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Media Inquiries: [Judy Pino](#), 202-869-5218

NCLA Commends Federal Court for Permanently Enjoining Enforcement of Tax Mandate in Ohio

State of Ohio v. United States Department of the Treasury, et al.

Washington, DC (July 2, 2021) – A federal court [ruling](#), filed Thursday, permanently enjoins the Secretary of the Department of Treasury from enforcing the “Tax Mandate” provision of the [American Rescue Plan Act of 2021 \(ARPA\)](#) against the State of Ohio. ARPA, enacted on March 11, 2021, includes the short—but constitutionally alarming—provision, which impermissibly seizes taxing authority from the states. The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, filed *amicus* briefs in [State of Ohio v. United States Department of the Treasury, et al.](#) and in [State of West Virginia, et al. v. United States Department of the Treasury, et al.](#) to support petitioner states against the unprecedented attempt by Congress to usurp state taxing authority.

ARPA offers approximately \$195 billion to states, but conditions the receipt of desperately needed Covid-19 fiscal recovery funds on the surrender of 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 now serve as Congress’ auditors of state finances, upon potential criminal penalties for those officials. In his ruling, United States District Court Judge Douglas Cole concluded that the Tax Mandate, as written, falls short of the clarity required for Congress’ power to impose spending conditions under the Constitution.

The Court also rejected the Secretary’s argument that the Treasury Department’s [Interim Final Rule](#) cures the ambiguity on what an “indirect offset” to net tax revenues may be. The 150-page document actually sowed greater confusion by mandating an overly complicated and burdensome scheme whereby each state is required to calculate and report the tax and spending effects of every new law, regulation, or administrative interpretation. According to Judge Cole, ARPA’s ambiguity was so vast that no Treasury regulation could have provided the requisite clarity.

NCLA released the following statements:

“As we approach the Fourth of July, NCLA is delighted to celebrate the decision by United States District Court Judge Douglas Cole to enter a permanent injunction preventing Congress from telling the states that they cannot cut state taxes as a condition of receiving federal funds. As Judge Cole held, ‘this is not division for division’s sake.’ At its founding, the Framers insisted upon these state and federal checks and balances to protect and preserve individual liberty.”

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

“Judge Cole’s well-reasoned rejection of the Treasury Department’s Interim Final Rule confirms what should have been obvious from the start: unelected bureaucrats cannot exploit Congress’ vague language to dictate tax policy to states under the guise of ‘providing clarity.’”

— **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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