

## Disaster Relief Payments by employers under §137

<b>Effective Date</b>	In 2002, P.L. 107-134, Sec.111(a) redesignated Code Sec 139 and added new Code Sec. 139, effective for tax years ending on or after 3/11/2001.
<b>Purpose</b>	An employer may want to financially assist employees who have suffered personal and/or financial losses due to a disaster. Under Code Sec 139, an employer can establish a program that allows the employer to take a deduction for disaster relief payments to employees, without the employee having to include the payments in income.
<b>Covered</b>	Employer qualified disaster relief payments for personal, family, living, or funeral expenses to individual employees due to a federally declared disaster under the Stafford Act. The President has declared that the ongoing Coronavirus Disease 2019 (COVID-19) pandemic is of sufficient severity and magnitude to declare a national emergency under the Stafford Act.
<b>Exceptions</b>	The qualified disaster relief payments must be for amounts which will not be reimbursed by any other means such as Government or Insurance.
<b>Eligibility</b>	Any employee in the US that has been impacted by Coronavirus (COVID-19).
<b>Benefit Provided</b>	Qualified Disaster Relief payments - Employer payments to employees to reimburse (or pay) for reasonable and necessary personal, family, living or funeral expenses AS A RESULT of COVID-19.
<b>Cap on Benefits Provided</b>	There is no cap on qualified disaster relief payments made by an employer.
<b>Implementation Considerations</b>	The employer should prepare a written document that outlines the parameters of their disaster relief program. The document should specify details such as the disaster to which the program relates, types of expenses covered by the program, maximum reimbursement available and program deadlines. The employer is not required to obtain documentation from the employee for the expenses, rather the payments should be reasonable in nature.
<b>Interaction with Other IRC and AL sections</b>	Any qualified disaster relief payments to employees under IRC 139 are not subject to payroll taxes (not compensation), but are deductible by the employer. Alabama follows the IRC treatment of these payments.

## Executive Summary

IRC 139 has not been used often since it was enacted in 2002, but can be very beneficial to both employers and their employees as they face the current COVID-19 health crisis. Generally, any payment made by an employer to an employee is considered taxable compensation to the employee. However under IRC 139, "qualified disaster relief" payments by the employer to the employee for personal and family expenses are not considered taxable compensation. And although not compensation to the employee, the payment is considered a deductible expense for the employer. Payments are not covered under IRC 139 IF they are otherwise compensated (such as by FMLA or insurance).

There is no list of "qualified disaster payments" from which to select, however some reasonable items related to the COVID-19 event may include the following: medical expenses (non-reimbursed), hand sanitizer, funeral costs (employee or family member), costs associated with enabling an employee to work from home (cell phone, printer, supplies, increased utility costs), child care needed because schools and day cares are closed during the pandemic. These expenses must be incurred as a result of COVID-19.

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