

IRS ruling on Suffolk sewer grants too late for some seeking refunds

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Shelter Island resident denied tax rebate for septic system installed in 2018

Susan Cincotta of Shelter Island received a grant and rebate for a septic system in 2018, which she paid income tax on. But the IRS reversed its decision, when Cincotta filed her returns this year, rejecting giving her the money back because the septic system was installed outside the statute of limitations. Credit: Randee Daddona

By Vera Chinese vera.chinese@newsday.com @VeraChinese

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Suffolk County officials and environmentalists celebrated last year when the Internal Revenue Service reversed a 2020 ruling that taxed homeowners who received grants to install nitrogen-reducing septic systems.

The reversal meant those who had already paid for the systems could seek tax refunds. But it might be too late for some of the earliest participants in the program.

Susan Cincotta, of Shelter Island, was among the first 40 people in the county to install the systems after the grant program launched in 2017. She received a \$10,000 grant administered through Suffolk County along with \$5,000 from Shelter Island Town to cover the cost.

Cincotta told Newsday she believed she was doing her environmental duty in a town where 90% of residents are served by private drinking wells beneath their homes and where many properties have had high nitrate readings officials say is linked to discharges from old-fashioned septic systems.

What to know

- **The IRS in December 2022** reversed a ruling that counted sewer upgrade grants given to Suffolk County residents as taxable income.
- **It meant that homeowners** who had previously paid taxes on the grants could seek refunds.
- **One of the earliest grant recipients** says she was denied a refund because she is outside the IRS' three-year window for submitting amended filings.
- Cincotta said that when the IRS ruled in December that the grants no longer would be counted as taxable income, she submitted an amended filing she estimated would produce a tax refund of between \$2,000 and \$3,000. She learned later she was not eligible for one because she was outside the IRS' three-year statute of limitations for amended filings.
- She describes the situation as punishment for being a “pilgrim” —one of the first people to test the county program.
- “This is an uphill battle once again,” she said. “The very people who started the program are the people that are in some ways harmed for thousands of dollars.”
- The IRS did not respond to requests for comment, but federal elected officials said they were trying to help Cincotta and anyone else in a similar situation.
- Cincotta's tax issue represents the latest wrinkle in an initiative that was meant to encourage homeowners to upgrade their septic systems to reduce nitrogen pollution in groundwater and local waterways.
- Properties in Suffolk County largely lack sewer connections, and officials tout individual high-tech septic systems as the solution for treating wastewater in many areas. Grants of between \$10,000 and \$20,000 are available to cover installation costs.
- As of March 21, 3,846 people had applied, and 2,195 had received some grant money, according to Suffolk County.
- Five grants were distributed in 2017 and 34 in 2018, according to the county. The county has not heard from anyone else known to be in Cincotta's position, according to Suffolk Deputy County Executive Peter Scully.
- Cincotta received a 1099 form from the town reporting the \$15,000 in income from the county and town. She included the grants as part of her 2018 gross income and paid the tax due on her 2019 federal and state income tax filing.

- That was before the IRS officially ruled in 2020 that grant recipients would be subject to income taxes, in a decision that drew complaints from Suffolk County officials and environmentalists.
- The IRS in its ruling said homeowners exercised "management or oversight functions of the payment," including choosing the contractor used, and the grants were not given solely based on need.
- However, the money could be excluded from taxable income if the U.S. Department of Agriculture determined the septic grant program benefited the environment, according to the office of Sen. Chuck Schumer (D-N.Y.).
- In 2022, the USDA said the grants "are primarily for the purpose of conserving soil and water resources or protecting and restoring the environment," prompting the IRS reversal.
- The Suffolk homeowners who secured grants in 2019, 2020 and 2021 were encouraged by the county Department of Health, which administers the grant program for high-tech septic systems, to amend previous tax filings. Cincotta said she did so even though her accountant said her request might be denied because the three-year deadline had passed.
- She received a denial letter from the state Department of Taxation and Finance in March, explaining it was too late for her amended filing. Cincotta said she has not yet received a formal response from the IRS but anticipates a similar answer.
- U.S. Rep Nick LaLota (R-Amityville) said his staff is working with Cincotta and has asked the IRS to refund the money.
- "Ms. Cincotta did what the federal government incentivized her to do and the IRS should immediately refund any income taxes improperly levied on this grant money," LaLota said in a statement to Newsday.
- Schumer's office has reached out to Cincotta as well.
- "We are looking into relief for the earliest participants and pushing the IRS," Schumer spokesman Angelo Roefaro said in a statement.
- Scully, who oversees the county's environmental issues, said Suffolk County will continue to advocate for tax deductions for the program's early participants.
- He said he has heard from several homeowners who participated in it later than Cincotta and have had success, including a Brentwood woman who will receive a \$5,800 refund.
- "We worked hard to convince the IRS that the grants shouldn't be considered taxable income," Scully told Newsday. "We would like to see that benefit apply to all participants in our program."