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## Coates' Canons Blog: 2018 Property Tax Prepayments

By Chris McLaughlin

Article: <https://canons.sog.unc.edu/2018-property-tax-prepayments/>

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The recent federal tax bill signed by the president last week caps the deductions for state and local taxes at \$10,000 beginning with the 2018 tax year. This major change is prompting many North Carolina taxpayers to prepay their 2018 local property taxes in 2017 so that they may (hopefully) deduct those payments on their 2017 federal income tax returns. Guilford County, for example, has already received \$1.2 million in 2018 prepayments, double what they received in prepayments for 2017 all last year.

While this early influx of cash is a nice holiday present for local governments, new guidance issued by the IRS yesterday suggests that the 2018 prepayments may not produce the federal income tax deductions taxpayers expect. Here's a quick Q&A on the issue for local tax offices:

### ***Is the county permitted to accept 2018 prepayments now?***

Yes. Local governments are not *required* to accept prepayments until the "annual budget estimate" is filed. GS 105-359(b). That usually occurs in late spring, depending on when your government starts its budget process. But the Machinery Act is silent about accepting prepayments prior to the budget estimate, which means local governments are free to decide for themselves when they will begin accepting "early" prepayments. I think most local governments will gladly take a payment from a taxpayer at any time of the year.

### ***Will taxpayers be permitted to deduct prepayments of their 2018 property taxes made in 2017 on their 2017 federal income tax returns?***

Unclear, but it seems unlikely given this very recent IRS guidance. Such prepayments will be deductible only if the taxes for which they are made have been assessed in 2017. I don't know what date the IRS would use as the date on which North Carolina property taxes are assessed for purposes of federal income tax deductions. It seems the earliest possible date would be January 1, the date on which the lien for taxes on real property automatically attaches to real property (this is the date used by federal bankruptcy courts to determine whether a property tax is pre- or post-petition.) If so, then prepayments of 2018 property taxes made prior to January 1, 2018 would not qualify for a deduction on taxpayers' 2017 federal income tax returns given the new IRS guidance.

But we are all just guessing at this point. We really don't know how the IRS will resolve this issue until it starts processing 2017 tax returns. Given that uncertainty, if you remember only one thing from this blog post make it this point:

**LOCAL TAX OFFICES SHOULD NOT BE GIVING TAXPAYERS ADVICE ABOUT FEDERAL INCOME TAXES.**

### ***If taxpayers demand refunds of their prepayments after learning that they probably won't be able to deduct those prepayments from their 2017 federal taxes, may the county provide such refunds?***

No. Refund of payments, be they prepayments or regular payments, are governed by GS 105-381. That statute permits refunds only for illegal taxes or clerical errors by the tax office. Refunds are not permitted due to taxpayers' incorrectly assuming they would receive federal tax benefits from their payments.

Here's the bottom line on this issue: Counties may accept 2018 prepayments at any time. It's unclear whether those prepayments will be deductible by taxpayers' on their 2017 federal income tax returns. Subsequent refunds of those



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prepayments are not permitted under GS 105-381.

Counties that choose to accept early payments may wish to offer this guidance to taxpayers before doing so:

*“The county’s acceptance of a prepayment for 2018 property taxes does not guarantee that this payment will be deductible for purposes of the taxpayer’s 2017 federal income tax return. Taxpayers are urged to seek advice from a legal or financial professional for questions about federal income tax deductions. The county would not be permitted to make a refund of a prepayment due to the taxpayer’s subsequent inability to deduct the payment for their 2017 federal income taxes.”*

## Links

- [money.cnn.com/2017/12/20/pf/salt-deductions-new-tax-plan/index.html](http://money.cnn.com/2017/12/20/pf/salt-deductions-new-tax-plan/index.html)