

HOW TO MAKE TAX-FREE PAYMENTS TO YOUR EMPLOYEES

As the emotional, physical and financial chaos of the past few weeks continues, so does the stress affecting your employees. Thanks to a little-known tax provision, you can now relieve some of that anxiety by providing cash gifts to your team that are tax-free to them, and fully deductible to you – just in time for Pesach.

In general, an employer cannot give a “gift” to an employee. Regardless of intent, any payment from employer to employee is taxed to the employee as compensation. However, Section 139 — added to the Code after September 11th— says that during a federally declared disaster, an employer can reimburse or pay an employee for “reasonable and necessary personal, family, living, or funeral expenses.” These payments are tax-free to the employees, but fully deductible to the employer.

Beginning immediately, employers can assist employees in managing the COVID-19 crisis in the following ways:

Qualified Disaster Relief Payments

- An employee’s medical expenses that are not compensated for by insurance, for example, the employee’s deductible and out-of-pocket expenses
- The cost of over-the-counter medications and hand sanitizer
- Funeral costs of an employee or a member of an employee’s family
- The cost of enabling an employee to work from home throughout the pandemic, for example, the cost of a computer, cell phone, printer, supplies and increased utility costs of the employee
- The cost of an employee’s child care or tutoring for family members that cannot attend school during the pandemic

Please note: Payments that are otherwise compensated for by insurance or that are intended to replace lost income do not qualify.

Interestingly, Section 139 does not require that employees complete a certain period of service to be eligible to receive these tax-free payments, nor is the employer required to maintain any formal plan or documentation. Nevertheless, it would be wise for employers to document their intention to make payments covered by Section 139, as well as the following:

Important Payment Information to be Documented by Employer

- The amounts paid, and to whom
- The start and end dates of any Section 139 “payment program”
- A general list of the expenses that will be paid or reimbursed on behalf of the employees
- Any maximum amount per-employee or in the aggregate that the employer will pay

You put your heart and soul into your business, and your employees have become your family. We understand how important it is for you to be a backbone for them and help in whatever way you can. We encourage you to take this opportunity to support your employees in a very practical way and be there when they need you most.

Wishing everyone happy and healthy YomTov.

For more information on managing your business through the COVID-19 crisis please visit our [website](#).