

LFN 2018-23

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Local Finance Notice

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Implementation of SALT Charitable Contribution Law (P.L. 2018, c. 11)

[P.L. 2018, c.11](#), signed by Governor Murphy on May 4, 2018, authorizes municipalities, counties, and school districts to establish one or more charitable funds for specific public purposes. The law permits 90% of a property taxpayer's charitable fund donation to be credited toward the donor's property tax obligation, subject to certain limitations.

The Director of the Division of Local Government Services ("Director") has adopted regulations implementing a municipality's and county's ability to establish charitable funds, along with the process of applying creditable donations towards a donor's property tax obligation. This Notice discusses Division regulations [N.J.A.C. 5:30-18.1](#) through [18.16](#), [5:33-1.6](#), [5:33-1.9](#) and [5:33-4.5](#), and their impact on local governments and school districts.

Establishing a Municipal or County Charitable Fund

A municipality may establish by ordinance, and a county may establish by resolution or ordinance as appropriate to the form of government, one or more charitable funds for one or more of the following specific public purposes permitted under [N.J.A.C. 5:30-18.2](#):

- Public Safety
- Capital Improvement
- Public Works
- Public Health
- Social Services
- Housing and Code Enforcement
- Redevelopment and Economic Development
- Recreation
- Open Space
- Public Library
- The operation, management or administration of other services with the approval of the Director

Each municipality or county creating a charitable fund shall provide the Division of Local Government Services with a copy of the adopted ordinance or resolution within five days of adoption.

Allocation of charitable donations to budget appropriations will correspond with the Flexible Chart of Accounts (FCOA) budget codes, but may also be used toward the proportion of generalized appropriations, such as pension, health benefits, and workers' compensation, attributable to the specific purpose or purposes of the charitable fund.

A charitable fund dedicated to the purpose of public safety may be utilized for expenses relating to police, fire, emergency medical services, first aid squads, office of emergency management, 911 and dispatch, and lifeguards; as well as volunteer fire and emergency medical services. A county may also provide funding to its sheriff's office and county prosecutor's office through a public safety charitable fund.

A charitable fund dedicated to the purpose of public works may be utilized for the routine maintenance of infrastructure and public facilities, including, but not limited to trash and/or recycling collection, within the municipality or county.

A charitable fund dedicated to the purpose of capital improvement may be utilized for any construction, reconstruction, demolition, or alteration work which has a useful life of at least five years, along with the payment of any debt service connected with same. Such a fund may also be utilized for any acquisition and/or development of land; acquisition of major equipment, furniture, or other personal property; acquisition, construction, improvement and/or renovation of buildings, roads, utilities, structure improvements or public works; or any other matter described in N.J.S.A. 40A:2-22, with an expected useful life of five years or more and a prospective individual or (when added to the cost of other such items as are listed below) cumulative cost in any year of \$25,000 or more, regardless of the financing sources. A capital improvement charitable fund may be only used for items appropriated in the budget.

A public library or open space charitable fund may be utilized for the same purposes as funds raised through a library tax or open space tax. Creditable donations made for said purposes shall be applied only against the municipality's or county's open space tax or library tax, respectively.

Multiple specific purposes may be incorporated into a single charitable fund, and multiple charitable funds may be established by a single ordinance or resolution. A model resolution and model ordinance for establishing a charitable fund can be found on the [Division's website](#). For a municipal or county charitable fund with multiple purposes, a donor cannot restrict their donation to select purposes of the fund. When a municipality or county has multiple charitable funds, a donor donating to multiple funds must donate to each fund separately. A charitable fund may not be established for a public purpose that is solely funded by revenues other than municipal or county property taxes.

Please note that a county and/or school district can establish a charitable fund without independent approval from the municipality that will be applying the property tax credit.

Limitations on Amount of Property Tax Credit

Prior to the beginning of each budget year, the governing body of a local unit that has established a charitable trust fund shall establish an annual property tax credit cap for each charitable fund for the upcoming budget year based on the prior year certified levy; except that for 2018, the governing body may use the final 2018 levy to establish a property tax credit cap no later than the date on which each charitable fund begins to accept donations. Starting in 2019, counties, and municipalities with calendar year budgets, may amend a charitable fund's annual property tax credit cap upon certification of a current-year tax levy. The annual property tax credit cap does not limit all donations to the charitable fund; but rather the cap only limits the dollar amount of credits that can be applied toward annual property tax bills.

The annual property tax credit cap for the subsequent budget year for all local unit charitable funds shall be calculated as follows:

RELEVANT DEFINITIONS

(Total Local Unit Budget) x 85% = Maximum Cumulative Credit Eligible Donation Cap (absent DLGS Director waiver)

Total Tax Levy in current budget year = Functional Cap on Credit Eligible Charitable Fund Donations, (this number cannot exceed the 85% cap)

FORMULAE

Total Tax Levy /Total Local Unit Budget = percentage of any appropriation raised by the levy ("A")

Appropriation for specific purpose(s) enumerated in charitable fund x A%= Cap on Credit Eligible Donations to that Charitable Fund ("B")

B x 90% = Annual Property Tax Credit Cap for Donations to that Charitable Fund

Please note that the "total budget" excludes separate budgets such as library and open space.

For example, if a municipality with a charitable fund dedicated only to public safety has a \$10 million annual budget, with a municipal purposes tax levy of \$5 million and total appropriations toward public safety (including pension and health benefits) of \$2,000,000:

$$\$5,000,000/\$10,000,000 = 50\% \text{ (well within the 85\% total cap)}$$

$$\$2,000,000 \times 50\% = \$1,000,000 \text{ (Cap on Credit Eligible Donations to that Charitable Fund)}$$

$$\$1,000,000 \times 90\% = \$900,000 \text{ (Annual Property Tax Credit Cap for Donations to that Charitable Fund)}$$

A municipality, county, or school district may apply to the Director to increase the 85% Maximum Cumulative Credit Eligible Donation Cap by which the total tax levy is multiplied, or deviate from the 90% Annual Property Tax Credit Cap for Donations to that Charitable Fund

The municipal, county, or school purposes levy will generally be the levy used in calculating the Maximum Cumulative Credit Eligible Donation Cap. For those appropriations funded by separate tax levies (e.g. library, open space), the separate levy shall be utilized and measured against the separate budget. Municipalities with calendar year budgets, along with counties, may amend their Maximum Cumulative Credit Eligible Donation Cap and the resulting charitable fund annual property tax credit caps to reflect the certified current year tax levy starting in 2019.

The governing body of a local unit shall also establish an individual credit-eligible donation cap for each charitable fund, which sets the maximum dollar amount or percentage in credit that an individual person or entity may receive toward their property taxes in a given year. As with the annual property tax credit, the individual credit-eligible donation cap shall not be construed to limit all donations to the charitable fund. Rather, the cap only limits the amount of donations that are credit-eligible in relation to property tax payments.

No more than ninety percent (90%) of an individual donation may be credited toward a donor's property tax obligation. For example, if a donor seeks to donate \$10,000 to a municipal charitable fund, the donor can only receive a credit of \$9,000 and must write a separate check of \$1,000 towards their property taxes. **In the above-referenced example, [recently proposed Internal Revenue Service \(IRS\) regulations](#) would limit to \$1,000 the amount that a donor could claim as a charitable deduction on their federal income taxes. The proposed IRS regulations would allow the donor to claim the full donation as a charitable deduction only if the property tax credit is 15% or less of the donation amount. Although it is uncertain whether or not the IRS will adopt its proposed regulations as written, or whether the IRS's regulations could withstand a legal challenge, the Division's regulations allow donors to opt instead for 15% of their donation to be credited against property taxes (rather than 90%). The Director is authorized to promulgate another alternate percentage through a future Local Finance Notice.**

A municipal or county charitable fund shall utilize the remaining non-creditable balance of the donation, and all other donations not transferred to a spillover fund, for the specific purpose(s) of the charitable fund and the cost of administering the fund. The non-creditable portion utilized for a charitable fund's specific purpose shall be either 1) recorded as a "Chapter 159" special item of revenue and transferred into the general fund dedicated to the charitable fund's specific purpose(s); or 2) brought into the following year's budget as a revenue for the specific purpose, which shall be spent on the specific purpose in that budget year and not permitted to lapse into surplus. The non-creditable portion utilized for a charitable fund's administrative costs shall be recorded as Municipal Revenue Not Anticipated (MRNA), except that in subsequent years, historical use can be relied upon to record such revenue as miscellaneous revenue.

With respect to municipal and county budgeting, charitable fund proceeds shall be placed into a dedicated trust fund that pursuant to [N.J.A.C. 5:30-18.3](#) does not have independent spending authority (unlike a standard "dedication by rider").

Spillover Fund

A municipality, county, or school district may also establish a separate spillover fund in the event the amount of the donation exceeds the amount that can be credited toward the individual donor's property tax obligation. This could occur when the annual property tax credit cap or individual credit-eligible donation cap is exceeded. Creditable donations carried over into a spillover fund shall be applied to consecutive annual property tax bills until exhausted; except that donations in a spillover fund shall not be credited against more than five (5) consecutive annual property tax bills issued for a specific parcel; any funds remaining after the 5 years shall be refunded to the donor. Approved uses of a spillover fund include, but are not limited to, the payment of debt service, funding of capital reserves, the reserve for uncollected taxes, emergency expenses, and operating expenses generally. The approved uses of a spillover fund shall be set forth in the ordinance establishing the spillover fund.

Each municipality or county charitable fund, and spillover fund if any, shall have its own dedicated bank account, which shall be with a depository subject to the Governmental Unit Deposit Protection Act (N.J.S.A. 17:9-41 et seq.). The bank account shall be in the name of the municipality or county establishing the charitable fund.

Donations to a municipal or county spillover fund shall be utilized solely in the budget year corresponding to the year in which the taxpayer will receive the credit. The purpose of this requirement is to prevent the spillover fund from facilitating *de facto* borrowing against future anticipated revenues.

The creation of a charitable contribution fund and, if any, a spillover fund shall not impact a municipality or county's property tax levy cap calculation.

Deadline for Application of Charitable Fund Contributions

On an annual basis, the municipal governing body shall adopt a resolution setting the deadline by which municipal, county, and school district creditable donations must be reported to the tax collector to apply to the next upcoming annual property tax bill. The municipal governing body has the sole discretion to permit charitable fund donations to be credited against annual property tax bills that have already been issued; in this case, the governing body shall adopt an annual resolution setting a deadline by which creditable donations must be reported to the tax collector in order to apply to the next upcoming quarterly property tax installment.

The deadline for crediting property tax installments shall be no earlier than one (1) month prior to the installment due date (except in 2018 which may be sooner), regardless of whether the municipality has established a grace period. Donations reported after the deadline set by the municipal governing body must be applied to the property tax bill issued for the following year or the next quarterly due date, as applicable.

Administration of a Municipal or County Charitable Fund

The chief financial officer (CFO) shall be the administrator of a municipal or county charitable fund and spillover fund. Responsibilities of the CFO that pertain to administering a charitable fund shall include, but are not necessarily limited to:

- Disbursement of funds donated to charitable funds (including corresponding spillover funds) in accordance with their specified public purposes.
- Investing donated funds pursuant to the municipal or county cash management plan, so long as the investments do not interfere with the ability to use donated funds for their specified public purpose.
- Ensuring compliance with applicable State regulations governing accounting, budgeting, and financial administration.

Charitable funds may not be jointly administered. However, a county or school district may enter into a shared services agreement with a municipality to have its charitable fund contributions collected and processed by the tax collector's office, and in turn deposited into the bank account of the county's or school district's charitable fund or spillover fund. Any amount charged by the municipality to provide the service shall come out of the non-creditable portion of a charitable fund donation to a county or school district; this amount is over and above the up to 2% (of the creditable portion of the donation) that a municipality can charge a county or school district for the process of crediting charitable fund donations against donor property tax bills. The bank accounts for the county's or school district's charitable funds and any associated spillover funds shall be kept in one of the municipality's depositories.

Intake of Charitable Fund Donations; Crediting Donations against Property Taxes

Any person or entity may donate to a charitable fund, regardless of whether the donor seeks a credit toward their property tax obligation. If the donor seeks a credit against their municipal or county property tax obligation, the donor must provide the following information to the charitable fund:

- The donor's name, mailing address, e-mail address, and telephone number;
- Name of the charitable fund or funds donated to;
- For each charitable fund:
 - Total amount of the contribution;
 - Creditable amount of the contribution (i.e. 90% or 15% of the total contribution amount) and, if the donor seeks a credit against multiple parcels within the municipality, the amounts that the donor seeks to credit against each parcel;
 - Block, lot, qualifier, and property address of each parcel for which the donor seeks property tax credit, along with a copy of the most recent tax bill (or advice copy thereof) for each parcel;
 - The annual tax bill and, if applicable the quarter or quarters, against which the credit should be applied;

- The disposition of the balance of a creditable donation in excess of the amount which can be credited against the annual property tax bill.
- If the donation is being funded from the donor's mortgage escrow, the contact information of the mortgagee, servicing organization, or property tax processing organization that will be making the charitable fund donation on behalf of the donor.

In order for a charitable donation to be credited toward property taxes, the donation must come from the property owner(s) or their agents. The donor shall not be delinquent on their payment of property taxes or municipal charges to the municipality applying the credit, and must certify to same; a "delinquent property" includes a property that has had delinquent property taxes and/or municipal charges purchased by a lienholder at a tax sale. The municipality or county shall not make any representations to a donor or prospective donor concerning how the Internal Revenue Service (IRS) may treat donations made to a charitable fund; donors must also sign a statement acknowledging that the municipality or county makes no such representations concerning how the IRS may treat donations made to a charitable fund. A model donor information form will be made available on the Division's website.

Please note that, at minimum, a donor must also provide the above-referenced information to a school district's charitable fund to facilitate application of the property tax credit by the municipal tax collector.

At the discretion of the municipality or county, the donor may make a donation in the form of cash, money order, check (including personal check), automated clearing house (ACH) transfer, wire transfer, credit card or debit card. Donors may not place any additional restrictions on the use of creditable charitable fund contributions.

Circumstances when Maximum Creditable Amount is Met; Refunds of Charitable Donations

The donor shall provide written authorization for either of the following options when an otherwise creditable donation to a municipal or county charitable fund exceeds the amount that can be credited toward the donor's annual property tax bill:

- 1) Refund the excess portion of the donation.

Example (Donation is 90% creditable): Donation to municipal charitable fund is \$10,000. Donor, who owns one property in the municipality, can only receive property tax credit of \$5,000 before reaching the annual property tax credit cap. After learning this, the donor now only wants to donate whatever sum will allow a property tax credit of \$5,000. As 90% of \$5555.56 is \$5,000 ($\$5,000 \div (90 \div 100) = \$5,555.555$ rounded up to \$5,555.56), under this scenario, the donor would receive a \$4,444.44 refund ($\$10,000 - \$5,555.56 = 4,444.44$). The donor's remaining property tax obligation must be satisfied in a separate payment to the municipality.

Example (Donation is 15% creditable): Donation to municipal charitable fund is \$10,000. Donor, who owns one property in the municipality, can only receive property

tax credit of \$1,000 before reaching the annual property tax credit cap. After learning this, the donor now only wants to donate whatever sum will allow a property tax credit of \$1,000. As 15% of \$6,666.67 is \$1,000 rounded to the nearest cent ($\$1,000 \div (15 \div 100) = \$6,666.666$ rounded up to \$6,666.67), under this scenario, the donor would receive a refund of \$3,333.33 ($\$10,000 - \$6,666.67 = \$3,333.33$). The donor's remaining property tax obligation must be satisfied in a separate payment to the municipality.

- 2) Authorize transfer of the balance of the donation to another charitable fund within the local entity, if one exists. Donor shall provide instructions on how to apply the balance to multiple parcels, if any.

Example (Donation is 90% creditable): The municipality has two charitable funds, one dedicated to public safety and the other to capital improvements. The donor, who owns one property in the municipality, wants to make a donation to the public safety charitable fund in the amount of \$10,000; of which \$9,000 (90%) would be creditable toward property taxes. With respect to the public safety charitable fund, the donor can only receive property tax credit of \$5,000 before reaching the charitable fund's annual property tax credit cap. The donor may authorize \$4,000 of the remaining donation balance to be deposited into the municipality's capital improvement charitable fund. The remaining non-creditable \$1,000 donation balance, split between the two charitable funds, can be utilized for the specific purposes of either charitable fund and administrative costs associated with both funds. The donor's remaining property tax obligation must be satisfied in a separate payment to the municipality.

Example (Donation is 15% creditable): The municipality has two charitable funds, one dedicated to public safety and the other to capital improvements. The donor, who owns one property in the municipality, wants to make a donation to the public safety charitable fund in the amount of \$10,000; of which \$1,500 (15%) would be creditable toward property taxes. With respect to the public safety charitable fund, the donor can only receive property tax credit of \$750 before reaching the charitable fund's annual property tax credit cap. The donor may authorize \$750 of the remaining donation balance to be deposited into the municipality's capital improvement charitable fund. The remaining non-creditable \$8,500 balance, split between the two charitable funds, can be utilized for the specific purposes of either charitable fund and administrative costs associated with both funds. The donor's remaining property tax obligation must be satisfied in a separate payment to the municipality.

- 3) Authorize the transfer of the balance of the donation to a spillover fund, if one exists.

Example (Donation is 90% creditable): Donation to a municipal public safety charitable fund is \$10,000, of which \$9,000 (90%) would be creditable toward property taxes. The donor, who owns one property in the municipality, can only receive property tax credit of \$5,000 before reaching the annual property tax credit cap. The donor may authorize the \$4,000 balance of the creditable portion of the donation to be carried over into the municipality's spillover fund to be credited toward

the donor's subsequent property tax bill. The remaining non-creditable \$1,000 balance can be utilized for the specific purposes of the charitable fund and administrative costs associated with the fund. The donor's remaining property tax obligation must be satisfied in a separate payment to the municipality.

Example (Donation is 15% creditable): Donation to a municipal public safety charitable fund is \$10,000, of which \$1,500 (15%) would be creditable toward property taxes. The donor, who owns one property in the municipality, can only receive property tax credit of \$1,000 before reaching the annual property tax credit cap. The donor may authorize the \$500 balance of the creditable portion of the donation to be carried over into the municipality's spillover fund to be credited toward the donor's subsequent property tax bill. The remaining non-creditable \$8,500 balance can be utilized for the specific purposes of the charitable fund and administrative costs associated with the fund. The donor's remaining property tax obligation must be satisfied in a separate payment to the municipality.

- 4) Allow the charitable fund to retain the non-creditable portion of the donation.

Example (Donation is 90% creditable): Donation to a municipal public safety charitable fund is \$10,000, of which \$9,000 (90%) would be creditable toward property taxes. The donor, who owns one property in the municipality, can only receive property tax credit of \$5,000 before reaching the annual property tax credit cap. The municipality does not have a spillover fund. Donor elects to allow the public safety charitable fund to retain the balance notwithstanding the inability to receive property tax credit. Under this scenario, the non-creditable \$5,000 balance can be utilized for the specific purposes of the charitable fund and administrative costs associated with the fund. The donor's remaining property tax obligation must be satisfied in a separate payment to the municipality.

Example (Donation is 15% creditable): Donation to a municipal public safety charitable fund is \$10,000, of which \$1,500 (15%) would be creditable toward property taxes. The donor, who owns one property in the municipality, can only receive property tax credit of \$1,000 before reaching the annual property tax credit cap. The municipality does not have a spillover fund. Donor elects to allow the public safety charitable fund to retain the balance notwithstanding the inability to receive property tax credit. Under this scenario, the non-creditable \$9,000 balance can be utilized for the specific purposes of the charitable fund and administrative costs associated with the fund. The donor's remaining property tax obligation must be satisfied in a separate payment to the municipality.

Should the tax collector find that the donor's property tax credit should be adjusted downward: the donor may elect any of the above-referenced options with respect to the amount deemed non-creditable.

If an otherwise creditable donation cannot be applied to a donor's property tax obligation due to the donor being delinquent in the payment of their property taxes or other municipal

charges: the donor shall have at least 10 business days to seek a refund. If the donor does not make such a request within the required timeframe, the entirety of the donation shall be refunded to the donor minus ten percent (which may be used for the specific purposes of the fund and for administrative costs associated with the fund).

Outside of the above-referenced circumstances, all creditable charitable contributions are final and shall not be refunded to the donor, including those deposited into a spillover fund. A credit from one parcel cannot be transferred to another parcel after the credit has been applied.

Any municipal or county refund of a charitable donation to a donor shall be authorized pursuant to existing procedures for authorizing payment of claims. If a municipality has authorized pursuant to N.J.S.A. 40A:5-17.1 an employee to process property tax refunds of less than \$10.00 without requiring further governing body action, any refund of a charitable contribution less than \$10.00 may be similarly authorized.

If the municipality permits charitable fund donations to be credited against an annual property tax bill that has already been issued, and the donation exceeds the amount which can be credited against a quarterly installment, the remaining creditable balance shall be credited against the next subsequent quarterly installment.

Receipt to Donor from Charitable Fund

A municipal or county charitable fund must provide the donor with a receipt that contains the following information:

- 1) Name and mailing address of the donor,
- 2) Total amount of the charitable contribution,
- 3) The charitable fund or funds to which the donation was made,
- 4) Date on which the contribution was made and, if applicable, the date which the contribution cleared (e.g. contribution by check or ACH);
- 5) Block, lot, qualifier, and property address of each parcel located in the local unit for which the donor seeks a credit against the annual property tax obligation;
- 6) Amount of the donation which is creditable against the donor's annual property tax obligation;
- 7) A statement that no goods or services were provided in exchange for the donation;
- 8) A statement that the municipality or county makes no representations with respect to IRS treatment of the donation;
- 9) If a portion of the charitable donation gets deposited into a spillover fund, the receipt should expressly state this, along with the amount deposited and the block, lot, qualifier, and property address of each parcel to which the proceeds deposited into the spillover fund will be credited in subsequent annual property tax bills.

A municipality or county may elect, at the donor's request, to provide a summary receipt that excludes Items #5, 6, , and 9. In practice, if the donor makes a donation that requires a time period in which to clear, issuance of the donor's receipt would be delayed until the transaction has

cleared. A model donor charitable fund and spillover fund receipt, as well as summary receipt, will be made available on the Division's website.

Application of Charitable Fund Contribution; Crediting toward Donor Property Tax Obligation

In circumstances where the CFO (or equivalent in the case of a school district) will directly process charitable fund donations, the donation shall be reported to the tax collector within five (5) business days unless a differing time period or arrangement is decided (e.g., periodic batch upload). The local unit charitable fund shall provide the tax collector with the information provided by the donor, along with a copy of the donor's tax bill (or advice copy). A county or school district that directly processes charitable fund contributions shall have sufficient access to the municipality's property tax records to ensure donors are not delinquent in their property taxes or other municipal charges.

Although the CFO (or equivalent in the case of a school district) is charged with administering a local unit's charitable fund, in practice, the donor may be interacting solely with the tax collector's office. A county or school district and the municipality crediting the donation may enter into a shared services agreement under which the municipality processes county or school district charitable fund donations and deposits same into a county or school district charitable fund bank accounts, provided those bank accounts are with the municipality's depository. Any payment to a municipality under such an agreement shall come from the non-creditable portion of a donation to a county or school district charitable fund, and shall be over and above the up to 2% the municipality is entitled to for defraying tax collector-related administrative costs (which likewise must be sourced from the non-creditable portion of the donation).

The tax collector shall apply the credit to the donor's annual property tax obligation upon confirming that the donor is not delinquent on property taxes and/or municipal charges. If the tax collector applies the credit to an annual property tax bill that has yet to be issued, the amount of the credit shall appear on the bill.

For credits applied to tax bills that have already been issued, the credit shall be included on an electronic or paper statement to the donor. The statement issued to the donor by the tax collector must contain, at minimum, the following information:

- Donor name and address;
- Total contribution amount;
- Date on which the contribution was made and, if applicable, date on which the contribution cleared;
- Total creditable portion of the contribution against either the annual tax bill or the quarterly installment thereof and, if the donor sought credit against multiple parcels within the municipality, the amounts credited against each parcel;
- Block, lot, qualifier, and property address of each parcel located within the local unit for which credit has been applied against the annual property tax obligation;

Any donation deposited into a spillover fund for credit against a donor's future annual property tax obligation shall be reported in its entirety to the tax collector and the municipal CFO.

Once county and school district charitable contributions are credited toward the donor's annual property tax bill, the municipal CFO shall enter the creditable donation as a debit against the county or school district tax levy, and as a credit against property taxes receivable. The county or school district shall reduce the amount of tax dollars sought from the municipality in proportion to the property tax credits applied in the municipality.

The tax collector shall incorporate all charitable fund contributions into the monthly report made to the chief financial officer.

Mortgage Escrow Account Transactions

Scenario #1 - Donor with mortgaged property makes donation directly to charitable fund: The credited amount of the donation shall be reported by the tax collector to the bank, mortgage company, servicing organization, or property tax processing organization (hereinafter collectively referred to as "mortgage company"). If the mortgage company makes a property tax payment toward the credited amount, said payment shall be refunded by the municipality to the mortgage company.

Scenario #2 - Donor with mortgaged property elects to have portion of escrow paid to a local unit charitable fund in lieu of property taxes: When the mortgage company sends the "tapes" to the tax collector each quarter, the mortgage company must provide the charitable fund with the same information that a donor must provide to the charitable fund, except for a copy of the tax bill; the mortgage company must also provide the following information in connection with each charitable fund donation:

- Name of property owner
- Address of property
- Contact information of mortgagee
- Property block, lot, and qualifier
- Mortgagee's legal interest in the property
- Payment amount
- Amount of payment made to the charitable fund(s), along with the name of the local unit(s) associated with said charitable funds
- The portion of the charitable fund donation creditable toward the property tax obligation

Approved: Melanie R. Walter, Acting Director

Document	Internet Address
P.L. 2018, c.11	http://www.njleg.state.nj.us/2018/Bills/PL18/11_.PDF
Model Ordinance & Resolution	https://www.nj.gov/dca/divisions/dlgs/resources/misc_publications.html

APPENDIX A
Steps to Creating a Charitable Fund (Municipalities & Counties)

1. Select one or more permitted public purposes which the charitable fund will benefit;
2. Identify line items and/or portions thereof attributable to the purpose(s);
3. Enact an ordinance (for counties either an ordinance or resolution, as appropriate) establishing the charitable fund. The ordinance shall:
 - a. Set forth the specific public purposes of the fund;
 - b. Establish cap on the amount of charitable fund donations creditable toward annual property tax bill;
 - c. Establish annual property tax credit cap and individual credit-eligible donation cap (revise annually based on budget);
 - d. Create a spillover fund, if desired, along with the purposes for which the spillover fund may be utilized. Create a separate account for the spillover fund;
4. Municipalities – establish by resolution deadline by which municipal, county, and school district creditable donations must be reported to the tax collector in order to be applied to the next upcoming annual property tax bill. If the municipality permits donations a municipal, county, and school district charitable fund to be applied to a tax bill already issued, the resolution must also set a reporting deadline in advance of the installment due date;
5. Send copy of adopted ordinance or resolution to the Division of Local Government Services within five days of adoption. Counties (and school districts) should also notify the municipality;
6. Open bank account for the charitable fund; open separate bank account for spillover fund if one exists;
7. Set forth acceptable payment methods for donors;
8. For municipalities, establish an up to 2% administrative fee for tax collector application of credits attributable to county and school district charitable fund donations;
9. Counties (and school districts) with charitable funds may enter into shared services agreement to have tax collector handle “front end” charitable contribution intake
 - a. Any additional compensation to municipality under the shared services agreement would be over and above the above-referenced 2% administrative fee.
 - b. If utilizing a shared services agreement, the county (or school district) must utilize the municipality’s depository for the charitable fund account.

APPENDIX B
Hypothetical Charitable Contribution Scenario

Mr. and Mrs. Taxpayer own a home and pay \$30,000 annually in property taxes. The municipality, county, and school district all have charitable funds. The “Tax Reform and Jobs Act of 2017” limits to \$10,000 the amount the Taxpayers can deduct from their Federal income tax. Their questions are as follows:

- 1) The taxpayers propose to donate \$10,000 toward their municipality’s public safety charitable trust fund. Do the Taxpayers receive the full 100% credit for their contribution of \$10,000? If not, how much credit do they receive?

Answer: If the Taxpayers make a donation of \$10,000, the Taxpayers’ municipal purposes property tax obligation will be credited 90% (\$9,000), assuming no other limitations come into play (e.g. annual property tax credit cap, individual creditable donation cap). The remaining \$1,000 would be paid as a separate property tax payment to the municipality. Given the proposed IRS regulations, if the Taxpayers elect to have their donation credited only 15%, their property tax obligation would be credited \$1,500 with the remaining \$8,500 paid as a separate property tax payment to the municipality.

- 2) Can the Taxpayers opt to satisfy their full \$30,000 annual property tax responsibility by donating \$30,000 to their municipality’s public safety charitable trust fund?

Answer: No. Assuming no other limitations come into play (e.g. annual property tax credit cap, individual creditable donation cap), the maximum credit the Taxpayers would receive against their total property tax obligation for that \$30,000 contribution is \$27,000 (90% of \$30,000). In this example, the Taxpayers would need to make a separate \$3,000 property tax payment to the municipality. Please note that the maximum allowable percentage of a property tax bill that is creditable (the “individual credit-eligible donation cap”) shall be established in the local unit ordinance or resolution establishing the Fund.

APPENDIX C – FREQUENTLY ASKED QUESTIONS

- 1. Will the IRS permit taxpayers to claim property tax-creditable charitable fund contributions made pursuant to P.L. 2018, c. 11 as charitable deductions on their federal income tax returns?**

The Division of Local Government Services makes no representations with respect to how the IRS will treat property tax creditable-contributions to a charitable fund.

- 2. Will the full-amount of the donation be creditable against property taxes?**

No, only 90% of a charitable fund contribution (or 15% if the donor so opts) can be credited toward a donor's property tax obligation.

- 3. Does each charitable fund need to be a registered 501(c)3?**

No, because a municipality, county, and school district are inherently non-profit entities.

- 4. What impact would the operation of a charitable fund have on calculating a municipality's Reserve for Uncollected Taxes (RUT)?**

There would be no impact. Property tax credits applied from charitable fund donations are considered equivalent to property tax payments for purposes of calculating the RUT.

- 5. What happens if a taxpayer makes a charitable contribution that is credited against property taxes, and that taxpayer receives a tax appeal refund? Would utilizing the assessment calendar used by Monmouth and Gloucester Counties have an impact?**

There will be no impact on the way tax appeal refunds are handled because the municipality makes the school and county whole in either case. This would also be the case for the assessment calendar currently used in Monmouth and Gloucester Counties.

- 6. Does the governing body need to adopt a resolution or ordinance opting out of creating a charitable fund?**

No. The process of establishing a charitable fund is purely "opt-in" and voluntary on the part of a municipality, county, or school district.

- 7. If the municipality authorizes charitable fund contribution tax credits to be applied towards property tax bills that have already been issued, and the municipality has established a grace period, is the contribution reporting deadline still measured against the installment due date?**

Yes. The deadline for reporting the charitable contribution shall be at least one month prior to the original installment due date, except in 2018 which may be sooner.

8. If a local unit wishes to establish a spillover fund, and the local unit has multiple charitable funds, would each charitable fund require a corresponding spillover fund?

No, a local unit would create a single spillover fund. The proceeds of a spillover fund are not restricted to being used for the specific purpose(s) of the receiving charitable fund, but rather may be used for purposes supported by the levy that are authorized under subsection (e) of N.J.S.A. 54:4-66.7, including but not limited to payment of debt service, funding of capital reserves.

9. Would charitable fund contributions deposited into a spillover fund be applied as a charitable deduction to federal income taxes in the year which the total donation was made?

The Division makes no representations with respect to how the IRS will treat New Jersey property tax creditable contributions to a charitable fund. New Jersey property tax credits may be awarded in future years for creditable amounts diverted to a spillover fund.

10. If a taxpayer makes a property tax payment, but then seeks a refund of their property tax payment to make a creditable charitable fund contribution, should that request be honored by the municipality?

No. There is no statutory authorization for a municipality to refund a property tax payment so a taxpayer can redirect monies to a charitable fund.

11. Can charitable fund contributions be credited against properties in any property class, or are credits only applicable toward residential properties?

Charitable fund contributions can be credited toward properties in any class.

12. Do municipalities, counties, and school districts have an affirmative obligation to notify taxpayers of the new law and whether a charitable fund has been established?

No, but taxpayer outreach concerning the new law is highly recommended.

13. Can a property owner ask for a previously made donation to be switched to a regular tax payment if the taxpayer becomes delinquent after the donation is made?

No. However, this should not present an issue, because the charitable contribution would be credited against the donor's property tax obligation.

14. Can a property tax payment and a charitable contribution be combined into one payment?

No, the property tax payment and the charitable fund contribution must be made separately.

15. What happens if a taxpayer wants to make a creditable contribution to a charitable fund after the annual donation cap is reached?

If a corresponding spillover fund has been established, the donor can contribute to the spillover fund and have their property tax credit applied in the following year. In the absence of a spillover fund, the taxpayer would need to wait until the following year to make a donation.

16. If a county or school district is charged a 2% administrative fee for the process of applying the credit, does the county or school district keep the remaining balance?

The 2% administrative fee charged to a county or school district would be covered by the remaining non-creditable portion of a donor's contribution.

17. If, for example, a property owner donates solely to a county charitable fund, would the municipality need to break down the donor's tax amount by county/school/municipality (based on their respective portions of the tax rate) to determine the amount of credit the donor is entitled to for each quarter?

No. Under this example, if the property owner donates solely to a county charitable fund, the municipality is made whole by other taxpayers who are not making a similar donation. Also, the county must reduce the dollar amount sought from the municipality by the amount of the credit applied.

18. Will mortgage companies have to send the donor forms along with the electronic file payments?

No, a bank, mortgage company, servicing organization, or property tax processing organization is not obligated to provide the individual donor form to the tax collector.

19. Is this trust fund interest bearing and who keeps the interest?

Any interest is retained by the charitable fund for use toward the specific purpose or purposes of the charitable fund and reasonable expenses attributable to administering the fund.

20. If a property owner makes a charitable fund donation via credit card, how does the tax collector obtain information about the eligible credit?

All required information would be provided via the donor form regardless of the payment method.

21. How would property tax relief programs such as homestead credits and “Senior Freeze” impact the application of property tax credits from a charitable fund donation?

This would not change because the property tax credit is considered equivalent to a property tax payment.