

Tax Relief for Employer Assistance to Victims of Hurricane Maria

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On October 4, 2017, the Puerto Rico Treasury Department (“PR Treasury”) issued Administrative Determination No. 17-21 (“AD 17-21”) to exclude from gross income certain monetary payments, gifts, and loans made by employers to their Puerto Rico employees who suffered damages or losses resulting from the passage of Hurricane María.

I. Cash Payments and Gifts

To qualify for the special tax treatment of AD 17-21, PR Treasury has informally clarified that payments and gifts provided by employers to employees to defray costs and damages attributable to Hurricane María must comply with these requirements:

1. The employer must make the cash payments and/or gifts for the benefit of each affected employee from September 21, 2017 to December 31, 2017.
2. Gifts consisting of goods and services (e.g., food, gas, rent, medicines, power generators, medical expenses, child care expenses, funeral expenses, repair of principal residence and repair or replacement of household goods) to the affected employee or his/her family must be paid directly by the employer to the person providing such services or goods. There is no limit on the amount paid for gifts for the benefit of each employee.
3. Cash payments up to \$1,000 per month to cover costs related to the affected employee’s damages or losses resulting from Hurricane María can be made directly to such individual. These payments must be in addition to the compensation the employee ordinarily would receive from the employer for his/her services.

AD 17-21 provides a mechanism to document the tax-free nature of these relief payments or gifts made by employers to their employees. For Puerto Rico income tax purposes, the employer may take an income tax deduction for cash payments and gifts made in accordance with AD 17-21.

II. Interest-Free Loans

In addition to the above, employers and employees do not have to recognize income from interest-free loans provided by their employers during the period from September 21, 2017 to June 30, 2018, to defray necessary and reasonable expenses of the employee or his/her family as well as expenses for the construction of, or repair of the employee's principal residence because of Hurricane María. The loan cannot exceed \$ 20,000 per employee and the employer may grant more than one loan if the total does not exceed this amount.

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