

**Congress of the United States**  
**Washington, DC 20515**

March 17, 2021

The Honorable Janet Yellen  
Secretary of the Treasury  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, DC 20220

Dear Secretary Yellen:

We are writing with serious concerns about Public Law No. 117-2 (the “American Rescue Plan Act of 2021” or ARP), and specifically the Coronavirus State Fiscal Recovery and Coronavirus Local Fiscal Recovery Funds. We are especially concerned about a provision inserted into the Coronavirus State Fiscal Recovery Fund before it was signed by President Biden. Specifically, the provision appears to impose coercive restrictions on states, prohibiting them from “directly or indirectly” taking actions that would “reduce net revenue” if the states receive even a dime of federal State Fiscal Recovery Funds. Furthermore, this prohibition likely tramples the Tenth Amendment and may in fact be unconstitutional. In any case, this provision may apply for a period that extends through December 31, 2024. We have heard from many stakeholders concerned about the apparent breadth of this provision, which was included in ARP without the benefit of committee hearings, a legislative markup, or any input from affected stakeholders.

We are also generally concerned about the ambiguity in the Coronavirus State Fiscal Recovery and Coronavirus Local Fiscal Recovery Funds.

For these reasons, we believe clarification from the Treasury Department is urgently needed on the following questions:

1. If a state provided its own economic impact payments to families in need through an advance refundable state tax income tax credit, would this violate the restriction in ARP?
2. If a state followed federal tax law and exempted from gross income the first \$10,200 of unemployment insurance, would it violate the restriction in ARP?
3. If a state used funds to replenish its state unemployment insurance trust fund in order to prevent automatic tax increases on Main Street businesses, would it violate the restriction in ARP?
4. If a state created a new state-level earned income or child tax credit, would it violate the restriction in ARP?
5. If a state decided to align with the federal tax treatment of PPP loan forgiveness by excluding that amount from gross income, would it violate the restriction in ARP?
6. If a state provided a state-level deduction for contributions to charitable organizations, would this violate the restriction in ARP?
7. If a state or local government that received ARP funding opted to provide property tax abatements to low-income residents, would this violate the restriction in ARP?

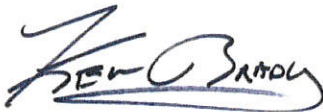
8. If a state legislature determined that now is the wrong time to raise gasoline prices consumers face at the pump, would a delay of a scheduled gas tax hike violate the restriction in ARP?
9. If a state or locality provided a sales tax holiday in order to provide cash flow to help local small businesses, would this violate the restriction in ARP?
10. Once a state economy rebounds from COVID-19, would enactment of temporary or permanent tax relief in a future year trigger a financial penalty under ARP as long as any ARP funding remains unspent?
11. Are townships and boroughs treated the same as cities and/or counties for the purposes of determining whether a locality is eligible for and the amount of the allocation under the State Fiscal Recovery Fund?
12. If a state declines payment from the State Fiscal Recovery Fund, what will the Treasury Department do with the unclaimed funds?

We respectfully request that you please respond in writing no later than March 26, 2021.

Because many state legislatures are now in session and have relatively short periods in which to make important fiscal decisions, we also request that Treasury promptly issue guidance on the Coronavirus State and Local Fiscal Recovery Funds.

Thank you for your attention to this request.

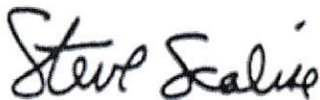
Sincerely,



Kevin Brady  
Republican Leader  
Committee on Ways and Means



James Comer  
Ranking Member  
Committee on Oversight and Reform



Steve Scalise  
Ranking Member  
Select Subcommittee on the Coronavirus Crisis




Jodey Arrington  
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Andy Biggs  
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Vern Buchanan  
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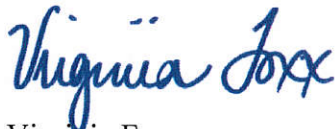
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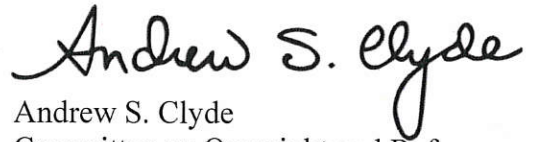
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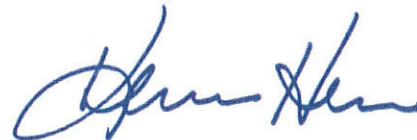
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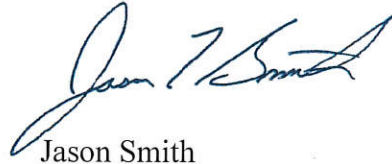
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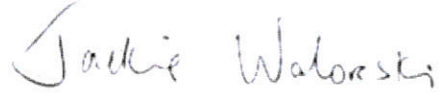
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