

## Part III – Administrative, Procedural, and Miscellaneous

Treatment of certain relief payments made to individuals affected by the East Palestine, Ohio train derailment

Notice 2024-46

### SECTION 1. OVERVIEW AND PURPOSE

This notice announces that the Commissioner of Internal Revenue (Commissioner) has determined that the February 3, 2023, derailment of a freight train operated by a common carrier in East Palestine, Ohio (Derailment), is a qualified disaster for purposes of § 139 of the Internal Revenue Code (Code). As a result of this determination, certain payments made by the common carrier to individuals affected by the Derailment (affected individuals) are excludable from gross income as qualified disaster relief payments under § 139(a).

### SECTION 2. BACKGROUND

#### .01 Derailment in East Palestine, Ohio

On February 3, 2023, a multi-car freight train operated by a common carrier derailed in the Village of East Palestine, located in Columbiana County in the State of Ohio. Several of the train cars contained hazardous materials, including vinyl chloride,

ethylene glycol monobutyl ether, ethylhexyl acrylate, butyl acrylate, benzene residue, and isobutylene. Some of these train cars spilled their loads onto the ground and into local waterways, and other train cars caught fire. Later, the contents of certain train cars were vented and burned off by the common carrier to prevent an explosion.

As a result of the Derailment, and the potential environmental and health concerns from the spillage of the hazardous material, a number of residents and businesses near the Derailment site were evacuated. The Environmental Protection Agency deployed a team to East Palestine, Ohio to support state and local emergency and environmental response efforts.

Following the Derailment, the common carrier began operating a family assistance center in Ohio to provide financial support to affected individuals of East Palestine, Ohio and surrounding communities, including communities in the Commonwealth of Pennsylvania and the State of West Virginia. Beginning in 2023, the common carrier made payments to affected individuals for the following items: (a) relocation expenses, including for hotels, meals, gas or other fuel, pet boarding, and replacement of clothing and other personal items; (b) costs to repair and rehabilitate homes and the surrounding environment (for example, power washing, air purifiers, air duct cleaning, and well-water testing); (c) medical expenses, including prescription medications; (d) lost wages; (e) one-time “inconvenience payments” of \$1,000; (f) compensation to certain affected individuals who sold their homes, if the sale was completed after the Derailment; and (g) payments to property owners to allow the common carrier access to the track for remediation and for access to clean nearby creeks and streams. In connection with the

Derailment, the common carrier also made payments to certain businesses.

The common carrier has furnished Forms 1099-MISC, *Miscellaneous Information*, to affected individuals for payments made after February 3, 2023, and on or before December 31, 2023, reporting these payments as includable in gross income.

.02 Exclusion of qualified disaster relief payments from gross income.

Section 139(a) provides that gross income does not include any amount received by an individual as a qualified disaster relief payment. This exclusion does not apply to exclude payments made to businesses from gross income.

Section 139(b) provides that a qualified disaster relief payment includes any amount paid to or for the benefit of an individual—

(1) To reimburse or pay reasonable and necessary personal, family, living, or funeral expenses (not otherwise compensated for by insurance or otherwise) incurred as a result of a qualified disaster,

(2) To reimburse or pay reasonable and necessary expenses (not otherwise compensated for by insurance or otherwise) incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster, or

(3) By a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster.

Under § 139(c)(3), the term “qualified disaster” includes a disaster that results from an accident involving a common carrier, or from any other event, which is determined by

the Secretary of the Treasury or her delegate (Secretary) to be of a catastrophic nature.

### SECTION 3. DISCUSSION

#### .01 Designation as a qualified disaster.

The Commissioner, pursuant to a general delegation by the Secretary, has determined that the Derailment is an event of a catastrophic nature under § 139(c)(3). Therefore, the Derailment is a qualified disaster under § 139.

#### .02 Qualified disaster relief payments.

As a result of the Commissioner's determination, certain of the payments described in section 2 of this notice, which were made by the common carrier to affected individuals, are excluded from affected individuals' gross income because the payments are qualified disaster relief payments. Specifically, the following types of payments to affected individuals are excludable from gross income as qualified disaster relief payments: payment or reimbursement of relocation expenses, including for hotels, meals, gas or other fuel, pet boarding, and replacement of clothing and other personal items, as well as payment or reimbursement of expenses for the repair and rehabilitation of homes and surrounding environment (for example power washing, air purifiers, air duct cleaning, and well-water testing), medical expenses, prescription medications, the one-time inconvenience payments of \$1,000, and compensation to certain affected individuals who sold their homes if the sale was completed after the Derailment. The following types of payments are not qualified disaster relief payments and are includable in gross income: (1) payments made for the replacement of income, such as lost wages; (2) payments of any type made to businesses; or (3) payments

made by the common carrier to access the track for remediation or to access creeks or streams for cleaning.

#### SECTION 4. PROCEDURE FOR AFFECTED INDIVIDUALS TO EXCLUDE QUALIFIED DISASTER RELIEF PAYMENTS FROM INCOME

##### .01 Instructions for affected individuals who have not yet filed an individual Federal income tax return.

Affected individuals who received payments from the common carrier and who have not yet filed their Federal income tax returns for the year the payment was received should not include any qualified disaster relief payments described in section 3.02 of this notice (even if reflected on Form 1099-MISC) in Federal gross income on their Form 1040, *U.S. Individual Income Tax Return*, except to the extent the expenses reimbursed by the common carrier were (or are expected to be) also compensated for by insurance or otherwise.

- If filing Form 1040 electronically, affected individuals should attach to the Form 1040 a .pdf attachment with filename “EPTDR-East Palestine Train Derailment Relief.” The attachment should state “East Palestine Train Derailment Relief.”
- If mailing the Form 1040, state “East Palestine Train Derailment Relief” at the top of Form 1040. Mail the Form 1040 to the address in the Form instructions.

##### .02 Instructions for affected individuals who have already filed a 2023 individual Federal income tax return that included qualified disaster relief payments in gross income.

Affected individuals who have filed their 2023 Federal income tax returns may amend their returns by filing Form 1040-X, *Amended U.S. Individual Income Tax Return*, to exclude any qualified disaster relief payments described in section 3.02 of

this notice (even if reflected on Form 1099-MISC) that were previously included on their original 2023 individual Federal income tax returns (except to the extent the expenses that were reimbursed by the common carrier were (or are expected to be) also compensated for by insurance or otherwise). The IRS accepts paper and electronically filed Forms 1040-X, although a Form 1040-X may be filed electronically only with certain tax filing software. Check with your preferred tax software provider for additional information.

- If filing Form 1040-X electronically, attach a .pdf attachment with filename “EPTDR-East Palestine Train Derailment Relief.” The attachment should state “East Palestine Train Derailment Relief.” You may also state “East Palestine Train Derailment Relief” at the beginning of Part III, Explanation of Changes.
- If filing Form 1040-X on paper, state “East Palestine Train Derailment Relief” at the top of Form 1040-X. Also state “East Palestine Train Derailment Relief” at the beginning of Part II, Explanation of Changes. Mail the Form 1040-X to the address in the Form instructions.

Affected individuals can obtain additional information regarding filing an amended return at [irs.gov/filing/file-an-amended-return](https://irs.gov/filing/file-an-amended-return). The IRS recommends filing tax returns electronically whenever possible.

## SECTION 5. DRAFTING INFORMATION

The principal author of this notice is Jonathan A. Dunlap of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this notice contact Mr. Dunlap on 202-317-4718 (not a toll-free call).