

October 2017

Puerto Rico's Hacienda Issues Tax Relief for Victims of Hurricane

On October 4, 2017, the Puerto Rico Department of Treasury (Hacienda) issued Administrative Determination No. 17-21 (Notice), which clarifies the tax treatment of certain payments made to assist those affected by Hurricane Maria (Qualified Payments Made for Disaster Assistance).

GENERAL RELIEF PAYMENTS

The Notice describes Qualified Payments Made for Disaster Assistance, which include payments made for the benefit of employees for (1) necessary and reasonable expenses for individuals or their families (for example, food, medicine, gas, and lodging), *provided the payment is made directly to the provider of services or goods* or (2) necessary and reasonable expenses incurred in the repair, rehabilitation, or replacement of individuals' principal residences, *provided the damage is a direct result of Hurricane Maria and that the payment is made directly to the provider of services or goods*. The Notice also provides that a payment may also be made directly to individuals to cover damage or losses due to Hurricane Maria (see Employer Payments to Employees below). In addition, Qualified Payments Made for Disaster Relief may include any payments made by federal, state, or local governments to promote general well-being if damage or loss has not otherwise been covered by an insurance company.

If the conditions imposed by the Notice are met, payments will be tax-free to recipients. The conditions include that (1) the payments are provided to affected individuals between September 21 through December 31, 2017 (Disaster Period); (2) the payments are made in lieu of individuals' unpaid salary during the time they were out of work due to Hurricane Maria; and (3) with respect to payments made from employers directly to their employees in the form of a loan, the loan must be made in addition to compensation, must not be discriminatory against highly compensated employees, must not be in any way attributable to position or salary, and must be limited to \$1,000 per month. Of course, anyone interested in taking advantage of these provisions ought to consult with qualified professionals familiar with the terms of the Notice.

EMPLOYER PAYMENTS TO EMPLOYEES

As noted above, certain conditions apply to payments made from employers directly to their affected employees. Any employer who makes a Qualified Payment Made for Disaster Assistance to employees in accordance with this Notice is required to submit an affidavit by January 31, 2018, to the Hacienda and include the information described in the Notice.

The Notice also states that an employer may provide affected employees with an interest-free loan

during the Disaster Period to cover necessary and reasonable expenses for them and their family for the repair or replacement of their principal residence due to damage sustained by Hurricane Maria. Such payments may be tax-free under permitted circumstances, but the total amount granted during the Disaster Period cannot exceed \$20,000 (multiple loans to the same affected employee are permitted during the Disaster Period, up to this limit).

If you have any questions about this legal update and its implications, please feel free to contact any of the following lawyers in Robinson+Cole's [Employee Benefits and Compensation](#) Group:

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