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Municipal Property Tax Rewards Programs

Enacted last year, [P.L. 2021, c. 99](#) expressly authorizes municipalities to establish property tax rewards programs encouraging patronage of local retail establishments. All actions properly taken by a municipal governing body prior to May 12, 2021 to authorize the creation and operation of a property tax rewards programs were also retroactively validated by P.L. 2021, c. 99. This Notice explains how a municipality can create a property tax rewards programs under the new law.

Key Terms

“Operator” means a private entity designated by a municipality to operate a property tax reward program.

“Participating business” means a business which has agreed to provide rewards to participating customers.

“Participating customer” means a person who has successfully registered with the operator of a property tax reward program to earn rewards under the program, using the process maintained by the operator.

“Reward” means the percentage of a total purchase price earned by a participating customer when that customer makes a purchase at a participating business.

“Reward card” means any physical or virtual card distributed by the operator or the municipality to a participating customer to facilitate the earning of rewards under the program.

“Reward earning period” means a consecutive 12-month period agreed to and stipulated by the governing body of the municipality and the operator.

Establishing a Property Tax Rewards Program

The governing body of a municipality, by resolution, may create a property tax rewards program and authorize a contract with a private entity (the “operator”) to administer the program.

As the law requires an operator to be compensated through an administrative fee charged to a participating business, the procurement of a program operator fits within the Local Public Contracts Law definition of a concession. Therefore, a contract with a program operator is subject to public bidding even though the municipality is not paying the operator. Procurement of property tax reward program software or software services do not fit within the Local Public Contract Law’s definition of “proprietary” and thus do not come under the bid exception established under N.J.S.A. 40A:11-5(1)(dd) for “provision or performance of goods or services for the support or maintenance of proprietary computer hardware and software...” Municipalities may use competitive contracting for concessions without having to obtain prior Division approval. Due to the difficulty of estimating the amount of revenue the operator may collect over the life of the contract, the Division recommends that municipalities in all instances procure an operator through standard bidding or competitive contracting.

Business participation is voluntary. Pursuant to the terms of the contract, the operator, the municipality, or both shall solicit participation in the program from businesses located within the municipality. The manner of solicitation is not specified in the law, but potential methods can include direct mail to individual businesses, a notice prominently posted on the municipality’s website, and outreach to local business organizations and any special improvement districts.

Although the definition of “participating business” does not expressly exclude wholesale establishments not generally open to the public, the objective of the law is to promote the purchase of goods and services from local public-facing businesses and thus the program must be geared toward these types of businesses. Please note that the law does not allow a municipality to limit program eligibility for retail establishments based on criteria such as size, product selection, or location within the municipality. The municipality may also approve the participation of a business located outside the municipality.

Each participating business shall determine, and shall inform the program operator of, the reward to be provided to participating customers. A participating business must commit to pay the operator a percentage of a gross sale that qualifies as a transaction under the program, including any taxes or other associated tips or fees as charged to a participating customer, to serve as the reward, plus any separate administrative fee due to the operator.

For a transaction to be eligible for a reward under the program, a participating customer shall use or display a reward card when making a purchase of goods or services from a participating business. At minimum, participating customers must have the ability to register for a reward card online, view a record of the customer’s past transactions that earned program rewards, and view the total amount of rewards earned. The operator cannot charge a customer to participate in the program.

The operator, and not the tax collector, should be the point of contact for an individual to participate in a property tax rewards program. Operators must have a customer service function for participating customers to contact on matters such as technical problems or disputes concerning reward amounts. Authorization of a property tax reward program shall not make the governing body liable in any manner for any action taken by, or omission of an action that should have been taken by, the operator authorized by the governing body to administer the program. Any financial irregularity committed by the operator in the administration of the program shall be the sole responsibility of the operator. Any contractual terms that would shift such liability away from the operator are null and void pursuant to law. The municipal governing body shall report any irregularity, financial or otherwise, that it believes has occurred in the operator's administration of the program, to the Director.

Applying Rewards to the Property Tax Bill

A municipality with an operational property tax reward program must include on or with the tax bill the amount of the property tax reward as a credit against property taxes due and payable by a participating property owner. The amount of the annual reward earned by a participating customer and credited on their property tax bill shall equal the total amount of all rewards earned by that participating customer during the reward earning period. Not later than June 1st annually, or on another date mutually agreed to by the governing body and the operator, the operator shall provide to the tax collector a list of participating customers who are property owners in the municipality, with the total amount of rewards earned by each property owner during the reward period. The operator shall transfer the corresponding amounts earned by those participating customers to the tax collector, who must credit these reward amounts against each participating customer's property tax bill. Rewards cannot be credited toward other municipal charges.

The property tax reward program shall be identified on the tax bill as the source of the property tax credit. Like the Homestead Benefit Credit, rewards should be credited to a specific quarter (e.g. August) regardless of any delinquencies. If the credit creates an overpayment, the amount of the overpayment should be moved to the next open quarter. The Division strongly recommends that property tax rewards not be applied towards delinquent taxes, primarily because doing so could cause problems with property tax software functionality. In any event, a participating customer's property tax rewards are unlikely to cover the amount of the interest on the delinquency, much less extinguish the delinquency.

The governing body may authorize an operator to enroll as participating customers people who are not property owners in the municipality, regardless of whether they reside in the municipality. A participating customer who is not a property owner in the municipality shall receive rewards in a form agreed to in the contract between the governing body and the operator, such as pre-paid gift cards or direct rebates. Rewards earned by such participating customers shall be paid by the operator directly to that participating customer as soon as is practicable after the end of the rewards period.

Approved: Jacquelyn A. Suárez, Director