

BLOCKING THE TAX-SAVING OPTION

New rules thwart NY's fix for D.C.'s tax change policy

BY MICHAEL GORMLEY
michael.gormley@newsday.com

ALBANY — High-income New Yorkers on Long Island and in Westchester paying some of the nation's highest property taxes face little hope of avoiding higher federal tax bills next spring, experts said.

The Trump administration recently created rules that confound the Cuomo administration's attempt to outmaneuver a federal tax change that limits to \$10,000 the amount of state and local taxes that can be deducted in federal tax returns.

The Treasury Department recently announced rules that create a disincentive for attempts to get around the tax law. For example, if a state — as New York has proposed — gives a taxpayer a credit for the amount of donations to a state charitable entity he or she makes above the \$10,000 limit, then the federal government won't allow a charitable deduction for the full \$10,000 on federal tax returns. Instead, the federal government will recognize only the amount not covered by the state charitable deduction.

"The Treasury rule would stop the use of charities as a way of making state and local taxes deductible," said Alan J. Auerbach, professor of economics and law at the University of California at Berkeley. "I'm not a lawyer, so I can't professionally assess the likelihood that state lawsuits will prevail, but my sense is that the states will lose on this."

Moody's Investors Service issued a report Tuesday that said



Gov. Cuomo says the Trump administration has violated the Constitution's "equal protection" clause.

the IRS countermeasure limits the ability of states like New York to circumvent the federal cap on deductibility of state and local taxes. "But options remain," Moody's said, citing New Jersey's plan to increase its state deduction on local property taxes to \$15,000, from \$10,000, which could lower state tax revenues.

Under the federal tax law agreed to by President Donald Trump and the Republican Congress, the federal government will limit that deduction to \$10,000 worth of state and local taxes. That means New Yorkers who pay more than \$10,000 on property taxes and state income taxes cannot deduct the amount over \$10,000.

New York State is suing the Trump administration over its

tax law. Gov. Andrew M. Cuomo claims Trump is targeting Democrat-led states that didn't add to his Electoral College count in the 2016 presidential election. Cuomo alleges Trump has violated the "equal protection" clause of the U.S. Constitution that requires the federal government to treat all states the same.

Cuomo and the State Legislature had adopted two methods in April to try to get around that limit: Allowing New Yorkers to pay some state taxes through charities created for the task and a voluntary payroll tax. The option can only be used for state income taxes because the state has set up charitable entities for the plan. In order to do the same thing for, say, property taxes, school districts and county and local governments

would have to set up their own charitable entities. Few appear to have done so, although there is no comprehensive list of school districts and local governments that have.

Under the charitable deduction option, a New Yorker could make contributions to special state charitable entities devoted to health care and education equal to his or her state income tax liability over \$10,000. The charitable donation would have to cover whatever the person owes in state income tax debt plus an additional amount that would be large enough so that the state does not lose revenue by providing the tax credit.

New Yorkers would benefit this tax year because the deductibility of the donation on state taxes could help offset the

loss of federal deductibility.

Here is how it would have worked under that option, according to the state.

Say a New Yorker makes a \$1,000 contribution to the state's charity above what he or she owes in state income taxes. That is revenue to the state, even though it's no longer income tax revenue.

For the taxpayer, the \$1,000 contribution lowers his or her taxable income and so reduces his or her state 2018 tax bill by \$100, based on a formula in the state tax code to encourage charitable giving. Then the state provides a tax credit in 2019 to the taxpayer worth 85 percent of the 2018 charitable contribution. That would further lower the taxpayer's 2019 taxable income by \$850. In total, the taxpayer lowers his or her taxable income by \$950 for donating \$1,000 to the state charitable entities. That leaves the taxpayer out a net of \$50, which remains with the state.

But the taxpayer would then be able to collect a typical 25 percent federal tax deduction for the \$1,000 contribution. That would result in a \$250 savings on his or her federal income taxes.

How the system would work in 2020 is uncertain, and Cuomo officials say they will continue to fight the federal tax change.

Cuomo's plan also allows employees and their employers to create a payroll tax through which workers could pay their traditional state income taxes. Under the option, workers would have the same take-home pay, but would reduce their federal taxable income. That is because payments that a New Yorker makes into a payroll tax would be fully deductible under federal tax law. That would avoid the loss of deductibility of state income tax payments over \$10,000.

NYPD cop from LI resigns after her arrest

An NYPD officer from Long Island who was caught shoplifting and found to have a needle with heroin residue on it has resigned from her job, police said Tuesday.

Suffolk police said they ar-

rested Toniann Puglissi, 30, of Franklin Square on Aug. 16 after she stole more than \$350 worth of unspecified goods from a Stop & Shop in Ronkonkoma.

Puglissi was charged with petty larceny and criminal pos-

session of a controlled substance in the seventh degree because she had the needle in her possession, police said. Puglissi faces up to a year in jail on each charge, said a spokeswoman for the Suffolk County

district attorney's office.

Puglissi was released after police issued a desk appearance ticket, ordering her to come to First District Court in Central Islip on Nov. 13 to answer the charges levied against

her. She could not be reached on Tuesday for comment.

A spokeswoman for the NYPD said Puglissi had been suspended without pay after her arrest and resigned on Monday. — CHAU LAM