

# New York County in Disarray Over Wastewater Grant Taxes

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Suffolk County, New York, has been a model for tackling nitrogen pollution from onsite wastewater systems. Now, local grants to upgrade treatment systems are producing another consequence for homeowners: larger tax bills that may be as much about local politics as taxes. And the issue has led one part of county government to consider legal action against another.

The county occupies the eastern tip of Long Island and is home to the wealthy communities known commonly as the Hamptons. Wastewater treatment at many county homes depend on cesspools. During the last couple years, the county has offered grants to replace those with nitrogen-reducing systems. At the same time, the county and several municipalities passed laws requiring low-nitrogen systems for new construction and for building expansions.

As tax season approached, homeowners received 1099 forms telling them they have additional tax liability this year because they received thousands of dollars in grant payments.

“I said that’s ridiculous,” Dorothy Minnick, 69, tells the *Newsday* newspaper. “I didn’t make that income. I’m being penalized for doing something good for the environment.”

Tim Sheehan, who lives on Shelter Island, on the north side of Long Island, says he could face a tax bill \$3,000 larger. “We were told from the outset the county grant would not be taxable income for us as homeowners.”

The tax anxiety can be traced to County Comptroller John Kennedy, whose office mailed the required IRS forms to taxpayers. This is also where the accusations start. Kennedy, a Republican, is the opponent of incumbent County Executive Steve Bellone, a Democrat, in the November election. Bellone is seeking a third term and has made water quality one of his top issues.

As of mid-March, 69 advanced systems have been installed in the county at an average cost of \$20,523. The county capped its initial grants at \$10,000, and

some municipalities offer thousands more in grant money to help cover more of the cost. More than 1,500 people have applied for grants.

A legal opinion from the county's tax counsel claims homeowners should not be liable for additional tax if they received a grant. That opinion cited two IRS cases about business grants. An opinion from the county attorney's office says homeowners would not face tax consequences if grant money was paid directly to installers. Anthony Basile, associate professor of accounting and taxation at Hofstra University and a practicing CPA, was quoted in news reports as saying the tax form should go to the contractor and not the homeowner. Len Marchese, an accountant and comptroller for the town of Southampton, says the same thing.

Kennedy says he disagrees with opinions about who should receive tax bills. He says one concern is IRS rules that control the use of public funds for private benefit. He has resisted all requests for a change of opinion and says he plans to request a ruling from the IRS. He blames Bellone for the tax confusion and says he raised concerns in early 2018.

Some people say Kennedy has previously changed how 1099s are issued. Vendors tell reporters they have received two 1099s for the same job. One holds them liable for taxes, and the next, in the following year, shows a taxable income of zero.

In late March, a coalition of residents, contractors and environmental groups held a press conference to demand that Kennedy retract the 1099s for homeowners before the April 15 tax filing deadline. The East End Supervisors and Mayors Association added their voices to the others criticizing Kennedy's decision. The county executive's office also wrote a letter asking him to reconsider his action.

In early April, about a week before the filing deadline, the county's Ways and Means Committee held a meeting to discuss what legal action and other actions can be taken against Kennedy.