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Local Finance Notice

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Notice Regarding "SALT" Charitable Contribution Law

Beginning with the 2018 income tax year, the federal government's "Tax Reform and Jobs Act of 2017" has limited the maximum annual deduction against federal income tax liability for state and local taxes (SALT) to \$10,000. As a result, many New Jersey property taxpayers are now barred from deducting the full cost of their communities' essential services.

[Senate Bill 1893](#), signed by Governor Murphy on May 4, 2018, authorizes municipalities, counties, and school districts to establish one or more charitable funds, each for specific public purposes, and permits certain donations to those charitable funds to be credited toward the donor's property tax obligation. The law takes effect on July 3, 2018 (the 60th day following enactment) once implementing regulations are adopted by the Department of Community Affairs, Department of Treasury, and other appropriate State agencies.

Charitable Fund Basics

A municipality, county, or school district (referenced collectively as "local units") may establish by ordinance or resolution, as appropriate, one or more charitable funds for specific public purposes. Donations to a charitable fund may be credited toward a person's or entity's annual property tax obligation with respect to the local unit that created the charitable fund, subject to certain limitations. For example, a donation to a municipality's or county's public safety charitable fund could be creditable against a taxpayer's municipal or county purposes tax obligation; a school district charitable fund could be creditable against a taxpayer's school tax obligation.

The fund administrator for the local unit's charitable fund must communicate to the tax collector the amount of the donation and the amount of the credit made available to the donor's taxable parcel or parcels of real

property as a result of the donation. In turn, the donor would be notified of the amount of the available local property tax credit; however, no credit shall issue to any owner of real property who is delinquent in paying their property taxes or other municipal charges.

The ordinance or resolution establishing a charitable fund shall establish an annual cap setting the maximum amount of total donations that can be credited toward a donor's property tax obligation, and limit the amount of money a person or entity may donate to a particular charitable fund, or combination of charitable funds, that would qualify for a local property tax credit against a specific parcel. The annual local property tax credit is capped at 90 percent, unless the Director of the Division of Local Government Services specifies a different percentage.

If a property taxpayer's donation to a charitable fund cannot be credited toward their property taxes the donor could, depending on the circumstances, have the option of transferring the non-creditable donation to either another charitable fund established by the local unit, transferring the donation to a "spillover fund" established to permit donations to be credited toward property taxes in future years, or rescinding the donation.

Subject to implementing regulations, the local unit establishing a charitable fund shall charge donors a limited administrative fee to contribute toward the costs of operating the fund, as well as the administrative fee that may be charged by a municipality to a county or school district for the handling of creditable donations. The portion of a donation meant to cover a charitable fund's administrative fee shall not be deductible from a donor's property tax obligation.

The local unit's charitable fund or funds are to be administered by the individual serving as custodian of public funds for the individual local unit. A charitable fund shall be held in one or more bank accounts in the name of the local unit, and shall be kept separate from the local unit's other accounts. All moneys deposited into the charitable fund are subject to the Governmental Unit Deposit Protection Act or "GUDPA" (N.J.S.A. 17:9-41 et seq.) and shall be immediately available to the local unit.

Conclusion

We understand that municipalities, counties, and school districts will have many questions on how this law is to be implemented. Regulations will need to be promulgated by the Departments of Community Affairs, Treasury, Education and Banking and Insurance, in order to address a variety of issues such as budgeting, tax collection, financial administration, mortgage servicing, and property tax relief programs including Homestead Credit and Senior Freeze. The input of all appropriate stakeholders will be sought during the rulemaking process. Finally, we note that the law's enactment does not guarantee that the Internal Revenue Service (IRS) will consider contributions to local unit charitable funds to be a permitted deduction from a taxpayer's federal income tax obligation.

Approved: Timothy J. Cunningham, Director