in 1974, makes federal funds available in the form of Disaster Unemployment Assistance (DUA) to workers who suffer a loss in wages as the direct result of a federally declared major disaster.

DUA is available to an employee who is not eligible for regular UI benefits, and, as a direct result of a federally declared disaster:

- No longer has a job or a place to work. Cannot reach the place of work.
- Cannot work due to damage to the place of work. Cannot work because of an injury caused by the disaster.
- Became the head of household and is seeking work because the former head of household died as a result of the disaster.

Note that DUA is also available to self-employed individuals, including small business owners, who meet the requirements.

Amount of assistance available. DUA is payable to a worker only for the period that begins with the first day of the week following the date that a location is designated a national disaster area and for up to 26 weeks after this date, provided the worker's unemployment continues to be the direct result of the disaster.

The maximum weekly benefit is determined under the law of the state where the disaster occurred. The minimum weekly amount is 50% of the average UI benefit amount in that state.

How employees apply for benefits. Employees must request DUA through the state's unemployment insurance agency. If employees are evacuated to another state subsequent to the disaster, they should contact the UI agency of the state where the disaster occurred; however, they may also file the claim in their current state of residence.

The U.S. Department of Labor provides a portal for linking to state UI agency websites.

Preventing costly errors to the employer's UI account. Generally, an employer’s state UI rate can be adversely affected by UI benefits charged against its account. Fortunately, DUA is federally funded, so employers are not liable for these benefits. However, regular UI benefits must be exhausted before an employee is eligible for DUA.

Wage advances and loans

In some cases, budget limitations prevent employers from covering some or all of their employees’ disaster-related expenses. Instead, they may elect to offer temporary financial assistance in the form of wage advances, loans or both. The IRS makes clear distinctions between wage advances and loans, and careful consideration should be given to the tax ramifications of each. It is also important for employers to accurately characterize the nature of these payments and make sure they are properly posted to their financial statements.

Wage advances

To cover immediate expenses, employees may request an advance on future wages, such as payment of all or a portion of their bonuses that are scheduled to be paid in 2018. Under the rule of constructive receipt (IRC §451), a wage advance is taxable and subject to federal withholding and employment tax at the time paid.

Before making the decision to offer wage advances, employers should verify that:

- Wage advances don’t create excess compensation limits pursuant to IRC §162(m).
- Early bonus payments don’t create adverse consequences under IRC §409A.

Another important consideration is the timing of the repayment obligation. If the wage repayments will cross tax years, they will result in complex reporting for employers and could have potentially adverse tax consequences to employees under the claim-of-right doctrine. (See IRS Publication 525, Taxable and Nontaxable Income, for more information.)

For employers, Form W-2 reporting is complicated because, under IRS requirements, when a wage repayment crosses tax years, a Form W-2 is issued for the year of the advance showing a reduction only in Social Security and Medicare wages and the related taxes. This leaves employees to wonder why their repayment isn’t reflected in Form W-2c, box 1 (federal taxable wages), and that’s when employees might expect additional compensation in consideration of negative tax consequences that they weren’t aware of before agreeing to the advance.

The IRS makes clear distinctions between wage advances and loans, and careful consideration should be given to the tax ramifications of each. It is also important for employers to accurately characterize the nature of these payments and make sure they are properly posted to their financial statements.
Below-market compensation-related loans

If an employer offers loans with interest rates that are below market, they are termed below-market compensation-related loans. Ordinarily, when loans are offered at no interest or low interest, the value of the interest (based on the federal rate) is treated as imputed income subject to federal withholding and employment tax. An exception is made for qualified compensation-related loans meeting the following requirements:

- The employee’s daily aggregate loan balance doesn’t exceed $10,000.
- For term loans, the requirement to impute income for below-market interest applies on the first day the balance exceeds $10,000 and regardless of the loan balance subsequent to that date. (IRS Prop. Reg. §1.7872-9(a).)
- There is a loan agreement at the time of the cash exchange that shows the employee is required to make loan payments and the employer intends to, and in fact does, enforce the payment requirement. (IRC §274(d)(1)(A),(B); IRC §7872(c)(1)(B), IR 85-15,2-13-85.)

Of significant importance, and an issue that has come under the close scrutiny of the IRS in recent years, is that the loan agreement isn’t used to avoid the tax that would otherwise apply to a wage advance. For this reason, there are other requirements that should be met so that the loan doesn’t operate like a salary advance. The following provisions are necessary in demonstrating that the payment was properly characterized as a loan rather than a wage advance (Beaver v. Commissioner, 55 T.C. 85 (U.S. Tax Ct. 1970); TAM 200040004.):

- The loan is not conditioned on future events (e.g., achieving sales or other performance goals).
- If there is a provision that the loan payments will be made only from a certain source (e.g., payroll deduction), there must be a reasonable prospect that the loan can be repaid from this source.
- There are definite plans and schedules for the repayment of principal amounts, and there are actions stipulated that the employer will take to enforce such payment schedules.
- The employer doesn’t take a deduction for the principal portion of the employee loan (i.e., loans are treated as a liability on the balance sheet).
- Employee loan repayments, if deducted from wages, are made on an after-tax basis (i.e., there is no agreement to forgo or reduce gross salary in repayment of the loan).

Note that when a loan balance is forgiven, the balance so forgiven represents wages subject to FIT, FITW, FICA and FUTA on the day of forgiveness. Forgiven interest, calculated as the federal short-term rate compounded annually, is subject to FIT, FICA and FUTA but is not subject to federal income tax withholding. (IRC §7872; IRS Prop. Reg. §1.7872-10(a)(5); IRS Prop. Reg. §1.7872-11(d).)
Disaster relief: workforce considerations for employers

Employer-sponsored foundations and charities for employee disaster assistance

Employers may provide disaster relief to their employees through employer-sponsored private foundations or public charities. Following is an overview of these options and what to watch out for.

- **Employer-sponsored private foundations.** When using an employer-sponsored private foundation as a vehicle to provide financial assistance to employees, employers must exercise care to confirm they make payments only to their employees or their family members who are affected by qualified disasters (as opposed to nonqualified disasters or other hardship situations), so they do not jeopardize their tax-exempt status. IRS Publication 3833, Disaster Relief: Providing Assistance Through Charitable Organizations, states that the IRS will generally presume that qualified disaster relief payments made by a private foundation to employees (or their family members) are consistent with the foundation’s charitable purposes if the following requirements are met:
  - The class of beneficiaries is large or indefinite.
  - The recipients are selected based on an objective determination of need.
  - The selection is made using either an independent selection committee or adequate substitute procedures to ensure that any benefit to the employer is incidental and tenuous. The selection committee will be deemed independent if a majority of its members consists of persons who are not in a position to exercise substantial influence over the affairs of the employer.

If the requirements of this presumption are met, the foundation’s qualified disaster relief payments: (1) are treated as made for charitable purposes, (2) do not result in prohibited self-dealing merely because the recipient is an employee (or family member of an employee) of the employer-sponsor and (3) do not result in taxable compensation to the employees. This presumption does not apply to payments that would otherwise constitute self-dealing (e.g., payments to individuals who are officers, directors or trustees of the foundation). The presumption also does not apply to payments made to members of the foundation’s grant selection committee. Finally, IRS Publication 3833 notes that in each case, all of the facts and circumstances will be taken into account in determining whether a foundation’s payments further charitable purposes. Therefore, satisfying all the requirements of the presumption, or failure to meet such requirements, is not necessarily determinative.

- **Employer-sponsored public charities.** Since public charities are typically more transparent and are subject to a greater amount of public scrutiny due to their broad sources of financial support, they have more flexibility with respect to the assistance they may provide to employees. While they must still adhere to the three requirements set forth previously when providing assistance to employees (to ensure that the related employer does not exercise excessive control over the employee assistance organization), public charities may establish employer-sponsored employee assistance programs to assist in any type of disaster or hardship situation (i.e., qualified or nonqualified), so long as the employer does not exercise excessive control over the organization.

- **Employer-sponsored donor-advised funds.** A donor-advised fund (DAF) exists when a foundation or other public charity maintains a separate fund or account to receive contributions from individual donors, and the donor receives advisory privileges over the investment and/or distribution of the donated funds. Generally, DAFs may only make grants to other IRC §501(c)(3) public charities and cannot make grants to individual persons. However, there is an exception for certain employer-related funds or accounts that are established to benefit employees (or their family members) that are affected by a qualified disaster. In addition to the three requirements set forth previously with respect to both private foundations and public charities, the DAF must be established to serve the single identified purpose of providing relief to employees and family members of the employer sponsor from one or more qualified disasters. Also, similar to the requirements for employer-sponsored private foundations, the DAF may not provide a benefit to any director, officer or trustee of the sponsoring organization or to members of the fund’s selection committee. Finally, the DAF must also maintain adequate records that demonstrate the need for the assistance provided.
Employee retention tax credit

On September 28th, Congress passed H.R. 3823, the “Disaster Tax Relief and Airport and Airway Extension Act of 2017.” President Trump signed the bill into law on September 29th. In addition to extending FAA authorization through March 31, 2018, the approved bill provides temporary tax relief for victims in disaster zones as a result of Hurricanes Harvey, Irma, and Maria. Importantly, the approved bill offers an employee retention tax credit equal to 40% of qualified wages (not to exceed $6,000 per employee) paid by a disaster-affected employer to an employee from a disaster zone. This employee retention tax credit is very similar to the “GO Zone” employee retention credits that were offered to employers affected by Hurricanes Katrina, Rita, and Wilma in 2005 (see IRC § 1400R).

Specifically, an eligible employer is one 1) which conducted an active trade or business on August 23, 2017, in the Hurricane Harvey disaster zone (September 4 for Hurricane Irma disaster zone and September 16 for Hurricane Maria disaster zone) and 2) with respect to whom the trade or business is inoperable on any day after the applicable date listed above and before January 1, 2018, as a result of damage sustained by the hurricanes. An eligible employee is one whose principal place of employment on the applicable date was in a disaster zone. Qualified wages are those wages paid or incurred by an eligible employer on any day after the applicable date listed above and before January 1, 2018, which occurs during the period beginning on the date on which the trade or business first became inoperable and ending on the date on which the trade or business resumes significant operations (which could be before January 1, 2018). Eligible employers cannot claim the WOTC with respect to such employees for such periods.

Relief for Hurricanes Harvey, Irma and Maria

As previously explained, the extent of disaster relief available in connection with a presidentially declared disaster depends, in part, on if FEMA has made a declaration of emergency or major disaster and announcements subsequently issued by the IRS. Shown are the disaster relief benefits available for emergency and major disaster areas for Hurricanes Harvey, Irma and Maria.

Major disaster areas and eligible benefits as of September 27, 2017

- **Florida (Irma)**
  - Entire area per IR-2017-160

- **Georgia (Irma)**
  - Entire area per IR-2017-160

- **Puerto Rico (Irma)**
  - Entire area per IR-2017-160

- **Puerto Rico (Maria)**
  - Entire area per IR-2017-160

- **Texas (Harvey)**
  - Aransas, Austin, Bastrop, Bee, Brazoria, Calhoun, Chambers, Colorado, DeWitt, Fayette, Fort Bend, Galveston, Goliad, Gonzales, Hardin, Harris, Jackson, Jasper, Jefferson, Karnes, Kleberg, Lavaca, Lee, Liberty, Matagorda, Montgomery, Newton, Nueces, Orange, Polk, Refugio, Sabine, San Jacinto, San Patricio, Tyler, Victoria, Walker, Waller, Wharton (In IR-2017-160 and TX-2017-09, the IRS announced that all relief provisions will also extend to Bexar, Burleson, Dallas, Grimes, Madison, Tarrant, Travis and Washington)

- **US Virgin Islands (Irma)**
  - Entire area per IR-2017-160

- **US Virgin Islands (Maria)**
  - Entire area per IR-2017-160

Emergency areas and eligible benefits as of September 27, 2017

- **Alabama (Irma)**
- **Georgia (Irma)**
- **Louisiana (Harvey)**
- **Puerto Rico (Irma)**
- **Puerto Rico (Maria)**
- **Seminole Tribe of Florida (Irma)**
- **South Carolina (Irma)**
- **US Virgin Islands (Irma)**
- **US Virgin Islands (Maria)**

For one-time hiring retention tax credits for Hurricanes Harvey, Irma and Maria see information at left.
Disaster relief: workforce considerations for employers

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FEMA declarations for Hurricanes Harvey, Irma and Maria
As of September 27, 2017

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<td>FEMA Georgia declaration – Irma</td>
<td>Major disaster area – individual and public assistance</td>
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<td>Emergency area – individual and public assistance</td>
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<td>FEMA Puerto Rico declaration – Maria</td>
<td>Major disaster area – individual and public assistance</td>
<td>Sept. 17, 2017</td>
<td><a href="https://www.fema.gov/disaster/4339">https://www.fema.gov/disaster/4339</a></td>
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## IRS disaster relief announcements for Hurricane Harvey

**As of September 27, 2017**

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<th>Jurisdiction</th>
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## IRS disaster relief announcements for Hurricane Irma

**As of September 27, 2017**

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<tr>
<td>Florida</td>
<td>Filing and tax payment extensions</td>
<td>Sept. 4, 2017 and before Jan. 31, 2018, due Jan. 31, 2018; penalty abatement if payments made by Sept. 19</td>
<td>Link</td>
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<tr>
<td>Georgia</td>
<td>Filing and tax payment extensions</td>
<td>Sept. 7, 2017 and before Jan. 31, 2018, due Jan. 31, 2018; penalty abatement if payments made by Sept. 22</td>
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<tr>
<td>US Virgin Islands</td>
<td>Filing and tax payment extensions</td>
<td>Sept. 6, 2017 and before Jan. 31, 2018, due Jan. 31, 2018; penalty abatement for employment and excise tax payments made by Sept. 21</td>
<td>Link</td>
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<tr>
<td>All areas of Florida, Georgia, Puerto Rico and US Virgin Islands</td>
<td>Retirement plan hardship distributions and loan relief</td>
<td>Distributions and loans made on or before Sept. 4 to Jan. 31, 2018</td>
<td>Link</td>
</tr>
<tr>
<td>All areas of Florida, Georgia, Puerto Rico and US Virgin Islands</td>
<td>Leave-based donations to IRC §170 organizations are excluded from taxable wages</td>
<td>Payments made before Jan. 1, 2019</td>
<td>Link</td>
</tr>
</tbody>
</table>

## IRS disaster relief announcements for Hurricane Maria

**As of September 27, 2017**

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Disaster declaration</th>
<th>Effective date</th>
<th>Link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Puerto Rico</td>
<td>Filing and tax payment extensions</td>
<td>Sept. 5, 2017 and before Jan. 31, 2018, due Jan. 31, 2018; penalty abatement if payments made by Oct. 2.</td>
<td>Link</td>
</tr>
<tr>
<td>All areas of Puerto Rico and US Virgin Islands</td>
<td>Leave-based donations and qualified plan relief</td>
<td>Payments made before Jan. 1, 2019</td>
<td>Link</td>
</tr>
</tbody>
</table>
Unemployment disaster assistance information

Unemployment disaster assistance is available for individuals displaced from employment due to the major disaster areas of Hurricanes Harvey, Irma and Maria.

Click on the links below for more information.

Florida
Georgia
Texas

Disaster relief for Hurricanes Harvey and Irma: Webcast polling results

During our September 19, 2017, webcast, Disaster relief: workforce considerations for employers, we asked participants about the extent their workforce was impacted by Hurricanes Harvey and Irma and what benefits were provided to affected employees. Below are the results of those polling questions.

A replay of the webcast is available here.

<table>
<thead>
<tr>
<th>Has your workforce been affected by Hurricanes Harvey and/or Irma?</th>
<th>1,337 respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>32%</td>
</tr>
<tr>
<td>Harvey only</td>
<td>14%</td>
</tr>
<tr>
<td>Irma only</td>
<td>13%</td>
</tr>
<tr>
<td>Both</td>
<td>41%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Which of these disaster relief benefits did you provide to your employees?</th>
<th>1,262 respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disaster relief payments</td>
<td>27%</td>
</tr>
<tr>
<td>Employer foundation payments</td>
<td>19%</td>
</tr>
<tr>
<td>Below-market loans</td>
<td>9%</td>
</tr>
<tr>
<td>Leave sharing</td>
<td>10%</td>
</tr>
<tr>
<td>Leave-based donations</td>
<td>14%</td>
</tr>
<tr>
<td>None of these</td>
<td>21%</td>
</tr>
</tbody>
</table>
Disaster relief and recovery services

integrated services for rapid workforce response

<table>
<thead>
<tr>
<th>Disaster relief provisions</th>
<th>Plan design</th>
<th>Compliance</th>
<th>Employee communications</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Benefit plans</strong></td>
<td><strong>Workforce logistics</strong></td>
<td><strong>How we can help</strong></td>
<td><strong>Employee communications</strong></td>
</tr>
<tr>
<td>• Disaster assistance</td>
<td>• Disaster unemployment benefits</td>
<td>• Identify eligible employees and qualified geographic areas for disaster relief benefits</td>
<td>• Assist in the design of communications explaining the company’s disaster relief plans and programs</td>
</tr>
<tr>
<td>• Leave sharing</td>
<td>• Telework</td>
<td>• Identify tax and reporting requirements under federal, state and local law</td>
<td>• Provide model employee statements where they are required for review by company’s legal team</td>
</tr>
<tr>
<td>• Leave-based donations</td>
<td>• Permanent work/resident state transfers</td>
<td>• Assist with tax filing and tax payment extensions</td>
<td>• Assist with employee postings concerning disaster unemployment assistance</td>
</tr>
<tr>
<td>• Retirement plan hardship distributions and loans</td>
<td>• Temporary out-of-state assignments</td>
<td>• Provide tax controversy services when needed</td>
<td></td>
</tr>
<tr>
<td>• Wage advances</td>
<td>• Misc. disaster-related accommodations (e.g., loaner cars, childcare)</td>
<td>• Assist in obtaining employee retention tax credits where available</td>
<td></td>
</tr>
<tr>
<td>• Loans</td>
<td>• Employee retention tax credit</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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