



State of New York
Executive Chamber
Albany 12224

Andrew M. Cuomo
GOVERNOR

September 9, 2018

J. Russell George
Inspector General for Tax Administration
City Center Building
1401 H Street, N.W., Suite 469
Washington, D.C. 20005

Dear Inspector General George:

I am writing to request that you promptly commence an investigation of improper politically-driven efforts to manipulate the implementation of the Public Law No. 115-97 (the 2017 Tax Law). Specifically, I am deeply troubled by indications that the President, the Treasury Secretary, and perhaps others, are injecting partisan concerns into the administration of the Internal Revenue Service (IRS) in a manner that is jeopardizing the integrity of the Service's important work. Your office is charged with protecting the integrity of the IRS and is uniquely positioned to investigate these troubling matters.

The IRS is charged with implementing the 2017 Tax Law, which, among other things, enacted an unprecedented cap on the deduction for state and local taxes. Statements by President Trump and his allies during the legislative process made clear that this provision of the 2017 Tax Law was a partisan attack on New York and other states that did not vote for the President.

It now appears that the President, the Treasury Secretary and some members of Congress are actively politizing the IRS's work to implement this deduction cap. New regulations recently proposed by the IRS would change the long-standing treatment of tax credits that incentivize charitable giving. Statements by the Treasury Secretary and others made clear that the proposed rule was intended to thwart the well-grounded efforts by New York and other states to protect their taxpayers from the partisan 2017 Tax Law.

The proposed rule apparently generated enough political opposition from the vocal school choice constituency in the Republican base to prompt the IRS to issue a “clarification” that the rule would not impact the ability of businesses to treat charitable contributions as deductible business expenses. The Treasury Secretary then issued a coordinated statement affirming that the proposed regulation would have “no impact on federal tax benefits for business-related donations to school choice programs” – removing any doubt regarding the political motives driving this “clarification.” Political allies promptly took credit for this change in course, while independent tax experts struggled to find a discernible principle of law governing the statement.¹

This injection of partisanship into the work of the IRS jeopardizes public confidence in the integrity of this critical agency and raises troubling questions about the fairness with which the newly-amended tax code will be administered. In particular, the statement inviting taxpayers to treat their donations to school voucher programs as business expenses suggests that the IRS will view these claims favorably, but because these decisions are shrouded in tax secrecy, the public may never know whether politics will continue to infect this process.

I urge you to commence an investigation to determine whether the IRS’s proposed regulations and subsequent “clarification” regarding business deductions are a result of improper political influence by the President, the Treasury Secretary, or other political officials in the Administration. I further urge you to ensure the IRS’s work in this area is not further politicized by internal policies that tarnish the review of future deduction claims. The livelihood of thousands of New York taxpayers and others are threatened by these politically driven actions that are tailored to harm them.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew M. Cuomo". The signature is stylized with a large initial "A" and a long, sweeping underline.

ANDREW M. CUOMO

¹ See Jad Chamseddine, “IRS SALT Clarification May Need Further Clarification,” *Tax Notes* (Sep. 7, 2018); Daniel Hemel, “Secretary Mnuchin’s SALT “Clarification”: A Lesson in Political Geography?” *Medium* (Sep. 8, 2018).