



November 12, 2012

Legal Alert: IRS Help for Victims of Hurricane Sandy

The Treasury Department and the Internal Revenue Service (“IRS”) are providing tax relief and related assistance to victims of Hurricane Sandy in areas the President has declared a disaster. Details on these relief programs continue to evolve. Up-to-date information can be found at <http://www.irs.gov/uac/Newsroom/Help-for-Victims-of-Hurricane-Sandy>. This Legal Alert provides an overview of several programs that have already been announced.

Direct Assistance to Hurricane Victims

- **Leave-Based Donation Programs:** Employees may wish to donate their vacation, sick, or personal leave in exchange for cash payments made by their employer to tax-exempt organizations providing relief to Hurricane victims. The IRS has recently announced that employees can donate their leave in exchange for cash payments made before January 1, 2014, and that the donated leave will not be included in the employees’ income or wages. Employers can deduct the amount of the cash payment.
- **Leave-Sharing Plans:** Employers may also set up leave-sharing banks to allow employees to donate paid leave to employees who need time off because of the storm. If an employer’s leave-sharing plan satisfies all IRS requirements, the donated leave will not be included in the donor’s income or wages; however, payments made by the employer to the leave recipient will be treated as wages. Donors may not claim a deduction as a result of their donation and are not permitted to donate their leave to specific individuals. Note also that leave recipients are not permitted to convert the leave received into cash. Additional information is available at <http://www.irs.gov/pub/irs-drop/n-06-59.pdf>.
- **Qualified Disaster Relief Payments:** Employers may make payments to employees to cover necessary personal, family, living, or funeral expenses, as well as expenses to repair their residences or repair or replace their contents, if these costs are not covered by insurance. The IRS has indicated that these payments can be excluded from the recipient’s taxable income. Employer-sponsored private foundations may also provide disaster relief to employee-victims in areas affected by the Hurricane without affecting their tax-exempt status.

Additional Taxpayer Assistance

- **Expedited Charity Applications:** The IRS is offering expedited review for organizations seeking tax-exempt status in order to provide relief for victims of Hurricane Sandy. Organizations should apply for tax-exempt status by filing IRS Form 1023 and writing at the top of the form “Disaster Relief, Hurricane Sandy.” Organizations seeking to provide relief for victims of Hurricane Sandy that have already submitted an application can fax a request for expedited handling labeled “Disaster

Relief, Hurricane Sandy” that includes the organization’s name, Employer Identification Number, contact name, and phone number to (513) 263-4554.

- **Return Filing and Tax Payment Deadline Extended:**
 - *Taxpayers Located Within the Disaster Areas* – Individuals and businesses located within the Hurricane Sandy disaster area now have until February 1, 2013 to file certain tax returns and pay any taxes due. Eligible tax filings include (a) fourth quarter individual estimated tax payments (normally due January 15, 2013) and (b) payroll and excise tax returns and accompanying payments for the third and fourth quarters (normally due on October 31, 2012 and January 31, 2013, respectively). This tax filing and payment relief also applies to tax-exempt organizations that are required to file Form 990 series returns with an original or extended deadline falling during this period. The IRS will apply this relief automatically; taxpayers do not need to contact the IRS.
 - *Taxpayers Residing Outside the Disaster Areas* – The IRS has indicated that it will work with taxpayers who reside outside the disaster area but whose books, records, or tax professionals are located in the areas affected by Hurricane Sandy. In addition, all workers assisting the relief activities in the covered disaster areas who are affiliated with a recognized government or philanthropic organization are also eligible for tax-related relief. Taxpayers who live outside of the impacted area and think they may qualify for this relief need to contact the IRS at (866) 562-5227.
 - *Failure-to-Deposit Penalties* – The IRS is also waiving failure-to-deposit penalties for federal payroll and excise tax deposits normally due on or after the disaster area start date and before November 26, if the deposits are made by November 26, 2012.
- **Diesel Fuel Taxes:** From October 30, 2012 through November 20, 2012, the IRS will not impose a tax penalty when dyed diesel fuel is sold for use or used on the highway due to severe shortages of clear diesel fuel. This penalty relief is available to fuel sellers; vehicle operators benefit only if they or the seller pays the tax that is normally applicable to diesel fuel for on-road use. In addition, the IRS will not impose penalties for failure to make semi-monthly deposits of this tax or for failure to meet the requirements of EPA highway diesel fuel sulfur content regulations if the EPA has waived those requirements.

Individuals and businesses who believe they may qualify for any of the relief described above should review the IRS web site for additional details on eligibility requirements.

Additional Resources

- Information on IRS disaster assistance and emergency relief for individuals and businesses: www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Disaster-Assistance-and-Emergency-Relief-for-Individuals-and-Businesses-1
- Information on reconstructing records after a disaster: <http://www.irs.gov/uac/Reconstructing-Your-Records>
- Information on federal disaster relief assistance: <http://www.disasterassistance.gov/>

- USA.gov's Hurricane Sandy Recovery page:
<http://www.usa.gov/Topics/Weather/Hurricane/sandy.shtml>

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