

SAMPLE RESOLUTION

Version 9/17/2018

WHEREAS, in response to the Federal Tax Cuts and Jobs Act (TCJA), the State of New York has enacted legislation as part of its FY2019 Budget that authorizes counties, local governments, and school districts to establish a charitable gifts reserve fund that may be used to defray some of the costs related to public education, healthcare, or other public service provided by that entity; and

WHEREAS, the State of New York has also enacted legislation which allows counties, local governments, and public school districts the option to authorize by means of resolution a real property tax credit of up to 95% of the amount of a property owner's monetary contribution(s) to an established charitable reserve fund during the "associated credit year"; and

WHEREAS, individual taxpayers may be incentivized to contribute generously to these charitable funds out of the expectation that the pairing of an increased charitable deduction at the federal level combined with a real property tax credit at the local level may mitigate the effects of the new \$10,000 cap on state and local tax deductions imposed by TCJA; and

WHEREAS, the Internal Revenue Service (IRS) issued on August 23, 2018 proposed regulations providing rules on the availability of federal charitable contribution deductions when the taxpayer receives or expects to receive a corresponding state or local tax credit; and

WHEREAS, the proposed regulations rules that a taxpayer who makes a contribution to a charitable reserve fund and subsequently receives a state or local tax credit that exceeds 15 percent of the contribution must reduce his or her charitable deduction by the amount of any tax credit he or she received at the state or local level; and

WHEREAS, state, county, and local entities have expressed confusion, doubt, and skepticism on the draft regulations and have raised questions as to whether they constitute an arbitrary and capricious interpretation of federal tax law, particularly in the context of the treatment of existing state tax credit programs that pre-date the TCJA and the stated preservation of the deductibility of contributions made by businesses; and

WHEREAS, the IRS has invited the public to submit comments on the proposed regulations no later than October 11, 2018;

NOW, THEREFORE BE IT RESOLVED, that *[governing entity]* believes the proposed regulations issued by the IRS on August 23, 2018, dramatically impair the incentives for individual taxpayers to make contributions to these charitable reserve funds as established by law in the State of New York and, in doing so, impair the mission of these funds, namely providing *[a high-quality public education to all children residing within the district/ providing necessary and high-quality public services to all residents of County/Municipality]*; and

BE IT FURTHER RESOLVED, that *[governing entity]* believes the proposed regulations issued by the IRS on August 23, 2018, provide insufficient clarity on many topics as well as arbitrary

and unfair distinctions between deductions for individuals compared to deductions for businesses, and contributions to support public education compared to contributions to support private education; and

BE IT FURTHER RESOLVED, that *[entity]* finds it necessary and appropriate to propose changes to the proposed regulations issued by the IRS to provide additional clarity for the taxpayers of *[district/county/municipality]* and to explain and remove any arbitrary distinctions that would effectively and unfairly disadvantage the taxpayers of *[district/county/municipality]*;

BE IT FURTHER RESOLVED, that *[entity]* shall submit public comments on or before October 11, 2018 that shall reflect the concerns outlined above; and

BE IT FURTHER RESOLVED, that *[entity]* shall seek to collaborate with other like-minded state, county, municipality, or school district agencies or organizations to express these concerns publicly and to advocate for fair regulations and equitable and principled interpretation of federal tax law that recognizes and rewards the value of contributions in support of *[public education/public services]*, no matter whether the contributor is an individual or a business, or whether the charitable entity is public or private.