

# TaxNewsFlash

## United States

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### **Notice 2017-62: Employer leave-based donation programs to aid Hurricane Maria victims**

The IRS today released an advance version of Notice 2017-62 that provides guidance with respect to leave-based donation programs initiated by employers to aid victims of Hurricane Maria.

**Notice 2017-62** [PDF 12 KB] provides relief that is substantially similar to the IRS relief provided with respect to other hurricanes in 2017.

#### **Background**

When a disaster such as Hurricane Maria strikes, people often want to help those affected by the disaster, and employers often want to help their own employees. Employers can make certain payments, implement reimbursements, and provide other forms of assistance, so that some or all of the assistance is not treated as taxable compensation to employees, but is tax deductible for the employers. Read a **September 2017 report** [PDF 70 KB] prepared by KPMG LLP: *What's News in Tax: Employers Helping Employees—Disaster Relief*

#### **Notice 2017-62**

Notice 2017-62 provides the following guidelines for income and employment tax purposes on the treatment of such cash payments made by employers under leave-based donation programs for the relief of victims of Hurricane Maria and Tropical Storm Maria.

- The IRS will not assert that cash payments an employer makes to section 170(c) organizations in exchange for vacation, sick, or personal leave that its employees elect to forgo constitute gross income or wages of the employees if the payments are: (1) made to the section 170(c) organizations for the relief of victims of

Hurricane Maria and Tropical Storm Maria; and (2) paid to the section 170(c) organizations before January 1, 2019.

- The IRS will not assert that the opportunity to make such an election results in constructive receipt of gross income or wages for employees.
- Electing employees may not claim a charitable contribution deduction under section 170 with respect to the value of forgone leave excluded from compensation and wages.
- The IRS will not assert that an employer is permitted to deduct these cash payments exclusively under the rules of section 170 rather than the rules of section 162. Cash payments to which this guidance applies need not be included in Box 1, 3 (if applicable), or 5 of the Form W-2.

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