for state and local taxes – known by the acronym of SALT – remains a sticky issue months after enactment of the law. Now four states along the eastern seaboard ...

Ken Berry • Jul. 20, 2018

The provision in the new Tax Cuts and Jobs Act (TCJA) limiting itemized deductions for state and local taxes – known by the acronym of SALT – remains a sticky issue months after enactment of the law. Now four states along the eastern seaboard of the U.S. have banded together in a lawsuit to eliminate the cap.

The legal action initiated on July 17 by Connecticut, Maryland, New Jersey and New York – states with among the highest income tax rates in the country – names Treasury Secretary Steven Mnuchin, Acting IRS Commissioner David Kautter, the U.S. Treasury, the Internal Revenue Service and the U.S. (including all government agencies and departments responsible for the passing and implementing the TCJA) as defendants. It asks to void the new limit on SALT deductions through declaratory and injunctive relief.

Under prior law, taxpayers who itemized deductions on Schedule A generally were able to deduct the full amount of their state and local property taxes, plus either their state income and local income taxes or state and local sales taxes. The alternative sales tax deduction was based on an IRS-approved table (plus add-ons for certain expensive items) or actual receipts.

Typically, residents of states with high income taxes, like those challenging the new SALT provision, opted to deduct state and local income taxes in addition to property taxes. This often turned into their biggest deduction on Schedule A. It's not unusual for taxpayers in certain parts of the country to pay tens of thousands of dollars each in state and local property taxes and income taxes.

But the TCJA limits the annual deduction for any allowable combination of SALT

partisan" process. Notably, they say that the limit is unfair and causes disproportionate injury to their residents of "blue states." For instance, it is estimated that taxpayers in New York will owe an extra $14.3 billion in federal tax in 2018 alone. By way of comparison to the $10,000 cap, the average SALT deduction claimed by New York taxpayers in 2015 was almost $22,000.

In addition, the lawsuit alleges that the SALT cap will artificially depress home values in the four states. To compound the damage, the change will have a negative impact on taxpayers who purchased their homes years ago and have come to rely on SALT deductions, only to have the rug pulled from under them without "fair warning."

Finally, the lawsuit claims that the SALT provision impedes the ability of the states to pay for essential services such as schools, hospitals, police and road and bridge construction and maintenance.

What will the outcome be? Experts are divided, but most agree it will take a lengthy time for the case to progress through the courts. In the meantime, a reconstituted Congress could have a say in the matter.

Sales Tax