

## Additional Hurricane Sandy Tax Relief

The IRS has recently announced a variety of new measures providing relief to employers and taxpayers affected by Hurricane Sandy. (See our [Alert](#) of Nov. 1, 2012.) This additional tax relief includes relaxed rules for retirement plan hardship distributions, favorable treatment for employer-sponsored paid time-off donation programs and deadline extensions for estimated tax payments and certain payroll and excise tax return filings.

### Retirement Plan Loans and Hardship Distributions

For employees affected by Hurricane Sandy who want to use retirement assets in 401(k), 403(b), or governmental 457(b) plans to relieve hardships caused by the storm, the IRS is relaxing certain rules that apply to retirement plan loans and hardship distributions. Under this relief, any hardship resulting from Hurricane Sandy – not just the types of hardship enumerated in the regulations – will be treated as justifying a hardship distribution. In addition, the six-month ban on contributions in many 401(k) and 403(b) plans for employees who take hardship distributions will not apply. Certain procedural requirements for plan loans have also been relaxed.

In order to qualify, the employee or a family member must live or work in an affected disaster area and the loans or hardship withdrawals must be made by February 1, 2013.

For details, see [IRS Announcement 2012-44](#).

### Paid Time-Off Donation Programs

The IRS has announced special treatment to facilitate employer-sponsored paid time-off donation programs that support aid for Hurricane Sandy victims. Under a program of this kind, an employer agrees to make contributions to qualified tax-exempt organizations providing relief in exchange for an employee's agreement to relinquish unused vacation, sick or personal leave time. The employer may deduct the contributions as an ordinary and necessary business expense and is not subject to the limitations that would apply to charitable contributions. Employees who are given the opportunity to exchange paid time-off for a disaster relief contribution by their employer will not be treated as having constructively received taxable income or wages.

The special treatment for paid time-off programs, previously made available in the periods following the terrorist attacks of September 11, 2001 and Hurricane Katrina, will be available for employer contributions to qualified relief organizations made before January 1, 2014. For details, see [IRS Notice 2012-69](#).

### Extended Filing and Payment Deadlines

The IRS is extending various tax filing and payment deadlines for taxpayers in areas of Connecticut, New Jersey and New York affected by Hurricane Sandy. Affected individuals will have until February 1, 2013 to make their fourth quarter estimated tax payments for 2012, normally due January 15, 2013. Affected businesses will have until February 1, 2013 to file payroll and excise tax returns and to make accompanying payments for the third and fourth quarters, normally due on October 31, 2012 and January 31, 2013 respectively. The IRS is providing similar relief for other returns with an original or extended due date between October 27 and February 1, including annual reports on Form 990 (for tax-exempt organizations) and Form 5500 (for employee benefit plans).

The IRS will abate any interest, late-payment or late-filing penalty that would otherwise apply, and such relief is provided automatically to any taxpayer located in the disaster area. The same relief is available to certain

workers assisting relief activities in the covered disaster areas, but only by contacting the IRS. Details are available on the [IRS website](#).

### **Other Resources**

Employers considering programs to support employees and others affected by Hurricane Sandy are encouraged to consult the IRS guide to disaster relief, [Publication 3833](#).

For further information on Hurricane Sandy tax relief measures, please contact [Bill Jewett](#) or any member of Ropes & Gray's [benefits practice group](#).