

# DISASTER PLANNING & RESPONSE

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## **LEGAL CONSIDERATIONS:**

**BEFORE DISASTER STRIKES**



# WORKPLACE DONATIONS TO ASSIST EMPLOYEES

- After 9/11, the Victims of Terrorism Tax of 2001 allowed employers to establish a 501(c)(3) private foundation for the sole purpose of providing disaster relief assistance to the employer's employees and their families for "qualified disasters."
- A "qualified disaster" is defined as: results from terrorist or military actions; results from an accident involving a common carrier; a presidentially-declared disaster; or an event that the secretary of the treasury determines is catastrophic.

# WORKPLACE DONATIONS TO ASSIST EMPLOYEES

- Qualified Disaster Relief Payment (QDRP)
- Create a 501(c)(3) nonprofit corporation
- Set up a fund under the umbrella of an existing charitable foundation
- Crowdfunding / Use of 3<sup>rd</sup> Party funding aggregator
- In the case of a major disaster, IRS rules allow employees to donate paid time off (PTO) tax-free to a leave-sharing program.

## WORKPLACE LOANS TO ASSIST EMPLOYEES

- The IRS provides streamlined procedures to allow loans from certain 401(k) plan to employee victims of disaster.
- An employer may provide low- or no-interest loans to employees.
  - Document the loan and repayment terms
  - Secure authorization to dock repayment under the Texas Pay Day Act
  - Avoid undermining FLSA exempt status by docking from “fixed salary” and do not dock below minimum wage for nonexempts
  - Employer loans are taxable income to the employee.

## LEGAL CONSIDERATIONS: DURING DISASTER

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