

Don't miss IRS Code 139 – Tax Free Disaster Benefits

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Internal Revenue Code §139 Disaster Relief Payments

Declaration of a national emergency triggers Internal Revenue Code §139

This code section allows employers to pay employees for expenses that are a result of this national disaster. Payments are made to the employees and are not subject to payroll taxes, not subject to income taxes by the employee, and are fully deductible to the employer.

These expenses are to compensate employees for reasonable and necessary expenses resulting from the coronavirus pandemic.

They include:

1. Unreimbursed medical expenses including co-pays, deductibles, vitamins and supplements,
2. Increased expenses associated with being quarantined at home (i.e. increased utilities and home office expenses)
3. Expenses associated with setting up or maintaining a home office such as enhanced internet connections, computer monitors, laptops, printers, office supplies, etc.
4. Housing for additional family members, including transportation and living expenses for college students returning home, including duplicative meal expenses
5. Nonperishable food purchases/reserves
6. Increased childcare expenses
7. Expenses to enhance mental health and physical well-being from social distancing (Such as meditation apps and home health fitness)
8. Alternative commuting means in lieu of mass transit.

There is NO dollar limit on these reimbursements.

There is NO discrimination testing.

It is highly recommended to develop a company policy on it.

Actual Code §139 wording is below...

Internal Revenue Code, § 139. Disaster Relief Payments

I.R.C. § 139(a) General Rule —

Gross income shall not include any amount received by an individual as a qualified disaster relief payment.

I.R.C. § 139(b) Qualified Disaster Relief Payment Defined —

For purposes of this section, the term “qualified disaster relief payment” means any amount paid to or for the benefit of an individual—

I.R.C. § 139(b)(1) —

to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster,

I.R.C. § 139(b)(2) —

to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster,

I.R.C. § 139(b)(3) —

by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or

I.R.C. § 139(b)(4) —

if such amount is paid by a Federal, State, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare, but only to the extent any expense compensated by such payment is not otherwise compensated for by insurance or otherwise.

I.R.C. § 139(c) Qualified Disaster Defined —

For purposes of this section, the term “qualified disaster” means—

I.R.C. § 139(c)(1) —

a disaster which results from a terroristic or military action (as defined in section [692\(c\)\(2\)](#)),

I.R.C. § 139(c)(2) —

a federally declared disaster (as defined by section [165\(i\)\(5\)\(A\)](#)),

I.R.C. § 139(c)(3) —

a disaster which results from an accident involving a common carrier, or from any other event, which is determined by the Secretary to be of a catastrophic nature, or

I.R.C. § 139(c)(4) —

with respect to amounts described in subsection (b)(4), a disaster which is determined by an applicable Federal, State, or local authority (as determined by the Secretary) to warrant assistance from the Federal, State, or local government or agency or instrumentality thereof.

I.R.C. § 139(d) Coordination With Employment Taxes —

For purposes of chapter 2 and subtitle C, qualified disaster relief payments and qualified disaster mitigation payments shall not be treated as net earnings from self-employment, wages, or compensation subject to tax.

I.R.C. § 139(e) No Relief For Certain Individuals —

Subsections (a) , (f), and (g) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terroristic action (as so defined), or a representative of such individual.

I.R.C. § 139(f) Exclusion Of Certain Additional Payments —

Gross income shall not include any amount received as payment under section 406 of the Air Transportation Safety and System Stabilization Act.

I.R.C. § 139(g) Qualified Disaster Mitigation Payments

I.R.C. § 139(g)(1) In General —

Gross income shall not include any amount received as a qualified disaster mitigation payment.

I.R.C. § 139(g)(2) Qualified Disaster Mitigation Payment Defined —

For purposes of this section, the term “qualified disaster mitigation payment” means any amount which is paid pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date) to or for the benefit of the owner of any property for hazard mitigation with respect to such property. Such term shall not include any amount received for the sale or disposition of any property.

I.R.C. § 139(g)(3) No Increase In Basis —

Notwithstanding any other provision of this subtitle, no increase in the basis or adjusted basis of any property shall result from any amount excluded under this subsection with respect to such property.

I.R.C. § 139(h) Denial Of Double Benefit —

Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed (to the person for whose benefit a qualified disaster relief payment or qualified disaster mitigation payment is made) for, or by reason of, any expenditure to the extent of the amount excluded under this section with respect to such expenditure.

(Jan. 23, 2002, Pub. L. 107-134, title I, sec. 111, 115 Stat. 2427; as amended Apr. 15, 2005, Pub. L. 109-7, sec. 1, 119 Stat. 21; Pub. L. 110-343, div. C, title VII, Sec. 706(a)(2)(D)(iv), Oct. 3, 2008, 122 Stat. 3765; Pub. L. 115-141, Div. U, title IV, Sec. 401(a)(41), (b)(10), Mar. 23, 2018, 132 Stat. 348.)

BACKGROUND NOTES

AMENDMENTS

2018 - Subsec. (c)(2). Pub. L. 115-141, Div. U, Sec. 401(a)(41), amended par. (2) by substituting “a federally” for “federally”.

Subsec. (c)(2). Pub. L. 115-141, Div. U, Sec. 401(b)(10), amended par. (2) by substituting “section 165(i)(5)(A)” for “section 165(h)(3)(C)(i)”.

2008 - Subsec. (c)(2). Pub. L. 110-343, Div. C, Sec. 706(a)(2)(D)(iv), amended par. (2). Before amendment it read as follows:

“(2) a Presidentially declared disaster (as defined in section 1033(h)(3)).”.

2005 - Subsec. (d). Pub. L. 109-7, Sec. 1(a)(2)(A), amended subsec. (d) by substituting “qualified disaster relief payments and qualified disaster mitigation payments” for “a qualified disaster relief payment”.

Subsec. (e). Pub. L. 109-7, Sec. 1(a)(2)(B), amended subsec. (e) by substituting “, (f), and (g)” for “and (f)”.

Sec. 139. Pub. L. 109-7, Sec. 1(a)(1), amended Sec. 139 by adding subsec. (g) and (h).

EFFECTIVE DATE FOR 2018 AMENDMENTS

Amendments by Pub. L. 115-141, Div. U, Sec. 401(a)(41), (b)(10), effective March 23, 2018.

Sec. 401(e) of Pub. L. 115-141, Div. U, provided the following savings provision:

“(e) General Savings Provision With Respect To Deadwood Provisions.—If—

“(1) any provision amended or repealed by the amendments made by subsection (b) or (d) applied to—

“(A) any transaction occurring before the date of the enactment of this Act,

“(B) any property acquired before such date of enactment, or

“(C) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

“(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments or repeals made by such subsection) affect the liability for tax for periods ending after such date of enactment,

“nothing in the amendments or repeals made by this section shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.”

EFFECTIVE DATE FOR 2008 AMENDMENT

Amendment by Div. C, Sec 706(a)(2)(D)(iv) of Pub. L. 110-343 effective for disasters declared in taxable years beginning after December 31, 2007.

EFFECTIVE DATE FOR 2005 AMENDMENTS

Amendments by Pub. L. 109-7, Sec 1(a), effective for amounts received before, on, or after the date of the enactment of this Act [Enacted: Apr. 15, 2005].

EFFECTIVE DATE

Effective for taxable years ending on or after September 11, 2001.