



## Section 139 Helps Employers Help Employees After Hurricane Ian

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We have heard from several clients asking about ways to help their employees that suffered tremendously from the devastation caused by Hurricane Ian. While there are a variety of federal, state, and private relief efforts underway, employers in Florida, Georgia, and South Carolina have a route to provide direct assistance to their employees with some tax benefits to the employer and the employee.

Enacted following the terrorist attacks of 2001, Section 139 of the Internal Revenue Code provides a relatively simple mechanism for employers to provide direct assistance to their employees who have suffered loss as a result of a disaster, with the payments being excluded from the employee's taxable income but remaining a deductible expense to the employer.

An employer may reimburse or pay reasonable and necessary expenses incurred as a result of a qualified disaster for personal and living costs as well as costs incurred to repair the employee's home or its contents. A "qualified disaster" includes a federally declared disaster. The federal government has declared Hurricane Ian to be a disaster for Florida, Georgia, and South Carolina. As long as these payments are result of a "qualified disaster," and the expenses are not reimbursable from insurance or otherwise, the payment to the employee is not includable in the employee's income for tax purposes, nor should it be treated as net earnings from self-employment, wages or compensation subject to the tax. Employers may nevertheless take a deduction for these payments,

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although they are not required to include the payments on the employee's Form W-2 at the end of year.

While there are no specific bookkeeping requirements, best practices would be to keep a record of all such payments, and also receive a statement from employees: (i) identifying the expenses that are being reimbursed, (ii) certifying that the expenses are not reimbursable from insurance or otherwise, (iii) certifying that the expenses were incurred as a result of Hurricane Ian, and (iv) agreeing that the funds will be used in accordance with the requirements of Section 139.

All individuals should also be aware that Section 139 excludes any disaster mitigation payments received under several federal disaster relief programs as well as National Flood Insurance Act payments.