

STATE OF NEW JERSEY

GOVERNOR PHIL MURPHY

ICYMI: AG GREWAL LEADS COALITION OPPOSING IRS'S PROPOSED RULES THAT WOULD UNDERMINE TAX CREDITS FOR CHARITABLE CONTRIBUTIONS

TRENTON – Attorney General Gurbir S. Grewal today led a coalition of Attorneys General calling on the Trump Administration to rescind its “arbitrary” plan to impose new tax rules that undermine efforts by states like New Jersey to promote charitable giving and provide relief to their local taxpayers.

In a letter sent today to Internal Revenue Service (IRS) Commissioner Charles P. Rettig, Attorney General Grewal submitted comments opposing the planned new tax rules as “contrary to law” and “misguided as a matter of policy.”

The Trump Administration enacted a tax overhaul in December 2017 that placed, for the first time, a \$10,000 cap on the federal deduction for state and local taxes (SALT). On May 4, Governor Phil Murphy responded by signing S1893/A3499 into law. The new law allows state residents to make charitable contributions to their local governments and to receive partial tax credits of up to 90 percent when they do so.

The IRS has now announced its intent to change its longstanding policy of treating such charitable contributions as deductible. Instead, the agency plans to require taxpayers to subtract the value of any tax credits they receive from their charitable contribution deductions. The new requirement is unprecedented in the 101-year history of the charitable deduction.

“The IRS’s about-face represents bad law and bad public policy,” **said Attorney General Grewal**. “The IRS should have stood by its longstanding view that tax credit programs like New Jersey’s are lawful. Instead, the IRS’s new rules harm the many individuals, charities, and governments that have come to depend on existing state charitable programs. I’m proud to lead a coalition of Attorneys General opposing the proposed rules as dangerous and illegal, and I promise to challenge the IRS in court if it goes through with its plans.”

Attorney General Grewal’s letter notes that the majority of states have programs that offer tax credits to individuals who make charitable contributions to qualifying institutions. More than 100 programs exist in 33 states, the letter explains, which incentivize individuals to donate to causes ranging from natural resource preservation and domestic violence shelters to financial aid for higher education. The IRS’s plan would undermine all these programs.

The letter explains that the proposed rules would be unlawful in multiple ways.

For one, the IRS has previously treated contributions made pursuant to these programs as deductible under the Internal Revenue Code. “Had Congress wished to revise the Code so as to reverse this long-standing precedent,” Attorney General Grewal’s letter explains, “it would have done so in clear terms. It has not done so, including in the most recent federal tax overhaul... It is not within the IRS’s rulemaking power to usurp Congressional authority and overrule a tax law principle that has been unquestioned for more than 100 years.”

Further, the letter adds, “the IRS’s proposal would prejudice states and localities relative to foreign governments. Indeed, while a taxpayer would be required to subtract the value of SALT credits from a charitable deduction, the receipt of a foreign tax benefit would leave the same charitable deduction unchanged.”

And finally, the IRS proposal—together with a “clarification” the IRS issued for business taxpayers on September 5—would favor corporations over people “because corporations could still deduct charitable contributions that trigger SALT credits while individuals could not.”

For all of these reasons, the letter criticizes the proposed IRS rules as “an exercise in law-making rather than statutory interpretation.”

The letter also argues that the proposed new rules are troubling as a matter of policy as well. Because programs like New Jersey’s “do not provide dollar-for-dollar tax credits and therefore yield a net increase in state and local revenues,” the IRS’s efforts to undermine these programs end up “depriving state and local governments of the revenue necessary to sustain vital public services.”

“The IRS should abandon its proposed rules,” Attorney General Grewal argues in the letter, “and restore its previous practice of allowing full deductions for charitable contributions that trigger SALT credits.”

IRS_REG-112176-18_Comment_of_NJ_CA_CT_NY_AGs.pdf (https://urldefense.proofpoint.com/v2/url?u=https-3A__t.e2ma.net_click_nfkqz_nrddit_z0ox0f&d=DwMFaQ&c=4BTEw-1msHjOY4ITcFLmDM6JB8x6ZgbU2J24IH0HZLU&r=xF3DPDNEH8rwpTwktOjb4MHQ0EgF6v3M0zt3hszQvyU&m=RUIpwmSHSjdAyE0x3ID-gtly7DZHc6qpDLAQ3esQJKA&s=x3Haa6MKrO5BY3uOvoPE3mK9mb7x9VcLfk8yQuWL_s0&e=)

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