

## IRS Provides Tax Relief for Certain Employer-Sponsored Leave-Based Donation Programs

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In response to the extreme need for charitable assistance for victims of Hurricane Harvey and Tropical Storm Harvey (collectively, “**Harvey**”), the IRS recently issued Notice 2017-48, which provides special tax relief for certain employer-sponsored leave-based donation programs designed to aid Harvey victims (the “**Notice**”). Under such programs, employees may elect to forgo vacation, sick, or personal leave in exchange for cash payments that the employer makes to a charitable organization described in Section 170(c) of the Internal Revenue Code (“**Qualified Charity**”). Ordinarily, such leave-based donations would result in taxable income to the donating employees. However, the Notice provides that the IRS will not assert that the leave-based donations constitute gross income or wages of the donating employees if the payments are: (1) made to a Qualified Charity for the relief of victims of Harvey; and (2) paid to the Qualified Charity before January 1, 2019. In addition, the IRS will not assert that offering employees the opportunity to make such donations causes them to be in constructive receipt of income. The donated payments need not be included in Box 1, 3 (if applicable), or 5 of the Form W-2. The Notice cautions that donating employees are prohibited from “double dipping” by claiming a charitable contribution deduction under Code Section 170 with respect to the value of their donated leave. From the employer’s perspective, the Notice confirms that the employer’s payments to a Qualified Charity may be deducted under Code Section 162 as trade or business expenses. The IRS will not assert that such payments must be exclusively deducted and subject to the limitations under Code Section 170. [View a copy of the Notice.](#)