

Blog Post

# CARES Act Provider Relief Funds – The Requirements are Taxing

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The Internal Revenue Service (IRS) recently clarified that CARES Act Provider Relief Funds (Relief Funds) are considered taxable income for for-profit providers, including physician practices. This news comes as a surprise as many thought such funds would be considered “qualified disaster relief payments” and therefore not includible in gross income under Section 139 of the Internal Revenue Code (the Code). As a result, for-profit healthcare providers who accepted Relief Funds need to assess the tax consequences and plan accordingly.

Under the CARES Act, Relief Funds reimburse eligible healthcare providers for healthcare-related expenses or lost revenues attributable to the COVID-19 pandemic (see [recent blog](#)). In FAQs the IRS [published](#) on July 6, 2020 and the U.S. Department of Health and Human Services (HHS) [published](#) on July 10, 2020, the agencies stated that in the case of for-profit providers, payments from the Relief Funds are not “qualified disaster relief payments” under [Section 139](#) of the Code, and therefore for-profit providers are required to include any Relief Funds received in gross income under [Section 61](#) of the Code. As a result, the partners or members of provider practices that are organized as pass-through entities may have individual income tax liabilities with respect to Relief Funds payments.

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The IRS and HHS also clarified that healthcare providers that are tax exempt under Section 501(c) of the Code generally will not be subject to unrelated business income tax on the Relief Funds unless the funds were used for expenses or lost revenue attributable to an “unrelated trade or business,” as defined in Section 513 of the Code.

This guidance reinforces the need for all recipients to thoughtfully consider and document how they use the Relief Funds. All providers who have accepted or will accept Relief Funds are advised to consult with their tax advisors regarding their potential tax liability for payments received. For example, individuals who are members of for-profit providers may need to adjust their quarterly 2020 estimated tax payments, and tax-exempt providers should confirm whether the Relief Funds will give rise to unrelated business income tax. All providers should also frequently check the HHS and IRS websites for updates on taxability of the Relief Funds as the guidance continues to evolve, sometimes without notice.

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