



**NEW
YORK
STATE**

**EXCELSIOR
EVER UPWARD**



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FOCUS: LOCAL CHARITABLE FUNDS

OVERVIEW

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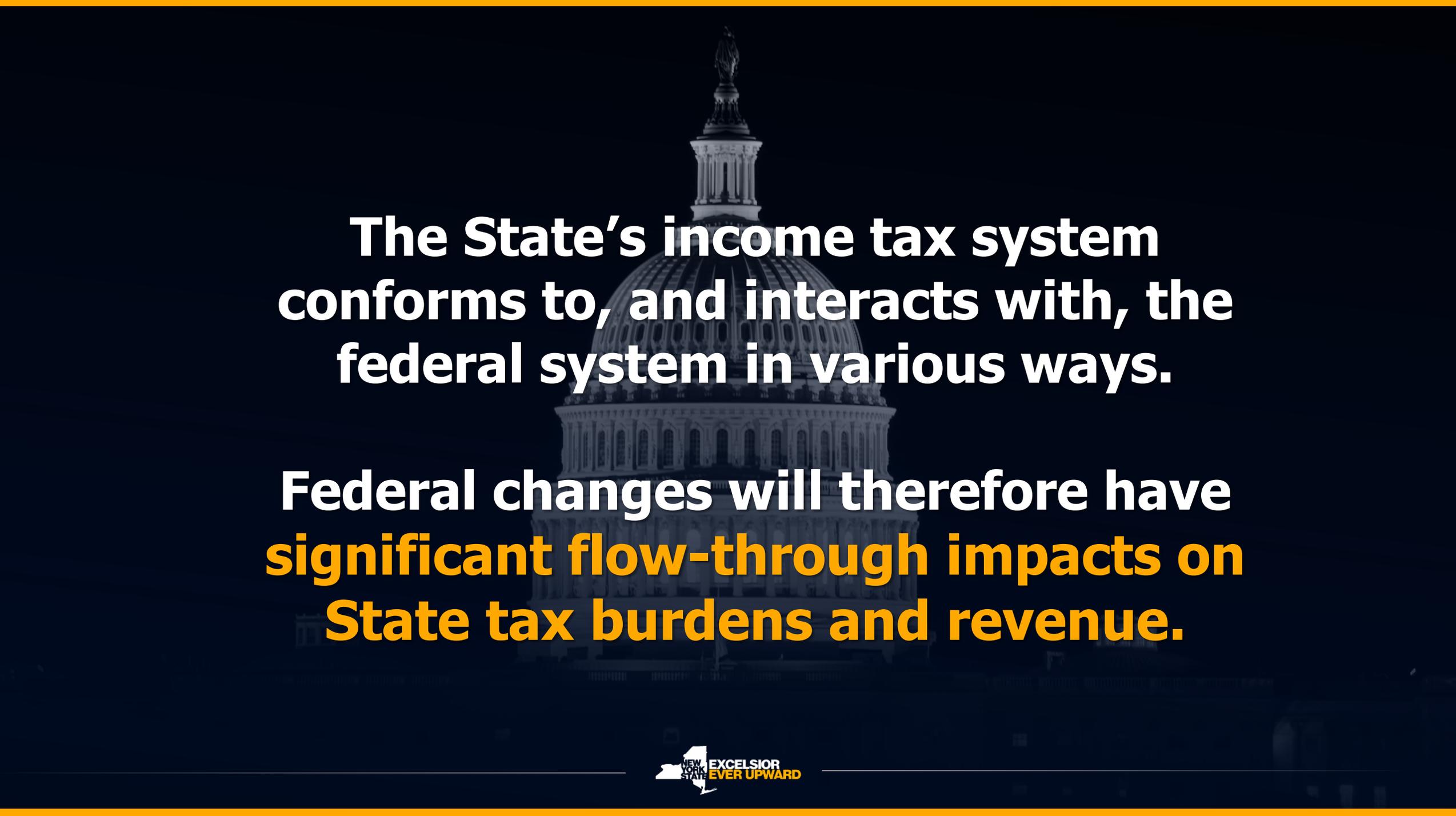
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FOCUS: LOCAL CHARITABLE FUNDS



The State's income tax system conforms to, and interacts with, the federal system in various ways.

Federal changes will therefore have significant flow-through impacts on State tax burdens and revenue.

The background of the slide features a grayscale image of the New York State Capitol dome, centered and slightly faded. The dome is a large, ornate structure with a prominent central spire topped by a statue. The text is overlaid on this background.

The new Federal tax law limits the deductibility of State and Local Taxes (SALT) by imposing a new \$10,000 cap.

This new limit will hurt New York and New Yorkers.

FACT

**New York contributes more to the Federal government than any other state:
net \$48B each year.**

SALT limits come at a significant cost.

The loss of full SALT deductibility alone is estimated to cost New York an additional **\$14.3 billion this year.**

Source: NYS DTF



SALT limits impact ALL New Yorkers.

The average SALT burden is over \$10,000 in **52** of New York's **62** counties.

Statewide, average SALT totals **\$22,168**
– more than *twice* the \$10,000 cap.

SALT limits impact ALL New Yorkers.

Home values in many New York counties could drop by as much as **10%**.

Along with New Jersey, this is the **largest impact of any state.**

Source: Moody's



SALT limits hit New Yorkers the hardest.

Of all states, New York has the largest percentage of taxpayers getting a **tax hike**.

New York represents 7.3% of the pre-cut tax base, but we're only getting 5.1% of the cuts—by far the **worst relative share** of any state.

Source: ITEP



SALT limits risk making NYS less competitive.

This makes NYS a relatively **more expensive** place to live, effectively increasing state and local taxes.

This may encourage high-income New Yorkers to move to other states – which has the potential to **meaningfully impact state and local revenues.**

SALT limits threaten critical programs.

By shrinking the State and local tax base, SALT limits may **jeopardize funding** for programs that millions of New Yorkers depend on every day, including School Aid and Medicaid.

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NEW YORK STATE'S RESPONSE

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January – Department of Taxation and Finance Issues Preliminary Report

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February – Governor Proposes Reforms in Executive Budget

3

March – Proposals Enacted as Part of State Budget on Bipartisan Basis

RESTRUCTURE OUR TAX CODE

The FY 2019 Budget enacted measures to protect state and local tax deductibility:

- Decoupling
- Employer Compensation Expense Program
- State Charitable Contributions
- Local Charitable Contributions

On August 23, 2018, the IRS proposed regulations on charitable contributions and state and local tax credits.

RESTRUCTURE OUR TAX CODE

Decouple from Federal Tax Law

DECOUPLE FROM FEDERAL TAX LAW

- Absent legislative action, individual taxpayers would see State taxes go up as a result of the Federal law.
- The Budget protects taxpayers from these increases:
 - Decouple from the Federal \$10,000 cap on SALT (\$441M).
 - Decouple from other Federal deduction changes (\$269M).
 - Decouple to maintain the State single filer standard deduction (\$840M).
- Together, these measures will avoid more than **\$1.5B** in State tax increases brought solely by changes to Federal taxes.

RESTRUCTURE OUR TAX CODE

**Establish a New Employer
Compensation Expense Program**

EMPLOYER COMPENSATION EXPENSE PROGRAM

- **While Federal law limits deductions for individuals, employer-side taxes on payroll remain deductible:**
 - **Employers pay new Employer Compensation Expense Tax on payroll**
 - **Employees receive a tax cut on their wages via new tax credit**
- **This measure provides employers with the opportunity to reduce their employees' Federal taxes—while keeping overall business expenses and State revenues unchanged.**

EMPLOYER COMPENSATION EXPENSE PROGRAM

- Employers can opt-in, annually, with the first enrollment deadline December 1, 2018.
- Those who do are subject to a 5% tax on all annual payroll expenses in excess of \$40,000 per employee.
- Employees receive a tax cut corresponding to the value of the payroll tax on their wages via new tax credit, to ensure no decline in take-home pay.
- The program is phased in over three years beginning on January 1, 2019.
- The Department of Tax and Finance issued [guidance](#) on July 3, 2018.

RESTRUCTURE OUR TAX CODE

**Promote State Charitable Contributions
to Benefit New Yorkers**

STATE CHARITABLE FUNDS

- **Legislation creates two new State-administered Charitable Contribution Funds to accept donations to fund health care and education programs.**
- **Taxpayers who itemize deductions could claim these charitable contributions as deductions on their Federal and State tax returns.**
- **Any taxpayer making a donation could also claim a State tax credit equal to 85 percent of the donation amount for the tax year after the donation is made.**

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LOCAL CHARITABLE FUNDS

- **The legislation authorizes school districts and local governments to create charitable funds for public education and charitable purposes, respectively.**
- **School districts and local governments are also authorized to provide a local property tax credit equal to up to 95% of the donation.**
- **Taxpayers with more than \$10,000 SALT who itemize their deductions could see a reduction in federal tax liability.**

LOCAL CHARITABLE FUNDS GUIDANCE

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ESTABLISH A FUND

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AUTHORIZE A CREDIT

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ADMINISTER THE FUND

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ADMINISTER THE CREDIT

ESTABLISH A FUND

- **To establish a fund to accept charitable contributions, local governments and school districts must enact a local law or resolution.**
- **Donations received in these funds are to be used for charitable purposes.**
 - For school districts, this must be public educational purposes.
- **Funds are governmental entities.**
- **Donations must be unrestricted – meaning that the donor may not place any restrictions upon the use of donated funds.**

AUTHORIZE A CREDIT

Local governments and school districts are authorized to establish a property tax credit for those who donate to these charitable funds.

Local governments must enact a local law

School districts must adopt a resolution

AUTHORIZE A CREDIT

- **The maximum value of the property tax credit is 95% of the value of the contribution.**
 - A local government or school district may choose to further limit the amount or percentage of the credit allowed in any given fiscal year.
- **When taxes are collected by another jurisdiction, the collecting officer must be given a copy of the local law or resolution.**

ADMINISTER THE FUND

- **When a local government or school district receives a donation to the fund, the fund administrator must provide an acknowledgement of the donation.**
- **The Department of Taxation and Finance has developed a form that will be used to acknowledge the contributions, which includes:**
 - Amount of the contribution
 - Name and address of the donor
 - Day the contribution was received
 - Statement that no goods or services were provided in exchange for the donation, and
 - Signature of the local government/school district fund administrator or agent
- **The local government/school district shall ensure that the donor does not receive any goods or services in exchange for the donation**

ADMINISTER THE CREDIT

- **To claim a credit, the property taxpayer must present the following to the collecting officer for the local government or school:**
 - Donation acknowledgment form presented by the local charitable fund to the taxpayer upon receipt of the donation
 - Credit claim form (also provided by the Department of Tax and Finance) which will include:
 - The name of the property owners
 - The day and amount of contributions made to the fund
 - The address of the property to which the credit claim relates

ADMINISTER THE CREDIT

- **The collecting officer for the local government or school district will then give a credit to the taxpayer to the extent authorized by the local government or school district.**
 - This will reduce the tax liability, but may not exceed the total property taxes due.
 - If property taxes are paid in installments, any excess will be applied to future installments owed for that year.
- **Property owners who claim the credit after the taxes are paid can receive the credit as a refund of taxes paid by presenting the paperwork to the local government or school district chief fiscal officer or their designee.**
- **Alternatively, a local government may adopt a local law or a school district may adopt a resolution allowing for the issuance of tax bills that reflect any credits that are claimed before the tax warrant is issued or before such other date as specified in the local law/resolution.**
 - When the taxes for the local government or school district are collected by a collecting officer employed by a different local government or school district, the governing body of the local government/school district that employs the collecting officer must also adopt a resolution agreeing to implement such tax bill.

ADMINISTER THE CREDIT

- Donations received in the 12-month period prior to the last date that taxes may be paid without interest or penalties are eligible for a tax credit for those taxes.

Example #1

If local property taxes are due on 1/31/19 for 2019 property taxes, then donations made from 2/1/18-1/31/19 would be eligible for a tax credit on those 2019 taxes.

Example #2

If school district property taxes are due on 9/30/19, then donations made from 10/1/18-9/30/19 would be eligible for a tax credit for those 2019 taxes.

ADMINISTER THE FUND

- The funds must be deposited and secured consistent with the requirements that govern the administration of other local funds, as prescribed by GML §10.
 - The funds may be invested like other local funds, with any interest or gains from the investments accruing to the charitable fund, pursuant to GML §11.
 - Local governments and school districts are authorized to transfer funds from the charitable fund to either the general fund or another fund of the local government, for spending consistent with the charitable purposes of the fund.
-
- These funds will not impact the property tax cap.

SUMMARY

- 1. Local government or school district establishes charitable fund and tax credit**
 - Shares information with tax collecting officers
- 2. Residents donate to the charitable fund before taxes are due w/o interest or penalty**
 - Fund administrator provides Acknowledgment of Contribution form
- 3. Residents claim credit by submitting Acknowledgment of Contribution and Credit Claim forms**
- 4. Local governments can transfer funds to general fund for spending consistent with the charitable purposes of the fund**

QUESTIONS?

Local government or school district officials with questions can email LocalCharitableContributions@ny.gov.

This guidance is designed to outline key aspects of the statute. It does not represent legal or tax advice. It is recommended that taxpayers consult a qualified tax advisor regarding their personal situation.



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