

IRS Issues Guidance on COVID-19 Leave- Based Donation Programs

Key Points

- The cash value of employees' donated leave time paid to a qualified charitable organization in 2020 under an employer-sponsored leave donation program is not taxable wages or compensation.
- Employers may take a tax deduction for such payments as a business expense or a charitable contribution.

To enable employees to help victims of COVID-19, employers may establish a leave-based donation program for making cash contributions to a charitable organization described in Internal Revenue Code ("Code") section 170(c). The IRS issued [Notice 2020-46](#), detailing such leave-based donation programs and the federal income and employment tax treatment of the value of employees' donated leave. This guidance applies to donations made in 2020 to help COVID-19 victims in the U.S. or five U.S. territories covered by the COVID national emergency declaration (the "affected geographic areas").

The Notice describes leave-based donation programs as employer-sponsored programs under which employees can elect to donate the cash value of accumulated leave (e.g., vacation, sick, or PTO hours) in exchange for the employer making a cash donation to a charitable organization providing aid to victims of COVID-19. The Notice provides that employees who elect to donate their leave will not be treated as receiving the value of the leave as taxable income, if the payment is:

- made to a Code section 170(c) charitable organization providing relief to victims of the COVID-19 pandemic in the affected geographic areas; and
- paid to Code section 170(c) charitable organization before January 1, 2021.

Before this guidance, the value of leave donated in exchange for an employer's charitable contribution was treated as compensation to the employee and subject to federal income and employment tax withholdings.

Employees who choose to participate in these leave-based donation programs may not claim a charitable contribution

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deduction under Code section 170 for the value of the donated leave. The Notice explains that employers may deduct cash payments made as part of these leave-based donation programs, under either Code section 170 (as a charitable contribution) or Code section 162 (as a business expense), if the requirements for such deductions are otherwise met. In the past, it was not clear that either deduction was available for this type of leave-based donation program.

Employers who wish to adopt this type of leave-based donation program as an option to allow employees to help those detrimentally impacted by COVID-19 may do so under Notice 2020-46. Other types of leave-donation programs may allow employees to donate their unused leave to a leave bank for coworkers who are affected by COVID-19. Please see our [Alert discussing these other leave-based donation programs](#).

If you have questions, please reach out to your contact in the [Hanson Bridgett Employee Benefits Group](#).

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