

United States Tax Relief for Employees During the COVID-19 Pandemic

Section 139 to impact employees moving into or out of the United States

The impacts of COVID-19 have been far reaching, leaving employers wondering how to handle many aspects of mobility. On 13th March, the United States Government declared a National Emergency, implementing the provisions of Section 139 of the Internal Revenue Tax Code. This section, relating to Disaster Relief Payments, provides a range of nontaxable relief benefits for employees that employers should be aware of, including how employee relocation and relief benefits should be classified and taxed.

Whether or not your company utilises SIRVA for expense management, if you have employees that fall into US domestic, US inbound, or US outbound categories, the information below will be of assistance. If your company does utilise SIRVA, contact your account manager after thorough discussions with your tax advisor, should you decide to make changes to your tax structure regarding mobility expenses related to COVID-19.

What is Section 139?

[Section 139](#) was initially enacted after the tragic events that occurred on 11 September, 2001 in New York City. Section 139 modifies the general income tax rule so that certain amounts paid by an employer to or for the benefit of an employee for qualified disaster relief payments are non-taxable. During times of a qualified disaster, these “qualified disaster relief payments” are not included in an employee’s gross taxable income and may still be deducted by employers. Qualified disaster relief payments are payments that are not otherwise reimbursed by insurance, made by an employer to an employee, that are *reasonably expected* by the employer to cover certain disaster related expenses.

In short, certain payments made by employers to their employees on or after 13 March 2020 may be treated as nontaxable, non-W-2 business expenses, provided they can be attributed to COVID-19. This is significant news for companies whose employees have been impacted by many mobility expenses that have been related to the world’s current pandemic.

Qualified disaster relief payments can include:

- Any amount paid to or for the benefit of an individual to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses
- Expenses to repair or rehabilitate a personal residence
- Expenses to repair or replace contents, paid as a result of a qualified disaster

What relocation expenses might be covered under Section 139?

Many relocations have been impacted by the recent pandemic; Section 139 may apply to several of the related expenses and reimbursements that have been incurred due to the impacts of COVID-19. Examples of expenses that employers should evaluate with their tax providers as qualified disaster relief payments could include:

- Cleaning and sanitising materials
- Travel-related expenses (caused by derailed or terminated assignments)
- Health-related expenses, such as copayments and deductibles, if not reimbursable
- Unexpected costs resulting from household goods storage, home purchase delays, etc.
- Non-perishable food purchases
- Any equipment, supplies, and/or additional utility expenses related to setting up a home office
- Temporary housing for employees on foreign assignments who have been brought back to the US – or those whose homes have been sold before their relocations were completed
- Increased commuting expenses incurred due to avoiding mass transit
- Housing and transportation for additional family members who have been required to return home
- Childcare or tutoring that may be needed, due to school closings

NOTE: Any expenses that were incurred that cannot be treated as disaster relief payments related to COVID19 will continue to be reported according to standard payroll reporting processes.

What should employers do next?

As companies examine how Section 139 will potentially benefit their employees and businesses as a whole, it will be important for decision makers to establish a consistent procedure for the submission and vetting of expenses. The initiation and support of regular and thorough communication with their employees, relocation management companies, and tax advisors will also be key.

There are some unanswered questions surrounding the current disaster relief measures, including what the end date for submissions may be regarding Section 139. An additional question involves whether relief only applies to the reimbursement of employee expenses or if it could also include cash advances meant for the payment of covered expenses.

Employees have faced significant changes and hurdles in the face of COVID-19, including unexpected financial hardships. Section 139 may provide a way for employers to support their employees on a tax-reduced basis. However, it is important to remember that payments intended to assist employees during the pandemic could impact employee qualification for other benefits related to state and federal stimulus packages that have been implemented in connection with the coronavirus pandemic that were also recently introduced.

Company decision makers should confer with their tax advisors to review benefits holistically, both to make appropriate decisions and to navigate this process effectively.

SIRVA is providing the above information concerning COVID-19 as part of our ongoing efforts to keep our customers informed of relevant and topical issues that could impact the mobility space. However, SIRVA does not provide tax or legal advice or provide tax or legal opinions on which you can rely. You must contact your own counsel or tax advisor for tax or legal advice and opinions for your particular circumstance.