

## Treatment of Certain Amounts Paid to Section 170(c) Organizations under Certain Employer Leave-Based Donation Programs to Aid Victims of the Ebola Virus Disease (EVD) Outbreak in Guinea, Liberia, and Sierra Leone

Notice 2014-68

This notice provides guidance on the treatment of leave-based donation programs to aid victims of the Ebola Virus Disease (EVD) outbreak in the West African countries of Guinea, Liberia, and Sierra Leone for income and employment tax purposes.

### EVD OUTBREAK

As of October 22, 2014, more than 4,800 EVD-related deaths and more than 9,900 suspected and confirmed cases of EVD have been reported by Guinea, Liberia, and Sierra Leone. See [www.usaid.gov/ebola](http://www.usaid.gov/ebola). In addition, the reported number of cases of EVD continues to increase rapidly in those countries. *USAID West Africa – Ebola Outbreak – Fact Sheet No. 4 (FY15)* (October 22, 2014). President Obama has stated that the EVD outbreak in West Africa is a public health emergency, a humanitarian crisis, and a national security priority, and has directed U.S. agencies and departments (including the Departments of State, Defense, and Health and Human Services, the Centers for Disease Control and Prevention, and the U.S. Agency for International Development) to assist West African governments in their responses. See [www.whitehouse.gov/ebola-response](http://www.whitehouse.gov/ebola-response). The President has also called on other nations regarding the need for more robust commitments and rapid delivery of assistance by the international community.

### TREATMENT OF LEAVE-BASED DONATION PAYMENTS

In view of the extreme need for charitable relief due to the EVD outbreak in Guinea, Liberia, and Sierra Leone, employers may have adopted or may be considering adopting leave-based donation programs to aid victims of the EVD outbreak in Guinea, Liberia, and Sierra Leone. Under these programs employees elect to forgo vacation, sick, or personal leave in exchange for cash payments an employer makes to organizations described in § 170(c) of the Internal Revenue Code (§ 170(c) organizations) for the relief of victims of the EVD outbreak in Guinea, Liberia, and Sierra Leone. This notice provides guidance on the treatment of these payments for income and employment tax purposes.

Notice 2012-69, 2012-51 I.R.B. 712, and Notice 2005-68, 2005-2 C.B. 622, provided similar guidance in view of the extreme need for charitable relief following Hurricane Sandy and Hurricane Katrina, respectively. See *also* Notice 2001-69, 2001-2 C.B. 491, as modified and superseded by Notice 2003-1, 2003-1 C.B. 257, regarding charitable relief following the September 11, 2001, terrorist attacks.

The Service will not assert that cash payments an employer makes to § 170(c) organizations in exchange for vacation, sick, or personal leave that its employees elect to forgo constitute gross income or wages of the employees if the payments are: (1) made to the § 170(c) organizations for the relief of victims of the EVD outbreak in Guinea, Liberia, and Sierra Leone; and (2) paid to the § 170(c) organizations before January 1, 2016.

Similarly, the Service will not assert that the opportunity to make such an election results in constructive receipt of gross income or wages for employees. Electing

employees may not claim a charitable contribution deduction under § 170 with respect to the value of forgone leave excluded from compensation and wages.

The Service will not assert that an employer will be only permitted to deduct these cash payments under the rules of § 170 rather than the rules of § 162. Cash payments to which this guidance applies need not be included in Box 1, 3 (if applicable), or 5 of an employee's Form W-2, Wage and Tax Statement.

#### DRAFTING INFORMATION

For further information, please contact Sheldon Iskow of the Office of Associate Chief Counsel (Income Tax and Accounting) at (202) 317-4718 (not a toll-free call).