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**Amicus Victory: NCLA Applauds Federal Court Ruling Invalidating ‘Tax Cut Ban’ in Thirteen States**

*State of West Virginia, et al. v. United States Department of the Treasury, et al.*

**Washington, DC (November 16, 2021)** - The New Civil Liberties Alliance celebrates an *amicus* victory and commends an Alabama federal court [ruling](#), issued Monday, permanently invalidating the “Tax Cut Ban” provision of the [American Rescue Plan Act of 2021 \(ARPA\)](#). Treasury is permanently enjoined from enforcing the Tax Cut Ban against West Virginia, Alabama, Arkansas, Alaska, Florida, Iowa, Kansas, Montana, New Hampshire, Oklahoma, South Carolina, South Dakota, and Utah. ARPA, enacted on March 11, 2021, had included a short—but constitutionally alarming—provision, which impermissibly seized state taxing authority. NCLA filed an *amicus* brief in [State of West Virginia, et al. v. United States Department of the Treasury, et al.](#) to support the Plaintiff States against Congress’ unprecedented attempt to prevent States from using pandemic aid to offset net tax revenue reductions.

U.S. District Judge L. Scott Coogler declared that the Tax Cut Ban is “an unconstitutionally ambiguous condition on the States’ receipt of federal funds” and that it “falls short of the clarity required when Congress exercises its powers under the Spending Clause.” As written, the Tax Cut Ban caused irreparable injuries to the Plaintiff States.

ARPA offers approximately \$195 billion to States, as a part of a \$1.9 trillion economic stimulus bill, to alleviate the economic impact of the COVID-19 pandemic. However, the Tax Cut Ban provision of ARPA conditions the States’ receipt of these recovery funds—which represent approximately 25% of the thirteen Plaintiffs’ annual budgets—on the surrender of their inherent and core sovereign taxing power.

Under ARPA, Congress alone can provide tax relief to Americans for three or more years. State taxes are frozen. Worse, state officials must serve as Congress’ auditors of state finances, upon potential criminal penalties for those officials. In his ruling, Judge Coogler concluded that the Tax Cut Ban “raises concerns of federalism and the protection of our nation’s dual system of governing” and said that there are limits on Congress’ power to impose spending conditions.

**NCLA released the following statements:**

“Congress’ use of federal pandemic relief funds taken from all Americans to treat States like vassals who must obey their federal overlords and keep state taxation at pre-pandemic levels is a betrayal of our dual-sovereign political design. All three courts to have reached the merits of the Tax Cut Ban have held it unconstitutional now.”

— **Peggy Little, Senior Litigation Counsel, NCLA**

“It is unsurprising that every court to analyze the Tax Cut Ban on the merits—first Ohio, then Kentucky, and now Alabama—has found it to be unconstitutional. Congress’ misguided attempt to use its own tax-and-

spending powers to control States' tax policy is a clear violation of the Constitution's federalism structure, which exists to safeguard personal liberty from unwanted government intrusion.”

— **Sheng Li, Litigation Counsel, NCLA**

For more information visit the case page [here](#).

## **ABOUT NCLA**

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA's public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans' fundamental rights.

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