

**Congress of the United States**  
**Washington, DC 20515**

January 9, 2018

The Honorable David J. Kautter  
Acting Commissioner  
Internal Revenue Service  
1111 Constitution Avenue NW  
Washington, D.C. 20224

Dear Acting Commissioner Kautter:

We are writing to express our concern over the haphazard and inaccurate manner in which the recent tax legislation has been implemented. Specifically, we are extremely concerned with the Internal Revenue Service's (IRS) recent guidance [IR-2017-210] suggesting that property taxes paid in the calendar year 2017 would not be deductible against federal income taxes in the year they were paid. Our constituents are understandably confused and frustrated, anxious about the specter of an imminent tax hike due this year. They deserve clear, consistent and timely direction from the IRS.

As you know, Section 11042 of P.L. 115-97 imposes a cap on the deduction of state and local taxes for the first time in the history of our country. Taken alone, this provision could result in 1.8 million taxpayers in New Jersey, or over 40% of our state, facing double taxation on the same dollar.

In order to mitigate the damage of this harmful provision, thousands of our constituents responsibly paid their property taxes for the following calendar year in the final days of 2017. Many were forced to spend long hours consolidating the necessary funds to then wait in line at their municipal hall to prepay their property taxes, when they should have been able to relax and enjoy the holidays with their family. But by making these payments before January 1, 2018, they effectively retained the ability to deduct these property taxes from their federal taxes, unencumbered by the cap imposed by Section 11042. Any reasonable interpretation of the underlying law must conclude that these payments, if made before the strike of midnight on January 1, 2018, are fully eligible for a deduction in 2017.

Indeed, the legislative text is unambiguous on this subject. While Section 11042 specifically prohibits 2018 state and local *income* taxes from being prepaid and deducted from federal income taxes in 2017, it is silent on the prepayment and deduction of local property taxes. Whether this exclusion was included intentionally or by accident due to the secretive and rushed process by which this bill became law is immaterial; the legislative text – through its deafening silence – is loud and clear on this topic.

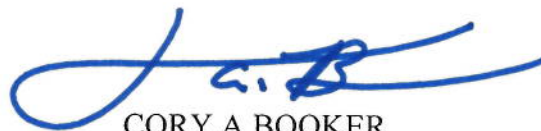
Despite this objective reading of the legislative text, the IRS announced on December 27 that it would limit the ability of our constituents to deduct property taxes paid in 2017 from their federal taxes that same year. This is nothing but a backdoor attempt to retroactively implement the cap on state and local tax deductions and it is not supported by law. As such, we ask that you rescind the flawed guidance and appropriately treat

property tax payments made in 2017 as fully deductible against 2017 federal income tax liability. Changing the rules in the middle of the game is both harmful and unfair to middle class families struggling to understand this new complex tax law being imposed on them virtually overnight. We urge you to immediately reverse course and give the people of New Jersey the certainty and fairness they deserve.

Sincerely,



ROBERT MENENDEZ  
United States Senator



CORY A BOOKER  
United States Senator



BILL PASCRELL JR  
Member of Congress



FRANK PALLONE JR  
Member of Congress



JOSH GOTTHEIMER  
Member of Congress



BONNIE WATSON COLEMAN  
Member of Congress



DONALD NORCROSS  
Member of Congress



ALBIO SIRES  
Member of Congress



DONALD PAYNE JR  
Member of Congress