

Taxes mired in confusion

Unclear if grants for Suffolk sewers trigger IRS debt

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Suffolk County Comptroller John Kennedy has asked the Internal Revenue Service to rule on whether homeowners will have to pay federal taxes on grants for septic system upgrades, but he won't rescind tax forms already sent to homeowners, according to a letter delivered to lawmakers last week.

Kennedy argued to the IRS that residents should not have to include the grant in their gross income when calculating taxes, according to the letter to the IRS dated March 21, and sent April 2 to the county's Ways and Means Committee.

Earlier, Kennedy defended sending the tax forms, known as 1099s, to residents who received grants of \$10,000 to \$20,000 to install nitrogen-removing wastewater systems. He said a legal opinion obtained by County Executive Steve Bellone's administration in 2018 that said tax forms should go to contractors who received checks, rather than to homeowners, was insufficient.

Homeowners are complaining they had not expected to pay thousands of dollars more in taxes on the grants. Some residents and installers have said they both had paid taxes on the same grants, and advocates said the program was under threat.

Kennedy, in a letter to Ways and Means Chair Bridget Fleming (D-Noyac), said his department issued almost 6,000 tax forms last year for various programs. "I have the utmost confidence in the Departments' legal and accounting principles in determining the correct filing of information returns with the IRS," Kennedy wrote to Fleming, who along with the committee had requested information from him.

Kennedy wrote that until the IRS has issued a "private letter ruling," he had to issue the 1099 forms to homeowners "or risk potentially millions of dollars in penalty for intentionally failing to report to the IRS."

Fleming, at a hearing Thursday, said that "ironically,"



1099 tax forms suggest septic system grants should be included in gross income — though Suffolk is still awaiting an IRS ruling.

Kennedy's arguments to the IRS cited cases the outside tax counsel, Harris Beach, had used.

"This has already created significant damage to taxpayers in Suffolk County, to the tune of thousands of dollars" for homeowners, Fleming said at the legislative hearing. She said the confusion had threatened the future of the program, and that Kennedy should rescind the tax forms until the IRS rules.

Deputy County Executive Peter Scully said: "It appears that the comptroller is now arguing to the IRS that homeowners should not be taxed, which is good news. What he should do now is rescind the 1099s issued to homeowners immediately, so that they can file their income taxes without having to worry about the possibility that the grants will be taxed."

Kennedy's office did not return requests for comment.

It was unclear how long it will take the IRS to issue a ruling. IRS spokesman Bruce Friedland said times vary, but "typically, it takes several months."

Kennedy said in the letter to county lawmakers that he was asking Long Island's congress-

sional delegation to intervene with the IRS to expedite its ruling and waive any IRS fee for the ruling, which could be as much as \$30,000.

Kennedy, in his letter to Fleming, said that on April 30, 2018, Chief Deputy Comptroller Louis Necroto, a certified public accountant, sent a letter to Bellone's staff, asking them to seek a formal IRS opinion on the matter, known as a "private letter ruling."

"Absent the IRS ruling, Audit & Control is left no option other than to file form 1099-G, as required, for information reporting or risk potentially millions of dollars in penalty for intentionally failing to report to the IRS," Kennedy wrote in the April 2 letter.

"Until such ruling by the IRS is rendered, my office will continue to issue 1099-G as required relating to the SIP program."

The comptroller's office said the county issued 34 grants totaling \$332,000 in 2018.

Scully said 12 homeowners who received grants from the state reimbursing them for prior costs were properly issued 1099 forms.

The comptroller's letter to the IRS argued the county does not need to issue a tax form to homeowners because they don't have complete control over the systems.

"We believe the grant funding should not be includable in the income of the grant recipient," according to the letter to the IRS.

The county's septic improvement program, funded by \$10 million from the county over five years and \$10 million in state grants, is the start of an ambitious effort to replace tens of thousands of residential septic systems and cesspools. Unsewered homes have been blamed for nitrogen that can damage wetlands and feed algal blooms, hurting shellfish stocks and sea grass.

Kennedy, a Republican, and Bellone, a Democrat, are to face each other in November's election for county executive.

Environmental groups are pushing a ballot referendum to raise \$70 million a year for wastewater projects through either a water fee or property tax. Half of that money would be earmarked for grants to help homeowners offset the costs of the nitrogen-re-

ducing systems, which cost on average \$20,000 to install.

Kevin McDonald, policy coordinator for The Nature Conservancy, Long Island chapter, said having an easy grant program for homeowners is key.

"The only way we get the reduction in nutrients and cleaner water is having the smoothest running program possible," McDonald said at Thursday's hearing. He said those who have received grant funding are confused about what to do on this year's federal taxes due April 15.

Three Suffolk residents approved for up to \$20,000 in septic system replacement grants have backed out of the program, and another dozen residents have withdrawn their applications because of the possibility they'll have to pay taxes on the grants, according to the county.

"Right now, we're sitting on the sidelines to see how it plays out," said Leslie Hall, 62, of Middle Island, who was approved for a \$10,000 state grant and \$10,000 county grant. He has told installers to hold off until it's clear whether he has to pay taxes on the grants.