

# **Bond Case Briefs**

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## **States Sue U.S. to Void State and Local Tax Deduction Cap.**

NEW YORK — Four U.S. states sued the federal government on Tuesday to void the new \$10,000 cap on federal deductions for state and local taxes included in President Donald Trump's 2017 tax overhaul.

The lawsuit by New York, Connecticut, Maryland and New Jersey came seven months after Trump signed the \$1.5 trillion overhaul passed by the Republican-led Congress, which cut taxes for wealthy Americans and slashed the corporate tax rate.

Critics have said the cap would disproportionately harm "blue" states that tilt Democratic.

Tuesday's lawsuit adds to the many legal battles between such states, including several with high taxes, and the Trump administration, which was accused of unconstitutionally intruding on state sovereignty by imposing the cap.

"The federal government is hell-bent on using New York as a piggy bank to pay for corporate tax cuts and I will not stand for it," said Andrew Cuomo, New York's Democratic governor.

A spokeswoman for the Department of the Treasury said that agency was reviewing the complaint. The department, Treasury Secretary Steven Mnuchin and the Internal Revenue Service are among the defendants.

Taxpayers have long typically enjoyed unlimited federal deductions for state and local taxes, known as SALT deductions.

Under the cap, individuals and married taxpayers filing jointly who itemize deductions may deduct only up to \$10,000 annually for state and local income, property and sales taxes.

The four states said the cap will depress home prices, spending, job creation and economic growth, and impede their ability to pay for essential services such as schools, hospitals, police, and road and bridge construction and maintenance.

According to the Tax Foundation, the four states and California, which all favored Democrat Hillary Clinton in the 2016 presidential election, may be particularly hard hit, based on SALT deductions as a percentage of adjusted gross income.

New Yorkers claimed an average \$22,169 SALT deduction in 2015, the Tax Policy Center said.

### **UPHILL BATTLE**

David Gamage, an Indiana University tax law professor, said the lawsuit faces an uphill battle, despite suggesting that keeping the SALT deduction was a factor when states in 1913 gave Congress power to levy income taxes through the 16th Amendment.

"I think it's very unlikely that it succeeds," he said. "The Supreme Court has generally given

Congress wide latitude in carrying out its taxing power, especially in setting deductions. It would be a pretty dramatic change of direction to allow this lawsuit.”

In the complaint filed with the U.S. District Court in Manhattan, the four states said a \$10,000 cap “effectively eviscerates” a deduction that has been on the books since 1861.

They also said it will force New York taxpayers alone to pay \$14.3 billion more in federal taxes this year, and another \$121 billion through 2025, when the cap is scheduled to expire.

By imposing the cap, Congress was able to “exert a power akin to undue influence” over states by interfering with their authority to decide taxes and fiscal policy, the lawsuit said, quoting Supreme Court Chief Justice John Roberts.

In May, the Treasury Department said it would propose regulations to stop states from circumventing the cap.

New York, Connecticut and New Jersey had already adopted “workarounds” letting taxpayers fund municipal services by paying into specified funds, and claiming deductible charitable contributions.

The case is New York et al v Mnuchin et al, U.S. District Court, Southern District of New York, No. 18-06427.

**By Reuters**

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