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## **The North-West Bergen Mayors' Association**

Mayor Thomas W. Randall President

333 Warren Avenue

Ho-Ho-Kus, New Jersey 07423



May 21, 2018

US Treasury Secretary Steven Mnuchin

Acting Commissioner IRS David Kautter

Gentlemen:

New Jersey is one of the highest taxed states in the country and carries an extremely high cost of living, in part because it is also the most densely populated state in the union. The income per capita in our state is higher than the national average, and home prices are higher. As a state, New Jersey receives about 33 cents back from every dollar paid by our residents to the federal government.

The NJ State Legislature and Governor have enacted and signed legislation intended to help mitigate the impact of the new federal tax law which caps the exemption of state and local income taxes (SALT) to \$10,000 for taxpayers who itemize deductions. It authorizes (but does not require) counties, municipalities and school districts to create charitable trusts into which taxpayers could donate funds that would be used to offset most if not all of their property tax liability. Since the new federal tax law did not place a cap on itemized charitable donations, this latest action by NJ officials is being viewed as a means to allow our local NJ residents to help mitigate some of the effect of the cap on SALT deductibility. We note that similar arrangements are used in other states, particularly to fund educational services.

Some tax experts believe the bill is on sound ground legally, other experts have raised serious questions about its legality. In particular, there is doubt concerning how payments intended to satisfy state income taxes and local property taxes can be viewed as charitable donations. Mayors across the state are concerned with the prospect that, after incurring considerable expense to set up and maintain the new charitable trusts, the IRS may rule that the structures are illegal. Not only would this prove costly for municipalities and school superintendents who allocated resources to establish and maintain these trust funds, it would place our residents in jeopardy of significant and unexpected tax liabilities and penalties after their tax returns have been filed. Dismantling the arrangements if not accepted by the IRS would add to the expense. Of course, all these set-up and unwinding costs would be borne by NJ's already overburdened taxpayers.

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We respectfully request that the Internal Revenue Service expedite a ruling on the validity of the charitable trust arrangement under federal tax law so that NJ residents can have certainty about their tax treatment as itemized deductible expenses when filing federal tax returns. In the same way that businesses abhor uncertain economic and tax conditions and therefore cut back on investments, individuals likewise restrain their spending and investment plans until they achieve more certainty about their tax liabilities. This is unhealthy for both federal, state and local governments. We urge you to move as quickly as possible in deciding whether donations made to NJ charitable trusts in lieu of income and property tax payments qualify as itemized charitable deductions under federal tax regulations. As mayors and taxpayers, we very much hope that this new legislation will offer relief for NJ's taxpayers. The economic wellbeing of our constituents, both short and long term, is our priority. However, as financial stewards, we must be certain that we do not expend funds if this will not be accepted by the IRS.

Respectfully,

Liz White, Mayor – Allendale  
Bruce Packer, Mayor – Glen Rock  
Thomas Randall, Mayor – Ho-Ho-Kus  
William LaForet, Mayor - Mahwah  
Harry Shortway, Mayor – Midland Park  
Deirdre Dillon, Mayor – Ramsey  
Susan Knudsen, Mayor – Ridgewood  
Al Kurpis, Mayor – Saddle River  
Joanne Minichetti, Mayor – Upper Saddle River  
Linda Schwager, Mayor – Oakland  
Tom Giordano, Mayor – Waldwick  
Brian Scanlan, Mayor - Wyckoff

cc: Representative Josh Gottheimer

Senator Cory Booker

Senator Robert Menendez

Senator Gerald Cardinale

Senator Kristen Corrado

Assemblyman Robert Auth

Assemblyman Kevin Rooney

Assemblyman Chris DePhilips

Assemblywoman Holly Schepisi

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