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## **New York Taxpayers Have Four-Day Window to Try to Beat SALT Cap.**

- **IRS move to block workarounds would take effect after Aug. 27**
- **Places like Scarsdale have already created charitable funds**

Some New Yorkers successfully prepaid a portion of their property taxes at the end of last year in a bid to ease the hit from a new federal cap on state and local tax deductions. Those who want to try to lessen the pain this year may just have a few days left before the window closes.

The Internal Revenue Service took an important step on Thursday toward blocking the charitable workarounds high-tax states like New York approved in response to the tax law's \$10,000 limit. But the agency said the regulations take effect after Aug. 27, giving New York taxpayers who have already made donations to charitable funds this year — or can hustle and make them in the next four days — a possible break on their 2018 taxes, according to tax experts.

"I would think you would clearly want to take advantage of it, assuming that the fund is up and running," Howard Wagner, a director in the national tax services group at Crowe, said referring to the four-day window.

The so-called SALT cap limit is one of the most disputed provisions of President Donald Trump's tax law. The overhaul created a \$10,000 limit for state and local tax deductions, a pittance for Northeastern states that have high property taxes. Democratic governors in those states have battled the Republican law's cap, saying they're being unfairly targeted.

While some municipalities had been awaiting IRS guidance before creating funds and accepting donations, others went ahead and established them. In New York, the villages of Rye Brook, Scarsdale, Upper Brookville, Roslyn Harbor, Cove Neck and Matinecock have created charitable trusts, according to Peter Baynes, executive director of the New York State Conference of Mayors and Municipal Officials.

So far in Rye Brook, just six taxpayers donated to the village's charitable fund, even though about 100 people inquired about it, according to Nicholas Mecca, the Receiver of Taxes in the Town of Rye.

New York State has set up a special revenue fund, but there isn't any money in it yet, said Jennifer Freeman, director of communications for New York State Comptroller Thomas DiNapoli. The state's department of taxation and finance has received inquiries from taxpayers interested in making charitable donations for income tax payments and updated its website Friday with details on how to make the donations.

Still, taxpayers should be cautious about contributing to funds before Aug. 27 because the IRS proposal makes it clear that the agency considers its position to be settled law, according to Michael Greenwald, a partner at accounting firm Friedman.

"It is possible that contributions before the effective date will be challenged," Greenwald said.

Brian Streig, a tax director at accounting firm Calhoun, Thomson + Matza said he thinks taxpayers will have a case: "Your rebuttal is that the IRS's reg says Aug. 27 is the effective date," he said. "I think you could win."

After Aug. 27, taxpayers who itemize will only be eligible for a federal deduction that's a small fraction of their charitable donations for property tax payments, according to proposed regulations issued by the Treasury Department on Thursday. The charitable contribution strategies in high-tax states like New York were created so taxpayers would be able to write off the full donation amount from their federal taxes.

The Treasury regulations say taxpayers can receive a federal tax write-off equal to the difference between the state tax credits they get and their charitable donations. That means a New York taxpayer who makes a \$20,000 charitable donation to pay property taxes and receives a \$17,000 state tax credit would only be able to write off \$3,000 on a federal tax bill.

### **Property Tax Prepayments**

Since New York, New Jersey and Connecticut just passed laws this year allowing for charitable contributions, some systems in those states may still not be ready to take payments.

In New Jersey, no county has set one up, and "I'm not aware of any county that is thinking about setting one up at this time," said John Donnadio, executive director of the New Jersey Association of Counties.

Even if one has been set up, there could be practical barriers. Many villages and towns have already collected their 2018 taxes, and residents may have missed their chance to donate. And many homeowners' tax payments are made automatically by banks, so it's not clear those can be adjusted on such short notice.

It isn't the first time municipalities have been caught off guard by the SALT deduction changes. Taxpayers stood in line outside county offices at the end of last year, rushing to prepay their 2018 real estate tax bills in the hopes they could apply it to their 2017 tax return, which allowed for unlimited SALT deductions.

Only those who already had their taxes assessed ended up qualifying for the the additional tax write-off for their 2017 tax bills following IRS guidance on the matter.

Residents of states that have had charitable tax break programs in effect for some time, such as Georgia and South Carolina, that benefit hospitals or schools, will probably have an easier time writing checks before the new rules go into effect, said Steve Rosenthal, a senior fellow at the Urban-Brookings Tax Policy Center.

"The reality is that the red states are further along in setting up their high-percentage credit schemes," said Carl Davis, research director at the Institute on Taxation and Economic Policy. "So it may be easier for folks in red states to rush to claim credits before Aug. 27."

### **'Politically Motivated Regulations'**

It's a short window, but it may be taxpayers only shot, since the proposed rules "completely eliminate the reason to use the SALT deduction cap workarounds," said Jared Walczak, a senior policy analyst at the Tax Foundation.

Earlier this year, New York Governor Andrew Cuomo signed legislation allowing local governments to set up charitable organizations to accept property tax payments. In turn, homeowners receive credits for those donations to offset federal taxable income. New York provides an 85 percent state credit, so under the Treasury rules, only 15 percent of the donation amount would be eligible for a federal tax break.

New Jersey and Connecticut approved similar legislation. One of three California bills to allow taxpayers to make charitable contributions has advanced through its first Assembly committee.

The Treasury rules are likely to be contested by high-tax states.

New Jersey Governor Phil Murphy said Friday that the state will wage a three-front fight by pursuing legal action, considering any possible state legislative remedies and working with the state's congressional delegation.

Cuomo is spearheading a lawsuit by four states, including New Jersey, to have the SALT cap struck down, which legal experts have said has little chance of success.

"The IRS proposed new politically-motivated regulations to block reforms that deliver relief to New York taxpayers," Cuomo said in a statement Friday. "As we take steps to undo this new attack on our state, I want to alert New Yorkers to the Aug. 27 deadline."

## **Bloomberg Wealth**

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