Final Rule on SALT and State Tax Credit Programs

According to Treasury Decision 9864 (published June 13, 2019), taxpayers may not claim as federal charitable deductions the portion of donations that generate state or local tax (SALT) credits. The restriction applies to donations made to both nonprofits run by governmental entities as well as charitable nonprofits operated independent of government.

In a concession to critics of earlier draft regulations, the final rule includes a safe harbor provision that allows federal taxpayers to still deduct the value of the tax credit as payment of SALT, but only up to the $10,000 cap on SALT deductions enacted in the 2017 federal tax law.

Thus, federal taxpayers with state and local tax bills less than $10,000 will still be able to deduct the full value of these donations that are encouraged by tax credits, albeit through two separate lines on the federal tax form – for state and local taxes and for charitable donations.

Those paying state and local taxes in excess of $10,000 will no longer be able to deduct the value of the tax credits.

In a Nutshell:

- The final rule limits the federal tax deduction for certain charitable giving programs encouraged by state and local governments via tax credits.
- Individual taxpayers may claim a charitable deduction for only the amount of their donation that exceeds the value of any state or local tax credit. For example, a $1,000 donation that allows the taxpayer to claim a state tax credit of $400 (40%) may only be counted as a $600 charitable contribution for federal tax purposes.
- It doesn't matter whether the recipient of the donation is a nonprofit run by a governmental entity or one operated independent of government, as is the case with most charitable nonprofits. But, …
- A safe harbor provision, added after the initial draft was proposed, clarifies that individual taxpayers may still claim the value of the tax credit ($400 in the above example) as an itemized deduction for state and local taxes paid, up to the capped amount of $10,000. Taxpayers who pay state and local taxes higher than the cap get no federal tax benefit for the value of the tax credit and may question the utility of contributing to programs at nonprofits that generate tax credits. Here's another example: if someone donates $30,000 to a charter school in a state that offers a 50 percent state tax credit, the donor could deduct half as a charitable donation ($15,000), but could claim no more than $10,000 as a state and local tax deduction (and probably much less).
- The final rule does have limitations. It does not apply to dollar-for-dollar state tax ***deductions*** for donations to nonprofits, nor to programs that generate a tax credit of 15 percent or less. The rule only applies to donations by individuals; it does not apply to corporate donations, which are treated more favorably (see IRS Rev. Proc. 2019-12).
- None of this matters from a tax perspective to individual taxpayers claiming the **standard deduction**; they receive no federal tax benefit from making increased donations to charitable nonprofits and thus are not affected by how donations are listed on Schedule A of the tax form.

Additional Resources:

- Contributions in Exchange for State or Local Tax Credits, Final Rule, Internal Revenue Service, June 11, 2019.
- Final IRS Rules Leave State Few Options for Evading the SALT Cap, *Governing*, June 13, 2019.

- Treasury issues final rules to block blue-state workarounds to SALT deduction cap, *The Hill*, June 11, 2019.