

## U.S. DEPARTMENT OF THE TREASURY

# Treasury Secretary Janet L. Yellen Response to State Attorneys General Inquiries on Implementation of Section 9901 of the American Rescue Plan Act



March 23, 2021

Dear Attorney General Brnovich:

I write in reply to your March 16, 2021 letter regarding Treasury's implementation of section 9901 of the American Rescue Plan Act (the "Act"), which provides funds to States, territories, Tribal governments, and localities to help them manage the economic consequences of COVID-19.

In the Act, Congress has provided funding to help States manage the public health and economic consequences of COVID-19 and it has given States considerable flexibility to use that money to address the diverse needs of their communities. At the same time, Congress placed limitations to ensure that the money is used to achieve those purposes - including provisions stating that this funding may not be used to offset a reduction in net tax revenue resulting from certain changes in state law.

It is well established that Congress may place such reasonable conditions on how States may use federal funding. Congress includes those sorts of reasonable funding conditions in legislation routinely, including with respect to funding for Medicaid, education, and highways. Here, the Act provides a broad outlay of federal funds, and accordingly includes restrictions to ensure that those funds are properly applied. Earlier COVID-19 relief measures providing state funding also included restrictions that barred States from spending those funds on certain ineligible expenditures.

Nothing in the Act prevents States from enacting a broad variety of tax cuts. That is, the Act does not "deny States the ability to cut taxes in any manner whatsoever." It simply provides that funding received under the Act may not be used to offset a reduction in net tax revenue resulting from certain changes in state law. If States lower certain taxes but do not use funds under the Act to offset those cuts-for example, by replacing the lost revenue through other means-the limitation in the Act is not implicated.

It is also important to note that States choosing to use the federal funds to offset a reduction in net tax revenue do not thereby forfeit their entire allocation of funds appropriated under this statute. The limitation affects States' ability to retain only those federal funds used to offset a reduction in net tax revenue resulting from certain changes in state law.

Treasury is crafting further guidance-including guidance to address more specifically the issues raised by your letter and the procedures Treasury will use for any future recoupment-that will provide additional information about how this provision will be administered. We will provide this guidance before a State must submit a certification under § 602( d)(l ). We also expect to engage in an ongoing dialogue throughout the program.

These funds will provide transformative relief to States, territories, and Tribal governments, and our communities should be able to use the funds to recover from the economic fallout due to the pandemic, which is what Congress intended. I hope to work with your State, as well as others across the country, to ensure these funds can be used in ways that align with the goals of the statute without undue restrictions.

Sincerely,

Janet L. Yellen

cc:

The Honorable Christopher M. Carr

The Honorable Patrick Morrisey

The Honorable Steve Marshall

The Honorable Leslie Rutledge

The Honorable Ashley Moody

The Honorable Lawrence G. Wasden

The Honorable Theodore E. Rokita

The Honorable Derek Schmidt

The Honorable Daniel Cameron

The Honorable Jeff Landry

The Honorable Lynn Fitch

The Honorable Eric S. Schmitt

The Honorable Austin Knudsen

The Honorable Douglas J. Peterson

The Honorable Mike Hunter

The Honorable Alan Wilson

The Honorable Jason R. Ravensborg

The Honorable Ken Paxton

The Honorable Sean D. Reyes

The Honorable Bridget Hill

[View: Response to State Attorneys General Inquiries on Implementation of Section 9901 of the ARP Act](#) 