



Herbert H. Slatery III Attorney General & Reporter

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TENNESSEE, KENTUCKY FILE LAWSUIT AGAINST BIDEN ADMINISTRATION STATE TAX POLICY

Lawsuit argues the federal government is using COVID relief to overrule States' tax policies

Nashville- Attorney General Herbert H. Slatery III today joined Kentucky Attorney General Daniel Cameron in a lawsuit challenging a mandate from the Biden Administration in the American Rescue Plan Act (the Act). The lawsuit, filed against Treasury Secretary Janet Yellen in the United States District Court for the Eastern District of Kentucky, argues that the tax mandate unconstitutionally usurps the authority of each State's legislature to enact beneficial tax policies.

The American Rescue Plan Act was passed by Congress and signed into law on March 11, 2021. Of the nearly \$2 trillion included in the Act, approximately \$200 billion will assist state governments with COVID relief. But, as a condition of receiving the COVID aid, the Act requires states to comply with a tax mandate that prevents it from lowering taxes for its citizens for four years.

"The states have a constitutional right to implement their own tax policy," said General Slatery. "We should not have to choose between accepting COVID-19 relief funds or surrendering to Washington's attempt to override what only our elected officials in Tennessee are authorized to do."

"Kentuckians expect state tax policies to be set by the men and women they elect to represent them in the General Assembly, and not as a result of an edict from the Federal Government," said Attorney General Cameron. "These COVID relief funds are essential to helping the Commonwealth and hardworking Kentuckians recover from the effects of the pandemic, and it is unconstitutional for the Biden Administration to hold the funds hostage if we don't agree to Washington's preferred tax policies. I'm proud to join with Attorney General Slatery to push back against federal overreach in its worst form."

The Attorneys General allege in the lawsuit that requiring states to acquiesce to a sweeping tax mandate "is an unprecedented power grab by the federal government at a time when elected officials should be singularly focused on helping their constituents overcome the devastating effects of the pandemic. It usurps the States' sovereign authority by coercing them into making the policy choices that a bare majority of Congress prefers, and a strictly partisan majority at that, without regard for the citizens of the States or the leaders they elect."

Tennessee expects to receive about \$3.7 billion under the Act, more than one fifth of Tennessee's annual general revenue.

In March, a coalition of Attorneys General sent a [letter](#) to Secretary Yellen urging clarification of the Tax Mandate and asking for Treasury to adopt a more "sensible interpretation" of the mandate's language.





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Secretary Yellen's [response](#) did not provide clarity about using relief funds to “indirectly” offset a reduction in tax revenue.

Without this necessary clarity, Attorneys General Cameron and Slatery argue that “the broad and ambiguous scope of the Tax Mandate has the likely and foreseeable effect of chilling almost any legislative action by the States that affect tax revenue.”

To view a copy of the motion, click here:

<https://www.tn.gov/content/dam/tn/attorneygeneral/documents/pr/2021/pr21-15-complaint.pdf>

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