



# GMS Flash Alert



2019-102 | June 13, 2019

## United States - Final Regulations: Treasury Shuts Down SALT Deduction Work-Arounds

On June 11, 2019, the U.S. Treasury Department (Treasury) and the Internal Revenue Service (IRS) released for publication in the Federal Register final regulations<sup>1</sup> regarding the availability of charitable contribution deductions when a taxpayer receives or expects to receive a corresponding state or local tax credit. The IRS also released an advance version of Notice 2019-12,<sup>2</sup> which provides for a safe harbor allowing 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.

### WHY THIS MATTERS

The 2017 U.S. tax reform legislation,<sup>3</sup> commonly referred to as the “Tax Cuts and Jobs Act,” imposed a \$10,000 limit on the aggregate amount of state and local income or sales tax and state and local property tax that an individual taxpayer may claim as an itemized deduction. In response, some states acted or proposed to create tax credit programs that would provide relief to their residents affected by the state and local tax (SALT) deduction limitation by providing a state tax credit for certain charitable contributions that would otherwise be deductible on an individual’s federal income tax return. These regulations effectively put a stop to the tax benefit of any existing state tax credit programs for individuals with SALT above the deduction limitation.

### Final Regulations

In response to state efforts to develop work-arounds to the 2017 U.S. tax law’s limitation on the SALT deduction, the Treasury and IRS issued proposed regulations<sup>4</sup> providing rules on the availability of charitable contribution deductions when a taxpayer receives or expects to receive in return a state or local tax credit. According to the preamble, the final regulations, which apply to contributions made after August 27, 2018, generally retain the approach set out 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. 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.

## Notice 2019-12

Notice 2019-12 provides 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 SALT deduction on their 2018 returns. 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).

## FOOTNOTES:

- 1 See: [T.D. 9864](#). For another KPMG LLP (U.S.) report on this development, see *TaxNewsFlash-United States* (no. [2019-298](#), June 11, 2019) "Final Regulations: State and Local Tax Credits and Charitable Contributions (Text of Regulations)."
- 2 See: [Notice 2019-12](#).
- 3 See: [Pub. L. No. 115-97](#).
- 4 See: [REG-112176-18](#).

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## We Invite You to Attend our "Future of Global Mobility Technology" Webcast

Blockchain has emerged as a way to streamline business processes and connect data across multiple systems and organizations. On Tuesday, June 25, in this Webcast, GMS professionals will discuss how blockchain is changing global mobility by automating manual processes and providing greater data transparency and access.

**When: June 25, 2019, 2:00 pm (GMT -5)**

**CPE Credit: 1**

**Register to attend: [click here](#).**

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