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Potential IRS Challenges to SALT Deduction Limitation Workarounds

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Shortly after the Tax Cuts and Jobs Act ("TCJA") was enacted, New York Governor Andrew Cuomo described the new $10,000 state and local tax deduction limitation as an "economic missile" launched by the federal government at New Yorkers and others living in blue states. It did not take long for professors, state legislators, and tax planners to develop ways to circumvent the $10,000 limitation. Asked to comment on one of the workarounds, Treasury Secretary Steven Mnuchin derided it as "ridiculous"; the IRS has since announced plans to undercut that same workaround by regulation. At this juncture, the fight over the $10,000 limitation has already become something of a tug-of-war with the IRS pitted against blue state governments and taxpayers. It would not be terribly surprising if the tug of war ultimately results in a courtroom battle. This article discusses a few of the workarounds designed to circumvent the $10,000 limitation and potential IRS responses.