

# Tax changes after Hurricanes Harvey, Irma & Maria

CPA David A. Rodríguez Ortiz  
President, Sageza LLC

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# Disaster

## 2017 Disaster Tax Relief Bill

- Declaration of Disaster zone by the President, followed by FEMA.
  - Follows Congressional action to provide a Tax Relief Bill.
  - **On Sept. 29**, President Trump signed into law H.R. 3823, the **"Disaster Tax Relief and Airport and Airway Extension Act of 2017"**.
  - The Act, which had been passed by Congress the day before, **provides temporary tax relief to victims of Hurricanes Harvey, Irma, and Maria.**

FEMA

Declaration

# Relief for individuals included in the Bill not discussed today:

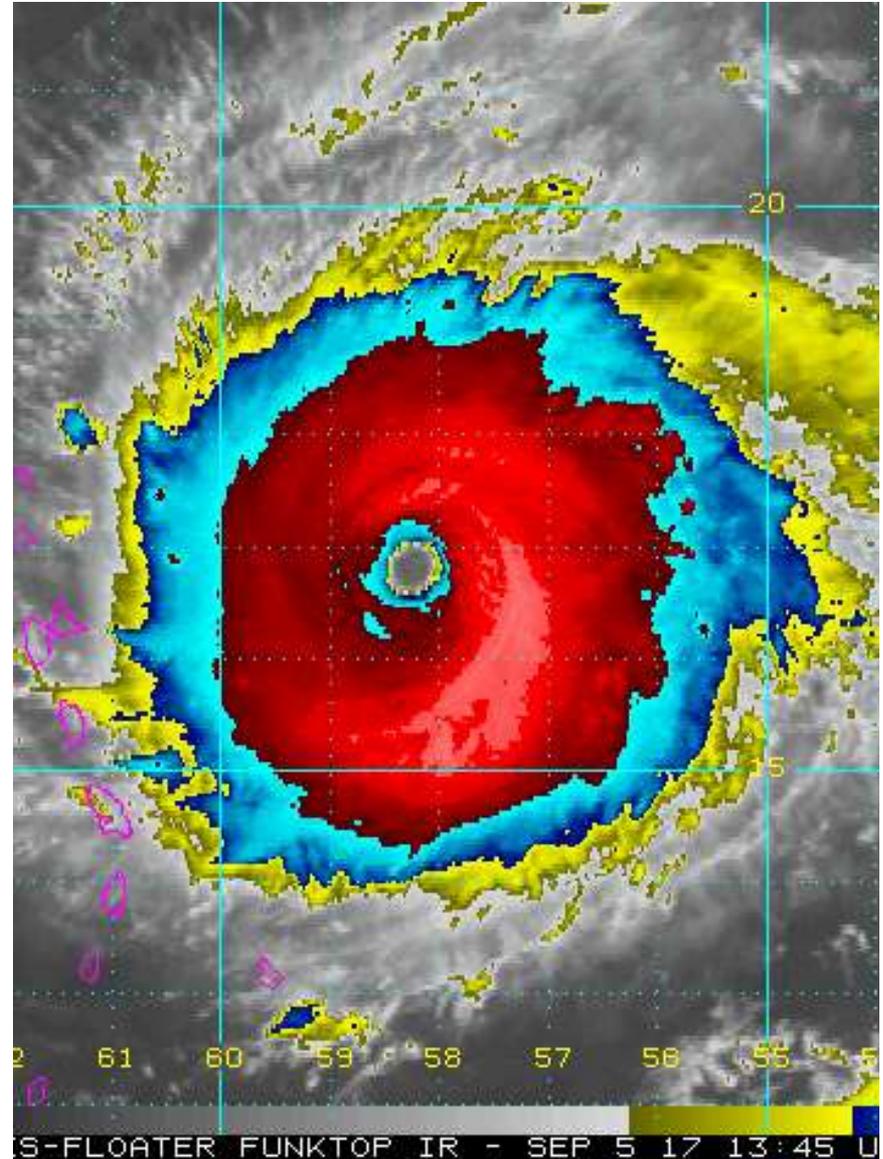
- Eased Casualty Loss Rules
- Eased Access to Retirement Funds
- Charitable Deduction Limitations Suspended
- Special Rule on "Earned Income" for EITC & Child Tax Credit Purposes

# Who qualifies for a Employee retention tax credit?

- Employers that were inoperable by Hurricane Harvey, Irma, or Maria and;
- were in a federally-declared disaster zone

## Employee Retention Tax Credit for Employers

An **eligible employee** with respect to an eligible employer is one whose principal place of employment with the employer was in **Hurricane Harvey, Irma, or Maria disaster zone** as of the respective date above.



# Employee Retention Tax Credit for Employers

- The Act provides a new "employee retention credit" for "eligible employers" affected by Hurricanes Harvey (Act Sec. 503(a)), Irma (Act Sec. 503(b)), and Maria (Act Sec. 503(c)).

## Eligible employers

- employers that conducted an active trade or business in a disaster zone as of a specified date (for Hurricane Harvey, Aug. 23, 2017; Irma, Sept. 4, 2017; and Maria, Sept. 16, 2017), and
  - the active trade or business of which was, on any day between the specified date and Jan. 1, 2018, rendered inoperable because of damage sustained by the hurricane.
- In general, **the credit equals 40% of up to \$6,000 of "qualified wages" with respect to each "eligible employee" of such employer for the tax year.**
    - Maximum credit per employee is \$2,400 ( $\$6,000 \times 40\%$ ).

# When should the wages qualify for the credit?

- wages paid or incurred by an eligible employer with respect to an eligible employee on **any day after the specified date (above) and before Jan. 1, 2018,** which occurs during the period:
  - **Beginning on the date** on which the employer's trade or business first became *inoperable at the principal place* of employment of the employee immediately before the respective hurricane, and
  - **Ending on the date** on which such trade or business has *resumed significant operations at such principal place* of employment.

# Employee Retention Tax Credit for Employers

- **QUALIFIED WAGES**

- wages paid even if the employee performed no services,
- performed services at a place of employment other than the principal place of employment, or
- performed services at the principal place of employment before significant operations resumed.
- Wages qualifying for the credit generally have the same meaning as wages subject to the **Federal Unemployment Tax Act (FUTA)**.
- For **agricultural employees**, if the work performed by any employee during more than half of any pay period qualified under FUTA as agricultural labor, that employee's wages subject to social security and Medicare taxes are qualified wages.

# Qualified wages do not include the following

- Wages paid to your dependent or a related individual.
- Wages paid to any employee during the period for which you received payment for the employee from a federally funded on-the-job training program.
- Wages for services of replacement workers during a strike or lockout.

# Limitations

- An **employee** cannot be considered more than one time for purposes of the employee retention tax credit.
  - if an employee is an eligible employee of an employer with respect to Hurricane IRMA for purposes of the credit, the employee cannot also be an eligible employee with respect to Hurricane Irma or Hurricane Maria.

# Elegible employer

- **Inoperable**

- The damage need not be to the employer's place of business.
  - Example, because of the disaster, the business is physically inaccessible to employees, raw materials, utilities, or customers.

- **Significant operations**

- significant operations is a facts and circumstances determination
  - considers the specific nature of the business.
  - there is no single answer for all trades or businesses.

# Elegible employer

- Significant operations
  - Determining significant operation
    - an employer should use a reasonable and good faith interpretation of what “significant” means in the context of his or her business.
    - the term would not mean that the level of operations has met or exceeded the pre-hurricane level of operations.

# Elegible employer

- Significant operations
  - Determining significant operation
    - The opening at the new location is not treated as the resumption of operations at the employee's principal place of employment.
      - If reopen in other location, the employee's wage payments made through January 1, 2018, are eligible for the credit.
    - The business never resumed operations later the applicable disaster date at the employee's work place.
      - This is so whether the employee worked at another location after the employee's principal place of employment was rendered inoperable,
      - whether the employee resumed work at the new business location when it opened,
      - or whether the employee permanently transferred to another location.

# Where to ask for the credit?

- The PR Government must coordinate with the Internal Revenue Service to facilitate the documentation or form to be use and how to be reimbursed or credit the amount calculated based on the limitations explained above.
- In Katrina, Rita and Wilma – Form 5884-A was used to request such credit.
- The PRTD has used forms like this one to credit or reimbursed taxes such as the American Opportunity Act, SCH B2.

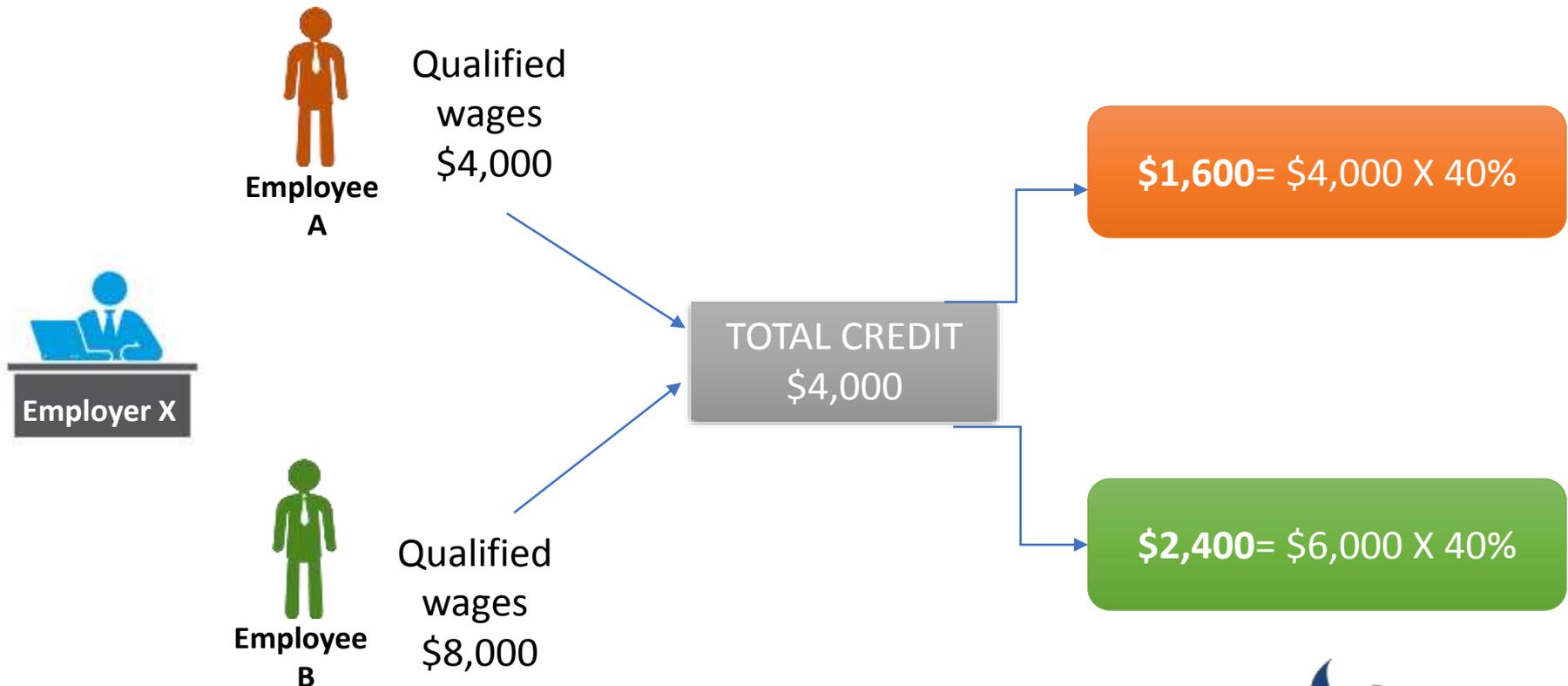
# How to calculate the credit?

- credit equal to the lesser of \$2,400 or forty percent of the wages paid to each affected employee during the applicable relief period:
  - Hurricane Harvey Disaster Zone (August 23, 2017 – December 31, 2017)
  - Hurricane Irma Disaster Zone (September 4, 2017 – December 31, 2017)
  - Hurricane Maria Disaster Zone (September 16, 2017 – December 31, 2017)

# Employee Retention Tax Credit for Employers Example

- **Employer X is an eligible employer in the Hurricane IRMA disaster**

**zone.** X has two eligible employees, A and B, to whom X pays qualified wages of \$4,000 and \$8,000 respectively. X is entitled to a total credit of \$4,000; \$1,600 for the wages paid to A ( $\$4,000 \times 40\%$ ) and \$2,400 for \$6,000 of the wages paid to B ( $\$6,000 \times 40\%$ ).





CPA David A. Rodríguez Ortiz

President

Sageza LLC

[david@sagezapr.com](mailto:david@sagezapr.com)

(787) 722-3620

1060 Ashford Ave. Suite 3, 2<sup>nd</sup> Floor

San Juan, PR 00907

PO BOX 366876 San Juan, PR 00936-6876

