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Taxes as Charity? New Jersey Towns Try to Elude G.O.P. Tax Law.

FAIR LAWN, N.J. — Faced with a new federal tax law that limits state and local tax deductions, three communities in New Jersey have come up with a novel solution: They want people to donate to a town-run charity as a way of mitigating their property taxes.

The three towns — Paramus, Park Ridge and Fair Lawn — announced on Friday that they would allow residents to donate the same sum they would have been charged in property taxes to pay for municipal services. Under the tax bill signed by President Trump last month, deductions for state and local taxes, including property taxes, are limited, but charitable donations are not.

“The tax hike bill Congress passed last year is a ticking time bomb for New Jersey,” said Representative Josh Gottheimer, a Democrat from northern New Jersey who helped hatch the plan and whose district includes the three communities. “But today, we are proudly declaring that New Jersey won’t shy from a fight. We won’t be America’s piggy bank.”

The move is one example of how states and towns across the country with high tax rates are working feverishly to come up with creative ways to circumvent the federal tax law. In New York, Gov. Andrew M. Cuomo, a Democrat, has threatened legal action and is exploring the possibility of eliminating the state income tax and replacing it with a payroll tax. In California, a new bill proposes setting up a similar charitable contribution system to allow taxpayers to make donations instead of paying certain state taxes.

As with all the ideas there are many questions about whether the New Jersey towns’ plan could work without approval from Internal Revenue Service and possibly state legislation. Another question is whether people would be required to make a charitable contribution and, if so, whether that would make it in essence a tax.

The new plan, like any tax loophole, is simple in theory and complex in execution, but it could work more or less like this: Paramus, for example, would start a charitable trust and a taxpayer who pays $20,000 in annual property taxes would contribute that exact amount to the charitable trust.

The charitable trust would then allocate the $20,000 to various entities — the schools, the police department and other agencies — as though the donation were a tax payment. The town would then credit the taxpayer for 90 to 95 percent of the donation, making it nearly entirely deductible. (The town could factor in administrative costs to lessen a donation’s value.)

But building a town-run trust to take the place of a local tax collection process is relatively uncharted waters — for one thing such a change in municipal governance would require approval by each town’s local governing body.

“Our attorneys are already going through the plan,” said Richard LaBarbiera, the mayor of Paramus.

Still, in New Jersey, which has the highest property taxes in the country and where municipalities rely on them to pay for schools, libraries, police departments, fire departments and other essential functions, the three towns want to alleviate what would be a major burden on taxpayers.

Governor-elect Philip D. Murphy, a Democrat who has made finding ways to lessen the impact of federal tax plan a high priority, supports the towns' efforts.

"We are all in on this," Mr. Murphy said on Friday. "Not just this — we'll continue to pursue all available means, legal, constitutionally, tax code and otherwise. But this one, we believe, has real legs and real precedent."

The Trump administration seems keenly aware about efforts to come up with new loopholes.

"I understand what they are trying to do for their cities and their states and their taxpayers," Gary Cohn, Mr. Trump's top economic adviser, said in an interview on Friday with Bloomberg Television. "We at the federal government still have to collect revenue so we're going to have to evaluate what decisions they make in terms of what it does for overall collections at the federal level and the federal tax system."

It is not clear that using charitable donations to fund government operations is actually feasible.

The conservative Tax Foundation released a report suggesting that such a maneuver could violate I.R.S. rules. The reason is that the donation is being given purely for the financial benefit of the donor.

"To be deductible, charitable contributions must have a genuinely charitable aspect, and cannot primarily benefit the contributor or involve a quid pro quo," wrote Jared Walczak, a senior policy analyst at the Tax Foundation. "Payments which function as taxes may be classified as taxes even if states choose to call them something else."

Mr. Gottheimer noted that the idea of using charitable donations to help taxpayers was a process that is already in place in various forms in other states, including Alabama, Arizona and California. In Alabama, residents can receive a dollar-for-dollar tax credit when they donate to an approved organization that funds education scholarships. In California, residents and local businesses can receive a 50-percent state tax credit for donations to a state-run fund that raises money to help students pay for college.

The move by New Jersey communities comes as confusion and frustration have spread across the country among anxious taxpayers.

Last week, thousands of taxpayers scrambled to prepay their 2018 property taxes believing they could deduct them under the rules of the old tax code. But an I.R.S. advisory warned that not everyone would be eligible to write off property taxes from this year.

In response, Representative Leonard Lance, a Republican from New Jersey, said he planned to introduce legislation that would ensure that homeowners who prepaid their 2018 property taxes would be able to deduct the full amount, rather than just the portion of their 2018 property taxes that they had already been assessed.

"It will not affect a lot of people, but it will affect those who paid their 2018 property taxes in 2017," Mr. Lance said.

The lack of clarity over the tax plan could lead to a wave of litigation, and state treasurers are anticipating that Congress will work to clarify murky parts of the law. In the meantime, state officials have been approaching tax experts for help in finding ways to diminish the tax burdens on residents since the federal tax plan now allows taxpayers to deduct a total of $10,000 in state and local taxes.

In Washington, Congress is likely to face pressure to find ways to close new loopholes, but Democrats, who were shut out of the process of rewriting the tax code, are unlikely to help Republicans do anything that would harm taxpayers in blue states seeking relief. This will be an especially fraught challenge in a midterm election year and it puts Republicans in the awkward position of trying to regulate state tax systems, despite the party orthodoxy that states know best how to regulate themselves.

“It’s a classic federalism conflict,” said Itai Grinberg, a Georgetown University law professor and former tax policy official at the Treasury Department.

In New Jersey, Mr. Gottheimer came up with the idea for a municipal charitable trust after a bipartisan bill he sponsored with Mr. Lance to save the state and local tax deductions never made it out of committee.

But the hope among all the Democrats involved in developing and promoting the donation idea was that the issue of taxes and helping New Jersey taxpayers would transcend politics.

“This is not partisan,” Mr. Murphy said. “This is a smart versus not smart.”

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