

TaxNewsFlash

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Proposed regulations: State and local tax credits and charitable contributions (text of regulations)

The U.S. Treasury Department and IRS today released proposed regulations concerning state and local tax (SALT) credits and charitable contributions.

Under the new U.S. tax law (Pub. L. No. 115-97, enacted December 22, 2017), in the case of an individual taxpayer, itemized deductions for state and local income taxes, state and local property taxes, and sales taxes are limited to \$10,000 in the aggregate (not indexed for inflation). This cap does not apply to personal or real property taxes incurred in carrying on a trade or business or otherwise incurred for the production of income.

Some states have acted or have proposed to provide relief to their residents affected by the repeal of the uncapped state and local tax (SALT) deduction.

Treasury and the IRS today issued proposed regulations (REG-112176-18) as guidance concerning the SALT deduction cap provisions under the new tax law and their interaction with claims for charitable contribution deductions. Read the [proposed regulations](#) [PDF 262 KB]

The preamble to the proposed regulations provides:

After reviewing the issue, and in light of the long standing principles of the cases and tax regulations ... the Treasury Department and the IRS believe that when a taxpayer receives or expects to receive a state or local tax credit in return for a payment or transfer to an entity listed in section 170(c), the receipt of this tax benefit constitutes a quid pro quo that may preclude a full deduction under section 170(a). In applying section 170 and the quid pro quo doctrine, the Treasury Department and the IRS do not believe it is appropriate to categorically exempt state or local tax benefits from the normal rules that apply to other benefits received by a taxpayer in exchange for a contribution. Thus, the Treasury

Department and the IRS believe that the amount otherwise deductible as a charitable contribution must generally be reduced by the amount of the state or local tax credit received or expected to be received, just as it is reduced for many other benefits. Accordingly, the Treasury Department and the IRS propose regulations proposing to amend existing regulations under section 170 to clarify this general requirement, to provide for a de minimis exception from the general rule, and to make other conforming amendments.

The purpose of this report is to provide text of the proposed regulations. Initial impressions about these regulations will be provided in a future report by KPMG LLP.

According to a related IRS release ([IR-2018-172](#)), under the proposed regulations, taxpayers who make payments or transfer property to an entity eligible to receive tax deductible contributions must reduce their charitable deduction by the amount of any state or local tax credit the taxpayers receive or expect to receive. For example, if a state grants a 70% state tax credit and the taxpayer pays \$1,000 to an eligible entity, the taxpayer receives a \$700 state tax credit. The taxpayer must reduce the \$1,000 contribution by the \$700 state tax credit, leaving an allowable contribution deduction of \$300 on the taxpayer's federal income tax return.

The proposed regulations also apply to payments made by trusts or decedents' estates in determining the amount of their contribution deduction.

The proposed regulations provide exceptions for dollar-for-dollar state tax deductions and for tax credits of no more than 15% of the payment amount or of the fair market value of the property transferred. A taxpayer who makes a \$1,000 contribution to an eligible entity is not required to reduce the \$1,000 deduction on the taxpayer's federal income tax return if the state or local tax credit received or expected to be received is no more than \$150.

Treasury and IRS have asked for comments about these proposed regulations.

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