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COVID-19 Relief: IRS Provides Guidance for Employers Making Charitable Contributions Based on Forgone Employee Leave

Last week, the IRS issued [Notice 2020-46](#), regarding employer leave-based donation programs to aid victims of the COVID-19 pandemic. Under leave-based donation programs, employees can elect to forgo vacation, sick, or personal leave in exchange for cash payments that the employer makes to charitable organizations described in Internal Revenue Code Section 170(c).

According to the Notice, cash payments made by an employer to a Section 170(c) organization in exchange for vacation, sick, or personal leave that its employees elect to forgo will not be treated as compensation to the employees if the payments are: (1) made to the organization for the relief of victims of the COVID-19 pandemic in the affected geographic areas; and (2) paid to the organizations before January 1, 2021. Employees who elect to forgo leave will not be treated as having received gross income or wages.

Electing employees may not claim a charitable contribution deduction with respect to the value of the forgone leave. However, the employer may deduct the cash payments as either a business expense or a charitable contribution deduction, if the employer otherwise meets the respective requirements.

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Nonprofit Law Matters looks at legal issues in the nonprofit and tax-exempt organizations world. Written by the attorneys and paralegals of Adler & Colvin, it provides updates and analysis regarding philanthropy, charity, and other exempt organization issues.

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