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IRS Signals That Private COVID-19 Disaster Relief Programs Qualify for Tax Benefits

The [IRS released FAQs](#) to provide guidance under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The March 31 FAQs also contained a confirmation that President Donald Trump's decision to declare the COVID-19 pandemic a national emergency triggered Section 139 of the Internal Revenue Code. Section 139 was enacted in the wake of the 9/11 tragedy to facilitate the provision of disaster relief by private parties reacting to a "qualified disaster."

Section 139 and IRS Publication 3833 ("Disaster Relief: Providing Assistance Through Charitable Organizations") provide that certain payments to individuals for "reasonable and necessary personal, family, living or funeral expenses incurred as a result of a qualified disaster" qualify for certain tax benefits, including that such payments are excluded from the recipient's taxable income. The payments can come from a range of taxable or tax-exempt organizations, including company-funded private foundations, and are not treated as acts of self-dealing. Publication 3833 demonstrates the breadth of permissible financial support, providing that the payments, regardless of source, can be used for:

- Reasonable and necessary personal, family, living or funeral expenses incurred as a result of a qualified disaster.

- Reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence due to a qualified disaster.
- Reasonable and necessary expenses incurred for the repair or replacement of the contents of a personal residence due to a qualified declared disaster.

It is important to note that qualified disaster relief payments do not include:

- Payments for expenses otherwise paid for by insurance or other reimbursements.
- Income replacement payments, such as payments of lost wages, lost business income or unemployment compensation.

The confirmation of the COVID-19 pandemic as a qualified disaster within the meaning of Section 139 means that taxable and tax-exempt organizations helping individuals cope with the consequences of the pandemic can do so without triggering federal tax consequences for the recipients or penalty excise taxes for private foundations. There are, however, limitations or constraints on the payments, some of which are noted above, so organizations should consult their tax advisors before undertaking such private disaster relief programs.

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For information on the business impacts of COVID-19, please visit our [COVID-19 Resource Center](#), which we continue to update as the situation evolves. If you have questions about COVID-19's impact on your business, please reach out to your Loeb relationship partner or email us directly at COVID19@loeb.com.

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