



**Department
of State**



**Department of
Taxation and Finance**

Charitable Contributions to Local Governments and School Districts Guidance

May 16, 2018

Executive Summary

The FY 2019 State Budget authorizes local governments and school districts to establish charitable gift reserve funds and to offer real property tax credits to incentivize contributions to these new local charitable funds. Under the law, which took effect on April 12, 2018, such funds may receive unrestricted charitable contributions for the purposes of addressing education and other charitable purposes. This is an optional program available to counties, cities, towns, villages, and school districts. Key aspects of this program are listed below.

- Local governments and school districts may establish a fund to accept voluntary unrestricted charitable contributions.
- Donations received in these funds are to be used for charitable purposes. For school districts, these must be used by the district for public educational purposes.
- Local governments and school districts are also authorized, by local law for local governments and by resolution for school districts, to establish a property tax credit for those who donate to these charitable funds.
- The maximum value of the property tax credit is 95 percent of the value of the contribution. A local government or school district may choose to further limit the amount or percentage of such credit to be allowed in any given fiscal year.
- To be eligible for the property tax credit, the donation must be received in the 12-month period prior to the last day prescribed by law that taxes may be paid without interest or penalties.
- The Department of Taxation and Finance has developed forms to be used by local governments and school districts to acknowledge receipt of the donation as well as for the property tax payer to claim the credit.

It is important to note that this program is different from a similar program enacted with the FY 2019 State Budget allowing charitable donations to the State. These donations to the State and any related state income tax credit associated with them are separate and distinct from the optional local government/school district charitable contribution fund and property tax credit program outlined in this guidance. Further information on the State program will be forthcoming.

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.

Establishment, Administration, and Uses of Charitable Funds

This section of the guidance outlines:

- how school districts and local governments can establish charitable funds;
- how school districts and local governments are to administer these funds, including acknowledging receipt of donations; and
- how the contributions received in these funds can be used.

Establishment of Charitable Fund – School Districts

School districts outside of New York City are authorized to establish, by resolution of their school board, a charitable fund to receive unrestricted charitable monetary donations for use by the district for public educational purposes. This authority is granted in subdivision 44 of section 1604 and subdivision 12-b of section 1709 of the Education Law.

These donations must be “unrestricted” – meaning that the donor may not place any special restriction upon the use of donated funds. School districts may only use these funds for the general purposes enumerated in the statute – “public educational purposes.”

This fund is a public governmental fund, and the monies in this fund are to be deposited and secured like other school district funds, pursuant to section 10 of the General Municipal Law. These funds may be invested like other funds established by the school district, pursuant to section 11 of the General Municipal Law, with any interest or gains from the investments accruing to the charitable fund. The school district is to maintain an accounting of all deposits, interest or capital gain, transfers and expenditures.

The New York City School District is also authorized, pursuant to subdivision 54 of section 2590-h of the Education Law, to establish a charitable fund to receive unrestricted charitable monetary donations for use by the district for public educational purposes. Although the framework on how the fund will operate is generally consistent with other school districts (e.g., depositing and investing consistent with General Municipal Law), given the different governance structure in New York City, the Chancellor will determine whether to establish the fund.

Charitable Fund Uses – School Districts

School districts are to use donations received by the fund for “public educational purposes.” At the school board’s (or Chancellor’s for the New York City School District) discretion, funds shall be transferred from the charitable fund to the general fund for spending consistent with the charitable purposes of the fund. The amount of taxes to be

levied by the school district for any school year shall be determined without regard to the transfer.

The creation of these charitable contribution funds and the use of resources from these funds will not impact the calculation of the property tax cap.

Establishment of Charitable Fund – Counties, Cities, Towns, and Villages

The governing boards of counties, cities (including New York City), towns, and villages are authorized to establish a charitable gifts reserve fund to receive unrestricted charitable monetary contributions. This authority is granted in section 6-t (counties and New York City) and section 6-u (all other cities, towns, and villages) in the General Municipal Law.

These donations must be “unrestricted” – meaning that the donor may not place any special restriction upon the use of donated funds. Local governments are to use these resources on charitable purposes that they deem appropriate.

This fund is a public governmental fund, and the monies in this fund are to be deposited and secured like other local government funds, pursuant to section 10 of the General Municipal Law. These funds may be invested like other funds established by the local government, pursuant to section 11 of the General Municipal Law, with any interest or gains from the investments accruing to the charitable fund.

The governing board shall establish a procedure for contributions to the charitable gifts reserve fund, which shall include the provision of a written acknowledgement of the gift to the contributor. The Department of Taxation and Finance has developed this [written acknowledgement form](#), as discussed below.

Charitable Fund Uses – Counties, Cities, Towns, and Villages

Counties, cities, towns, and villages are to use donations received by the fund for “charitable purposes.”

The governing board of all counties, cities, towns, and villages has the flexibility to transfer funds from the charitable gifts reserve fund to the general fund or other fund of the local government whenever appropriate so that funds may be used for charitable purposes. For counties and New York City, in addition to any other transfers from the charitable gifts reserve fund made throughout the year, the governing board shall transfer these funds to the general fund or other fund of the local government within 60 days of the close of a fiscal year.

The creation of these charitable contribution funds and the use of resources from these funds will not impact the calculation of the property tax cap.

Acknowledgement of Donation to the Charitable Fund

When a local government/school district receives a donation to the charitable contribution fund, the administrator of the fund or the fund's designated agent shall provide an acknowledgement in duplicate of the donation using the [acknowledgement form](#) prescribed by the Department of Taxation and Finance. This form specifies:

- the amount of the contribution,
- the name and address of the donor,
- the day the contribution was received,
- a statement that no goods or services were provided in exchange for the donation, and
- the signature of the local government/school district administrator of the fund.

If a taxpayer wishes to receive a real property tax credit for their contribution, they must present this completed [acknowledgement form](#) and a [credit claim form](#) to the local government/school district property tax collecting officer, as outlined below. The local government/school district shall ensure that the donor does not receive any goods or services in exchange for the donation.

Establishment and Administration of Real Property Tax Credit for Donations to Charitable Funds

This section of the guidance outlines:

- how school districts and local governments can authorize a real property tax credit for contributions to their charitable funds, including how they can alter the value of the credit; and
- how taxpayers can claim the credit, including the timing of donations and applying for a refund of the credit once taxes have been paid.

Authorizing Real Property Tax Credits for Contributions to Charitable Funds

If a local government or a school district has established a charitable contribution fund, it is authorized to establish a real property tax credit for contributions to the fund. To authorize the real property tax credit, a local government must adopt a local law and a school district must adopt a resolution. This authority is granted in section 980-a of the Real Property Tax Law.

The amount of the credit cannot exceed 95 percent of the contribution to the charitable contribution fund. A local government/school district may further limit the value of the credit, by amount or by percentage of contribution, through local law (local governments) or resolution (school districts). After adoption, this lower limit may be adjusted or repealed, but the changes can only apply prospectively – to fiscal years after the current fiscal year.

To the extent that contributions to the fund exceed the value of the credits provided, it would be fiscally prudent to not expend these excess resources until a sufficient time has passed to ensure that all credits are fully claimed and refunded, as discussed below.

To ensure that the credit can be properly administered, the local government/school district must provide a copy of any such local law/resolution to the collecting officer who collects the taxes of the local government/school district.

Eligibility for Tax Credit – Timing and Ownership

Donations received in the 12-month period prior to the last day prescribed by law that taxes may be paid without interest or penalties are eligible for a tax credit in that year.

For example, if local government property taxes are due on January 31, 2019 for the 2019 property tax bill, then donations made from February 1, 2018 through January 31, 2019 would be eligible for a tax credit on the 2019 local government property tax bill. If school district property taxes are due on September 30, 2019, then donations made

from October 1, 2018 through September 30, 2019 would be eligible for a tax credit on the 2019 school district property tax bill.

- If taxes are payable in installments, the 12-month period ends on the last day prescribed by law on which the first installment of such taxes may be paid without interest or penalties.
- For the “Big 5” school districts (i.e., New York City, Buffalo, Rochester, Syracuse, and Yonkers), the 12-month period ends on the last day prescribed by law on which city taxes may be paid without interest or penalties, or if applicable, on the last day prescribed by law on which the first installment of such taxes may be paid without interest or penalties.
- This 12-month period is to be determined regardless of the possibility that the last day on which taxes may be paid without interest or penalties may be extended due to a delay in the first publication of the collecting officer’s notice or due to an executive order issued in connection with a state disaster emergency.

In order to be eligible for a tax credit for a given property, the donations must come from an owner of the property.

Claiming the Credit

Along with the donation acknowledgement form received from the local government/school district when the donation was made, the property taxpayer is to submit a credit claim form to the collecting officer for the local government/school district on or before the last day on which taxes may be paid without interest or penalties. The [credit claim form](#) has been developed by the Department of Taxation and Finance and includes:

- the name of the property owners,
- the day and amount of contributions made to the charitable account during that year, and
- the address of the property to which the credit claim relates.

The collecting officer for the local government/school district will then give a credit to the taxpayer equal to 95 percent of the contribution, or such lower amount as may be prescribed by the local government/school district. This will reduce the tax liability on the parcel accordingly, but may not exceed the property taxes due to that local government/school district. If property taxes are paid in installments, any excess will be applied to future installments owed for that year.

Refund of Credit After Taxes Paid

If a property owner fails to present the acknowledgement of donation form and the credit claim form to the collecting officer on or before the last day on which taxes may be paid without interest or penalties, the property owner may present these forms to the local government/school district chief fiscal officer/chief financial officer or their designee and receive a refund of property taxes in the amount of the credit.

This refund is not eligible for any interest payments from the local government provided if the local government pays the refund within 45 days of the receipt of the donation form and credit claim form. This request for a refund may be submitted at any time during the three-year period beginning immediately after the last day on which taxes may be paid without interest or penalties.

Issuance of Tax Bills Reflecting Credits

In addition to the processes for claiming the credit and receiving a refund of taxes described above, 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. However, 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 reductions.

Mortgage Escrow Adjustments

The Department of Financial Services, in consultation with the Department of Taxation and Finance, will promulgate regulations related to the adjustment of mortgage escrow accounts to reflect these tax credits.

State Income Tax Itemization

The amount of the itemized deduction with respect to the taxes paid on a property that may be claimed by a taxpayer on state income taxes is to be reduced by the amount of the credit received.

Contact Information

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

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