

Treatment of Amounts Paid to Section 170(c) Organizations under Employer Leave-based Donation Programs to Aid Victims of the COVID-19 Pandemic

Notice 2021-42

Subsequent to the March 13, 2020, emergency declaration issued by the President of the United States under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C. 5121 et seq.) in response to the ongoing Coronavirus Disease 2019 (COVID-19) pandemic, the President issued major disaster declarations under the authority of the Stafford Act for each of the 50 states, the District of Columbia, and five U.S. territories (affected geographic areas).¹

Notice 2020-46, 2020-27 I.R.B. 7, provided guidance under the Internal Revenue Code (Code) on the federal income and employment tax treatment to employers and their employees of cash payments made before January 1, 2021, for the relief of victims of the COVID-19 pandemic in the affected geographic areas under employer sponsored leave-based donation programs. Under leave-based donation programs, employees can elect to forgo vacation, sick, or personal leave in exchange for cash payments

¹ See <https://www.fema.gov/coronavirus/disaster-declarations>.

made by their employers to charitable organizations described in section 170(c) of the Code (section 170(c) organizations).

Because of the ongoing nature of the COVID-19 pandemic, the Department of the Treasury and the Internal Revenue Service have determined that it is appropriate to extend the treatment provided in Notice 2020-46 to cash payments made to section 170(c) organizations after December 31, 2020, and before January 1, 2022.

Accordingly, this notice extends the federal income and employment tax treatment provided in Notice 2020-46 to cash payments made to section 170(c) organizations after December 31, 2020, and before January 1, 2022, that otherwise would be described in Notice 2020-46.

EFFECT ON OTHER DOCUMENTS

Notice 2020-46 is modified.

DRAFTING INFORMATION

For further information, please contact Suzanne R. Sinno of the Office of Associate Chief Counsel (Income Tax and Accounting) at (202) 317-4718 (not a toll-free number).