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Final Regulations on Charitable Contributions and State and Local Tax Credits

IR-2019-109

WASHINGTON — The U.S. Department of the Treasury and the Internal Revenue Service today issued final regulations that require taxpayers to reduce their charitable contribution deductions by the amount of any state or local tax credits they receive or expect to receive in return. In a notice also issued today, the IRS stated that taxpayers may treat payments they make in exchange for these credits as state or local tax payments. This allows some taxpayers to deduct certain of the payments as taxes.

[Treasury Decision 9864](#), available today in the Federal Register, finalizes [proposed regulations](#) published Aug. 27, 2018, that were designed to clarify the relationship between state and local tax credits and the federal tax rules for charitable contribution deductions. The Treasury Department and the IRS issued the Treasury Decision after carefully reviewing the more than 7,700 written comments received during the comment period and 25 comments made at the November 2018 public hearing. About 70 percent of the comments recommended adopting the proposed regulations without change.

The final regulations, which apply to contributions made after Aug. 27, 2018, and are effective on Aug. 12, 2019, largely adopt the rules in the proposed regulations. Under the final regulations, a taxpayer making payments to an entity eligible to receive tax-deductible contributions must reduce the federal charitable contribution deduction by the amount of any state or local tax credit that the taxpayer receives or expects to receive in return. The regulations also apply to payments made by trusts or decedents' estates in determining the amount of their charitable contribution deductions.

For example, if a state grants a 70 percent state tax credit pursuant to a state tax credit program, and an itemizing taxpayer contributes \$1,000 pursuant to that program, the taxpayer receives a \$700 state tax credit. A taxpayer who itemizes deductions must reduce the \$1,000 federal charitable contribution deduction by the \$700 state tax credit, leaving a federal charitable contribution deduction of \$300.

The regulations provide exceptions for dollar-for-dollar state tax deductions and for tax credits of no more than 15 percent of the amount transferred. Thus, a taxpayer who receives a state tax deduction of \$1,000 for a contribution of \$1,000 is not required to reduce the federal charitable contribution deduction to take into account the state tax deduction; and a taxpayer who makes a \$1,000 contribution is not required to reduce the \$1,000 federal charitable contribution deduction if the state or local tax credit received or expected to be received is no more than \$150.

The IRS also posted a notice ([Notice 2019-12](#)) providing a safe harbor that allows an individual who itemizes deductions to treat, in certain circumstances, payments that are or will be disallowed as charitable contribution deductions under the final regulations as state or local taxes for federal income tax purposes. Eligible taxpayers can use the safe harbor to determine their state and local tax (SALT) deduction on their tax-year 2018 return. Those who have already filed may be able to claim a greater SALT deduction by filing an amended return, [Form 1040X](#), if they have not already claimed the \$10,000 maximum amount (\$5,000 if married filing separately).

The Treasury Department and the IRS continue to consider issuing future guidance on a number of issues raised by commenters.

Updates on the implementation of the Tax Cuts and Jobs Act (TCJA) can be found on the [Tax Reform page](#) of IRS.gov.