

LEGAL UPDATE

IRS Extends Deadline for COVID-19 Employee Leave Donations

The U.S. Department of the Treasury and the IRS have extended the deadline for tax-free donations to COVID-19 victims under employer-sponsored leave-based donation programs. [Notice 2021-42](#) allows tax-favored treatment for payments made by Jan. 1, 2022.

Employer-sponsored Leave-based Donation Programs

Employer leave-based donation programs allow employees to forgo vacation, sick or personal leave in exchange for cash payments made by their employers to charitable organizations described in section 170(c) of the IRS Code. The donated leave is taxable to donor employees unless the IRS makes an exception, which it sometimes does in response to specific situations.

Notice 2020-46 Provided an Exception for COVID-19

IRS [Notice 2020-46](#), issued June 11, 2020, addressed donations for victims of the COVID-19 pandemic. The notice provided that leave donations under an employer's program would not be treated as employee income if:

- The employer's cash payments were made for the relief of victims of the pandemic in geographic areas where the president had declared a major disaster; and
- The payments were made to 170(c) organizations before Jan. 1, 2021.

Employers were also allowed to deduct the payments under Code section 170 or 162 if the sections' requirements were otherwise met.

Notice 2021-42 Extends the Deadline

Citing the ongoing nature of the COVID-19 pandemic, Notice 2021-42 extends the favorable employer and employee tax treatment in Notice 2020-46 to cash payments made after Dec. 31, 2020, and before Jan. 1, 2022.

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Important Dates

Dec. 31, 2021

Initial deadline for tax-favored donations to COVID-19 victims under employer leave-based donation programs.

Dec. 31, 2022

Extended deadline for tax-favored treatment for such donations.

Leave donations are not taxable to the employee if the employer's cash payment is made before Jan. 1, 2022.



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