WRITTEN STATEMENT FOR THE RECORD

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COUNTY COMMISSIONER

BERKS COUNTY, PENNSYLVANIA

ON BEHALF OF THE NATIONAL ASSOCIATION OF COUNTIES

HOW RECENT LIMITATIONS TO THE SALT DEDUCTION HARM COMMUNITIES, SCHOOLS, FIRST RESPONDERS, AND HOUSING VALUES

BEFORE THE COMMITTEE ON WAYS AND MEANS SUBCOMMITTEE ON SELECT REVENUE MEASURES

UNITED STATES HOUSE OF REPRESENTATIVES

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WASHINGTON, D.C.

Chairman Thompson, Ranking Member Smith and members of the Committee, thank you for the opportunity to testify today on impacts of capping the state and local tax (SALT) deduction.

My name is Christian Leinbach and I serve as a county commissioner in Berks County, Pennsylvania. Berks County is home to 418,000 residents, and we provide a wide range of services to our constituents, including public safety, emergency services, solid waste removal, veterans services, human services and child welfare programs, and more. While we are strong partners with our state and the federal government, we predominantly rely on local property taxes to develop a healthy, safe and vibrant community.

In fact, counties are highly diverse, not only in my state of Pennsylvania, but across the nation, and vary immensely in natural resources, social and political systems, cultural, economic and structural circumstances, public health and environmental responsibilities. Of the nation's 3,069 counties, approximately 70 percent are considered "rural," with populations of less than 50,000, and 50 percent of these counties have populations below 25,000. At the same time, there are more than 120 major urban counties, which collectively provide essential services – including education and public safety – to more than 130 million people every day.

Collectively, counties own 45 percent of America's roads, nearly 40 percent of bridges, 960 hospitals, more than 2,500 jails, more than 650 nursing homes and a third of the nation's airports. We also own and maintain a wide variety of public safety infrastructure and we are the first responders when a disaster hits or an emergency occurs. Counties also prevent against public disease outbreaks and tackle some of the most devastating incidents in our communities, including the opioid epidemic.

Regardless of location, size or scope of services, all counties rely on the SALT deduction to meet constituent needs and demands. The SALT deduction is a unique and integral part of the federal-state-local government relationship – it is alone among tax deductions in representing a tax expenditure that is not a voluntary payment from an individual. In that sense, we believe the SALT deduction should not even be scored as a federal tax expenditure, since it represents taxes already paid by individuals that should therefore be exempt from federal taxation.

To that end, I would like to share three key points in urging your support for restoring the full SALT deduction:

1. The history of the SALT deduction establishes a clear precedent for the necessity of the deduction, and it dates back to principles set down by the nation's founders;
2. Capping the SALT deduction hurts the middle class, particularly homeowners; and
3. A capped SALT deduction results in a strain on county services and represents federal intrusion into state and local taxing decisions.

The History of the SALT Deduction

The SALT deduction was included as one of the six deductions allowed under the original federal tax code when it was enacted in 1913. State and local taxes date back to 1700, well before the institution of the federal tax code, and lawmakers at the time understood deductibility was vital to preserve autonomy and independence of local taxing decisions. When the 16th Amendment was ratified in 1913, critics at the time worried that the federal government would use this new power to overwhelm statue authorities and autonomy. However, the drafters and defenders of the 16th Amendment intended for the federal government's income tax powers to be constrained by the sovereign tax authority of states and local governments – essentially, to include a SALT deduction. That is reflected in the original 1913 tax form, which I have included as part of this testimony.

However, the history of the SALT deduction pre-dates the original tax code: in 1862, the federal government instituted a small tax to help finance the cost of the Civil War. Included in this first federal income tax of three cents was a deduction for local taxes paid. A copy of the 1862 tax instruction is also included as part of my testimony.

The theory behind the deduction extends all the way back to the organizing of our government. In Federalist Paper #31, Alexander Hamilton argued that the taxing powers of the federal government should not become so great as to absorb "all the resources of taxation," ultimately at the exclusion of state and local taxation. (In fact, since the introduction of the federal income tax, there have been points at which an individual's tax burden would have exceeded 100 percent were it not for the SALT deduction.) By allowing for such a deduction, states and local governments would be free from federal intrusion into their taxing decisions.

More recently, efforts to cap or eliminate the SALT deduction faced stern opposition during the 1986 tax reform efforts. Former Sen. Daniel Patrick Moynihan (D-N.Y.) noted in 1986 that eliminating the SALT deduction would "vastly enlarge the scope of the federal government [and] unduly burden state and local governments." He added that the foundation of the SALT deduction is that there are "arenas of government that must not be invaded by other governments."

This historical backing for the SALT deduction is grounded in this support for state and local control over our own taxation decisions. Counties strongly believe that no federal law or regulation should preempt, limit or interfere with the constitutional or statutory rights of states and local governments to develop and operate our own tax systems to the benefit of our constituents. Such a system ensures that states and local governments have the means to provide public safety, education, infrastructure and more to our residents. Capping the SALT deduction provides a new and significant obstacle for local governments.

Elimination of the SALT Deduction Hits the Middle Class

One of counties' greatest concerns about the impact of capping the SALT deduction is the potential impact on the middle class, particularly homeowners. When an individual or family is unable to fully deduct their state and local taxes from their federally taxable income, the result is an exposure to double taxation. As I stated earlier – state and local taxes are not voluntary payments for taxpayers. A capped SALT deduction results in many families being forced to pay taxes on the same income twice, depressing their earnings and reducing their available income.

This is particularly true in Berks County. In 2016, the latest year for which data is available, over 60,000 individuals and families in our county filed tax returns utilizing the state and local tax deduction. According to an evaluation of IRS data by NACo, the *average* SALT deduction in Berks County in 2016 was above the $10,000 SALT cap set by the recently enacted Tax Cuts and Jobs Act, meaning many of these filers were potentially exposed to double taxation during the 2018 filing season.

This is not an issue that only impacts the wealthiest in our communities. In fact, in Berks County, *over 91 percent* of those claiming the SALT deduction in 2016 were taxpayers making less than $200,000. Furthermore, it is an unfortunate double standard that individuals face a capped SALT deduction, while businesses remain fully able to deduct state and local taxes.

Capping SALT Disrupts Local Tax Authority and Strains Local Services

Given the county reliance on property taxes, forcing double taxation on middle class homeowners presents a significant intrusion and downward pressure on local property tax decisions. Counties already face property tax caps in 45 states across the country, and a capped SALT deduction further limits the tools counties have available to finance the vital services we provide.

As families face double taxation and see their tax bills rise, they are turning to the level of government closest to them to seek tax relief: counties. Though these changes occurred at the federal level, our constituents seek out their local elected officials they run into the grocery store for help, just as they do with any other issue that arises in the community.

County leaders must now weigh the consequences of this federal change. Counties across the country operate on balanced budgets, with each dollar raised and spent strictly accounted for, whether it is raised through a property tax, local sales tax or local income tax. Under normal budgeting circumstances, a reduction in tax revenue must be offset by an equal reduction in services.

At the county level, this can mean real consequences: reductions in police or fire personnel, a delayed infrastructure project, or a postponed affordable housing project. This is particularly true for public education, as the majority of property tax dollars are earmarked directly for K-12 education. In fact, in some states, counties are simply the property tax collector and subsequently give out over 90 percent of the revenue collected for other purposes. In short, by capping the federal SALT deduction, Congress is asking counties to choose between the vital services we provide our residents.

Conclusion

Chairman Thompson and Ranking Member Smith, thank you again for inviting me to testify here today. The SALT deduction allows every state – red, blue or purple – the autonomy to make its own taxing and spending decisions, and the freedom to determine the tax system that works best for that state. Counties provide frontline services to our constituents, and we rely on this autonomy to be able to determine which services and resources best meet the needs of our communities.

We appreciate the bipartisan efforts that have been brought forward to ease the burdens of the capped SALT deduction. While we support these temporary measures, counties across the country need the full restoration of the SALT deduction in order to restore the intergovernmental balance of income taxation and reinstate autonomy of our tax systems.

TO BE FILLED IN BY COLLECTOR.

List. No. ....

.... District of ....

Date received ....

Form 1040.

INCOME TAX.

THE PENALTY
FOR FAILURE TO HAVE THIS RETURN IN THE HANDS OF THE COLLECTOR OF INTERNAL REVENUE ON OR BEFORE MARCH 1 IS $20 TO $1,000.

(SEE INSTRUCTIONS ON PAGE 4.)

TO BE FILLED IN BY INTERNAL REVENUE BUREAU.

File No. ....

Assessment List ....

Page .... Line ....

UNITED STATES INTERNAL REVENUE.

RETURN OF ANNUAL NET INCOME OF INDIVIDUALS.

(As provided by Act of Congress, approved October 3, 1913.)

RETURN OF NET INCOME RECEIVED OR ACCRUED DURING THE YEAR ENDED DECEMBER 31, 191 ...

(FOR THE YEAR 1913, FROM MARCH 1, TO DECEMBER 31.)

Filed by (or for) .... *of* ....
(Full name of individual.) (Street and No.)

in the City, Town, or Post Office of .... *State of* ....

(Fill in pages 2 and 3 before making entries below.)

1.	GROSS INCOME (see page 2, line 12)	$
2.	GENERAL DEDUCTIONS (see page 3, line 7)	$
3.	NET INCOME	$

Deductions and exemptions allowed in computing income subject to the normal tax of 1 per cent.

4.	Dividends and net earnings received or accrued, of corporations, etc., subject to like tax. (See page 2, line 11) . . .	$
5.	Amount of income on which the normal tax has been deducted and withheld at the source. (See page 2, line 9, column A)	
6.	Specific exemption of $3,000 or $4,000, as the case may be. (See Instructions 3 and 19)	

	Total deductions and exemptions. (Items 4, 5, and 6)	$
7.	TAXABLE INCOME on which the normal tax of 1 per cent is to be calculated. (See Instruction 3) .	$

8. When the net income shown above on line 3 exceeds $20,000, the additional tax thereon must be calculated as per schedule below:

						INCOME.	TAX.
1	per cent on amount over	$20,000	and not exceeding	$50,000	. .	$	$
2	“ “	50,000	“ “	75,000	. .		
3	“ “	75,000	“ “	100,000	. .		
4	“ “	100,000	“ “	250,000	. .		
5	“ “	250,000	“ “	500,000	. .		
6	“ “	500,000	. . . .				

Total additional or super tax	$
Total normal tax (1 per cent of amount entered on line 7) . .	$
Total tax liability	$

GROSS INCOME.

This statement must show in the proper spaces the entire amount of gains, profits, and income received by or accrued to the individual from all sources during the year specified on page 1.

DESCRIPTION OF INCOME.	**A.** Amount of income on which tax has been deducted and withheld at the source.	**B.** Amount of income on which tax has NOT been deducted and withheld at the source.
1. Total amount derived from salaries, wages, or compensation for personal service of whatever kind and in whatever form paid	$	$
2. Total amount derived from professions, vocations, businesses, trade, commerce, or sales or dealings in property, whether real or personal, growing out of the ownership or use of interest in real or personal property, including bonds, stocks, etc.		
3. Total amount derived from rents and from interest on notes, mortgages, and securities (other than reported on lines 5 and 6)		
4. Total amount of gains and profits derived from partnership business, whether the same be divided and distributed or not		
5. Total amount of fixed and determinable annual gains, profits, and income derived from interest upon bonds and mortgages or deeds of trust, or other similar obligations of corporations, joint-stock companies or associations, and insurance companies, whether payable annually or at shorter or longer periods		
6. Total amount of income derived from coupons, checks, or bills of exchange for or in payment of interest upon bonds issued in *foreign countries* and upon *foreign mortgages* or like obligations (not payable in the United States), and also from coupons, checks, or bills of exchange for or in payment of any dividends upon the stock or interest upon the obligations of foreign corporations, associations, and insurance companies engaged in business in foreign countries		
7. Total amount of income received from fiduciaries		
8. Total amount of income derived from any source whatever, not specified or entered elsewhere on this page		
9. TOTALS		

NOTES.—Enter total of Column A on line 5 of first page.

10. AGGREGATE TOTALS OF COLUMNS A AND B	$
11. Total amount of income derived from dividends on the stock or from the net earnings of corporations, joint-stock companies, associations, or insurance companies subject to like tax (To be entered on line 4 of first page.)	$
12. TOTAL **"Gross Income"** (to be entered on line 1 of first page)	$

GENERAL DEDUCTIONS.

1. The amount of necessary expenses actually paid in carrying on business, but not including business expenses of partnerships, and not including personal, living, or family expenses .	$			
2. All interest paid within the year on personal indebtedness of taxpayer				
3. All national, State, county, school, and municipal taxes paid within the year (not including those assessed against local benefits)				
4. Losses actually sustained during the year incurred in trade or arising from fires, storms, or shipwreck, and not compensated for by insurance or otherwise				
5. Debts due which have been actually ascertained to be worthless and which have been charged off within the year				
6. Amount representing a reasonable allowance for the exhaustion, wear, and tear of property arising out of its use or employment in the business, not to exceed, in the case of mines, 5 per cent of the gross value at the mine of the output for the year for which the computation is made, but no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof, for which an allowance is or has been made . . .				
7. Total "General Deductions" (to be entered on line 2 of first page)				

AFFIDAVIT TO BE EXECUTED BY INDIVIDUAL MAKING HIS OWN RETURN.

I solemnly swear (or affirm) that the foregoing return, to the best of my knowledge and belief, contains a true and complete statement of all gains, profits, and income received by or accrued to me during the year for which the return is made, and that I am entitled to all the deductions and exemptions entered or claimed therein, under the Federal Income-tax Law of October 3, 1913.

Sworn to and subscribed before me this ....

day of ...., 191

....
(Signature of individual.)

SEAL OF OFFICER TAKING AFFIDAVIT.

....

....
(Official capacity.)

AFFIDAVIT TO BE EXECUTED BY DULY AUTHORIZED AGENT MAKING RETURN FOR INDIVIDUAL.

I solemnly swear (or affirm) that I have sufficient knowledge of the affairs and property of .... to enable me to make a full and complete return thereof, and that the foregoing return, to the best of my knowledge and belief, contains a true and complete statement of all gains, profits, and income received by or accrued to said individual during the year for which the return is made, and that the said individual is entitled, under the Federal Income-tax Law of October 3, 1913, to all the deductions and exemptions entered or claimed therein.

Sworn to and subscribed before me this ....

....
(Signature of agent.)

day of ...., 191

ADDRESS IN FULL ....
....

SEAL OF OFFICER TAKING AFFIDAVIT.

....

....
(Official capacity.)

[SEE INSTRUCTIONS ON BACK OF THIS PAGE.]

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INCOME TAX FOR 1862.

The Income Tax is imposed upon a certain proportion of the income of these two classes, viz:

1st. Every person residing in the United States; and every citizen residing abroad who is in the employment of the Government of the United States.

2d. Every citizen of the United States residing abroad, and not in the employment of the Government of the United States.

Every person in the *first* class will be taxed at the rate of *three* per cent. when his or her annual gains, profits, or income exceed $600, and do not exceed $10,000.

Every person in the *first* class will be taxed at the rate of *five* per cent. when the annual gains, profits, or income exceed $10,000, after the following deductions are made from the gross amounts returned, (as per table, page 2,) viz:

1st. The $600 allowed by law.

2d. Other national, State, and local taxes assessed for 1862, and paid.

3d. Rent actually paid for the dwelling-house or estate occupied as the residence of the person assessed.

4th. Necessary repairs to property yielding the income; or insurance thereon; or pay for hired laborers, and their subsistence, employed in conducting his business; or interest on incumbrances upon the property; or all, as the case may be.

Every person in the *second* class will be taxed at the rate of *five* per cent., whatever may be his or her annual gains, profits, or income from property, securities, and stocks owned in the United States, without other deductions than numbers 2 and 4 above stated.

Whenever the taxable income of a resident in the United States, ascertained as above, exceeds $10,000, and upon a portion of said amount three per cent. has been withheld by the officers of companies, corporations, and associations, from interest or dividends therein due him, such income will be subject to a tax of *two* per cent. additional upon so much thereof as may have been previously subjected to a duty of three per cent. by the officers of the companies, corporations, or associations aforesaid.

But in no case, whether a person is subject to a tax of three or five per cent., is a higher rate of tax than $1\frac{1}{2}$ per cent. to be collected from that portion of income derived from interest upon notes, bonds, or other securities of the United States.

Where a husband and wife live together, and their taxable income is in excess of $600, they will be entitled to but one deduction of $600, that being the average fixed by law as an estimated commutation for the expense of maintaining a family. Where they live apart, by divorce or under contract of separation, they will be taxed separately, and be each entitled to a deduction of $600.

On the following pages will be found detailed statements to assist in making out returns.

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