"No act of kindness, no matter how small, is ever wasted."

Aesop

IRS Offers Tax Relief to Hurricane Victims

Surely all of us are connected in some way, by somebody - whether family, friend or business acquaintance – to the horrific devastation and loss in South Texas brought on by one of the worst storms in history, Hurricane Harvey, and shortly thereafter followed by Hurricane Irma that blanketed the entire state of Florida. No doubt it will take months if not years to fully recover from these tragedies.

In times of crises, it is nice to know that our government has made allowances in our U.S. Tax Code that can aid employers in providing tax free benefits to their employees. U.S. Code Section 139 provides that, in the case of a declared disaster, an employer can give cash or benefits to assist employees. The payments are exempt from federal income tax and employment taxes, no substantiation is required from the employees, and the employer is able to deduct the payments.

Since there is essentially no administration involved for the employer or record keeping by the employee, it is an attractive incentive to help relieve the burden that would otherwise fall under the government enacting this relief. Section 139(b) defines, in part, "qualified disaster relief payment" to mean 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 attributable to the qualified disaster;

Due to the extraordinary circumstances surrounding a qualified disaster, affected individuals will not be required to account for actual expenses in order to qualify for the exclusion. The exclusion is in addition to the general welfare benefit exclusions for certain disasters, however, the exclusion is only to the extent that any expense compensated was not also compensated for by insurance or otherwise.

Qualified disasters include:

- a disaster which results from terroristic or military action,
- a federally declared disasters
- a disaster resulting from an accident involving a common carrier, or from any other event determined by the Secretary to be of a catastrophic nature, or
- a disaster determined by Federal, State, or local government to warrant assistance from government or government agency

As mentioned, the payments made to employees are exempt from W-2 earning recognition, as well as exempt from employer employment taxes. Qualified disaster relief payments and mitigation payments shall not be treated as net earnings from self-employment, wages, nor compensation subject to tax.

The IRS has provided additional taxpayer relief for victims of these hurricanes by recently announcing that those taxpayers in identified counties have until January 31, 2018 to file certain individual and business tax returns and make certain tax payments. This includes an additional filing extension for taxpayers with currently valid extensions through October 16, and businesses with extensions through September 15. Many counties in Texas have been identified and all 67 counties in Florida are included, based on damage assessments by FEMA. Check www.irs.gov for the most recent update list of qualified areas, and for details of the tax filing and payment deadlines.

Additional tax relief includes waiver of late-deposit penalties for certain federal payroll tax deposits, as well as a willingness of the IRS to work with any taxpayer who might reside outside the affected areas whose records are located within the affected area.

Also similar to the relief offered Harvey victims, the IRS has loosened administrative rules and streamlined loan provisions for Irma victims needing to tap into their 401-k and similar employer-sponsored retirement plans for hardship distributions. See Information Release IR-2017-151 on the www.irs.gov website for details.

The IRS has also provided welcome relief to those unfortunate enough to suffer destruction of their home. Code Section 121 (d) (5) states that the destruction of a residence will be treated as a sale for purposes of the capital gain exclusion provisions. It is ironic that people at times find that despite losing their home, insurance proceeds exceed the basis of their homes and thereby create a capital gain situation. This code section allows for permanent $250,000 gain exclusion for individual filers and $500,000 for married filing jointly. These provisions can also be applied to a home deemed destroyed when damaged to the extent that restoring the property is not economically feasible.

All these items pale in comparison to the pain and loss sustained but I'm sure any benefit, no matter how small, will be appreciated nonetheless.

For more information on government-wide relief efforts visit https://www.usa.gov/hurricane-harvey as well as https://www.usa.gov/hurricane-irma

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