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THE REGISTER CITIZEN

Dan Haar: Prepaying tax chaos strikes state

December 28, 2017

Residents stand in line to pay their tax bills before Jan. 1 on the sixth floor of Stamford Government Center in downtown Stamford, Conn. on Thursday, Dec. 28, 2017.

There's no way to avoid chaos if you're trying to prepay taxes in 2017 that aren't due until 2018 in order to lessen the blow of the Trump tax reform limits on deductions for state and local taxes.

The short answer is, you should at the least be able to prepay municipal property taxes due on or after Jan. 1, which are normally paid in January and cover the current fiscal year, 2017-18. That would give you an extra deduction for 2017 but it might still leave you with hefty non-deductible taxes in 2018.

Whether you can prepay for taxes not due until the start of the fiscal year in July — which have not yet been assessed — is a more complicated question. Here's what we knew as of Thursday afternoon:

The governor's office said it's up to the towns, and that it can't issue a blanket order as some governors did, notably Gov. Andrew Cuomo in New York. More on that in a minute.

Most cities and towns aren't accepting prepayments for taxes not yet assessed, but some, including Stamford and West Hartford, are doing so. West Hartford, for example, is accepting amounts equal to the current year's local taxes.

The IRS issued an advisory late Wednesday saying those deductions won't be allowed.

“A prepayment of anticipated real property taxes that have not been assessed prior to 2018 are not deductible in 2017,” the advisory said. Other than the obvious grammatical error — apparently English majors are scarce at the IRS — that seems blunt and clear.

Some tax advisers were telling clients to go ahead and make those future payments where towns were accepting them, but in light of the new IRS statement, that's probably not wise, especially if towns don't have the mechanism to calculate totals, said Russell L. Abrahms, a CPA in Fairfield.

“From everything we're seeing right now, I wouldn't do it unless it's assessed and calculated,” Abrahms said Thursday. “There could possibly be a penalty because you violated the advice of the IRS.”

It might seem a good bet to tie up your money for seven extra months in the hopes of gaining a deduction that could be worth one-third of the total, or even more.

It's even possible a court could rule that payments on unassessed taxes could be deducted in the prior year. But that's a longshot in part because unassessed tax payments are subject to possible reimbursement, so the IRS could be on solid ground in rejecting the deductions.

"I wouldn't go that far out," Abrahms said.

Kevin B. Sullivan, the state revenue services commissioner, concurred that the IRS could levy a penalty on taxpayers who take a 2017 deduction for payment of unbilled taxes — and therefore underpay in 2017.

"I don't give tax advice, I can only say I would not do it," Sullivan said.

So let's say you've decided to prepay at least the assessed portion of your taxes and you have the cash. Just getting the money into the right hands in town hall could pose a challenge in the waning days of the year, as many town tax offices are closed Friday.

The good news is, if you know how much to send, all you need to do is postmark a check by the end of the year.

"It's the mailbox rule. If it hits the mailbox and you've mailed it, dated it by the 31st, you get credit for it," said Abrahms, who suggested taxpayers consider a certified letter for proof of a postmark.

Then there's the problem of coordinating payments with your bank or mortgage servicer. Most of the time, they pay the tax based on escrow payments you've made every month.

I called my mortgage company, a big national outfit, first thing Tuesday morning and asked it to make the January payment in advance, this week. I got an actual person, who logged the request and said it takes three to five days for an answer, let alone an actual payment — so I'm not holding my breath.

My mortgage servicer said it would pay me back from the escrow account if I made my own payment. Some towns were requiring a letter in advance from a mortgage servicer in order to accept payment directly, according to my colleague, Michael Mayko — but that seems preposterous. Can't pay your assessed taxes directly? Really?

Finally, officials in some towns were miffed that Gov. Dannel P. Malloy's office didn't just clear up the matter with an order on advance payments for non-assessed taxes, as some states did. Unfortunately, Malloy's office said, Connecticut tax law doesn't work that way

"To be clear, we are not prohibiting local governments from accepting pre-payments of property taxes. Rather, we are leaving this decision to towns to make for their local property taxpayers," Malloy spokeswoman Kelly Donnelly said.

Ben Barnes, Malloy's budget chief, said in a letter to municipal officials that his office "is in no position to offer an opinion as to the federal tax treatment of property tax payments made in December 2017 to Connecticut local governments."

Barnes addressed the New York issue directly.

"New York has a less uniform system of property taxes overall, and various starting dates for fiscal years in different types of jurisdictions," Barnes said. In Connecticut, he said, "all communities have laid a tax for the year that ends June 30, 2018, but none have done so for the following year which begins in more than six months. For this reason, New York's approach would not be practical in Connecticut."

As for paying your state income taxes in advance and claiming a deduction — fuhgetabout it. You haven't even earned the income yet and the federal law specifically disallows that deduction.