



# TaxNewsFlash

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## Second Circuit: Regulation under section 170 disallowing deduction for amount of SALT credit upheld

The U.S. Court of Appeals for the Second Circuit today held that Treas. Reg. § 1.170A-1(h)(3)(i), which requires that a taxpayer claiming a charitable contribution deduction under section 170(c) reduce that deduction “by the amount of any state or local tax credit that the taxpayer receives or expects to receive in consideration for the taxpayer’s payment or transfer,” did not exceed the IRS’s statutory authority, as interpreted under the U.S. Supreme Court’s decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).

The case is: *New Jersey, New York, Connecticut, and the Village of Scarsdale v. Bessent*, Nos. 24-1499-cv(L), 24-1503-cv(CON) (2nd Cir. August 13, 2025). Read the Second Circuit’s [decision](#)

### Summary

The Tax Cuts and Jobs Act of 2017 (TCJA) capped the federal tax deduction for state and local taxes (“SALT deduction”) at \$10,000. Shortly thereafter, New Jersey, New York, Connecticut, and the Village of Scarsdale each enacted programs under which residents could voluntarily contribute money to a state-administered charitable fund and receive a sizeable state or local tax credit in return. The contributors sought to deduct the full amount of their contributions from their federal taxable incomes under section 170, but the U.S. Department of Treasury and IRS in 2019 promulgated Treas. Reg. § 1.170A-1(h)(3)(i), which would have denied such deductions.

New Jersey, New York, Connecticut, and the Village of Scarsdale sued the Treasury Department and the IRS in the U.S. District Court for the Southern District of New York, alleging that the IRS exceeded its statutory authority in promulgating Treas. Reg. § 1.170A-1(h)(3)(i) and that the regulation is arbitrary and capricious under the Administrative Procedure Act (APA). The district court granted summary judgment for Treasury and the IRS, relying on *Chevron* deference to conclude that the IRS’s interpretation of ambiguous statutory language in section 170 is a permissible construction of the statute and that the regulation is not arbitrary and capricious.

The states and village appealed to the Second Circuit, which today held that the IRS did not exceed its statutory authority in light of the Supreme Court’s overturning of *Chevron* in *Loper Bright*, finding that section 170 and its implicit quid pro quo principle allows the regulation’s prohibition of a tax deduction when the taxpayer has received a corresponding tax credit from the recipient of a donation.

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