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The SALT Cap: Overview and Analysis

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SUMMARY

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The SALT Cap: Overview and Analysis

Taxpayers who elect to itemize their deductions may reduce their federal income tax liability by claiming a deduction for certain state and local taxes paid, often called the "SALT deduction." The 2017 tax revision (commonly referred to as the Tax Cuts and Jobs Act, TCJA; P.L. 115-97) made a number of changes to the SALT deduction. Most notably, the TCJA established a limit, or "SALT cap," on the amounts claimed as SALT deductions for tax years 2018 through 2025. The SALT cap is $10,000 for single taxpayers and married couples filing jointly and $5,000 for married taxpayers filing separately.

The changes enacted in the TCJA will considerably affect SALT deduction activity in the next several years. The increased value of the standard deduction (roughly doubling from its pre-TCJA value for tax years 2018 through 2025), along with the reduced availability of SALT and other itemized deductions, are projected to significantly reduce the number of SALT deduction claims made in those years. The Joint Committee on Taxation (JCT) projected that repealing that SALT cap for tax year 2019 would increase federal revenues by $77.4 billion.

The SALT deduction reduces the cost of state and local government taxes to taxpayers because a portion of the taxes deducted is effectively paid for by the federal government. By reducing the deduction's value, the SALT cap therefore increases the cost to the taxpayer of state and local taxes. That may affect state and local tax and spending behavior, as any reduction in state and local revenues from increased sensitivity to SALT-eligible tax rates must be offset by reductions in outlays or increases in other revenue to maintain budget outcomes.

The SALT cap's effect on the SALT deduction's value is in part a function of state and local tax policies. Nationwide, there is considerable variation in both the combined level of income and sales taxes levied by states and the property taxes and other charges levied by local governments. Differences in incomes and price levels that serve as the base for those taxes are another source of disparity in SALT cap exposure. Internal Revenue Service (IRS) data showed that in 2017, the average SALT deduction claimed in New York ($23,804) was more than four times the average in Alaska ($5,451).

The SALT cap predominantly affects taxpayers with higher incomes. State and local tax payments tend to increase with income, both as a direct function of the income tax structure and because higher incomes lead to increased consumption and thus sales and property tax payments. Increased income, therefore, makes higher-income taxpayers more likely to make SALT-eligible tax payments in amounts exceeding the SALT cap value. The benefit of SALT deductions in terms of tax savings is also larger for taxpayers with higher incomes because a federal tax deduction's value is proportional to the taxpayer's marginal income tax rate. JCT projected that more than half of 2019 benefits for the SALT deduction will accrue to taxpayers with incomes exceeding $200,000.

Several pieces of legislation introduced in the 116th Congress would modify the SALT cap, including legislation that would (1) repeal the SALT cap entirely; (2) increase the SALT cap's value for all taxpayers; (3) increase the SALT cap's value for some taxpayers; (4) make the SALT cap permanent; and (5) repeal IRS regulations affecting SALT cap liability.

Following enactment of the TCJA, several states proposed or passed legislation that provided possible avenues to reduce the SALT cap's effect on taxpayers without reducing their relevant state or local tax burdens. Subsequent guidance by the IRS, however, makes it unclear or unlikely that those laws will prevent taxpayers from experiencing the SALT cap's effects.

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Introduction

Taxpayers who elect to itemize their deductions may reduce their federal income tax liability by claiming a deduction for certain state and local taxes paid, often called the "SALT deduction." The 2017 tax revision (commonly referred to as the Tax Cuts and Jobs Act, TCJA; P.L. 115-97) established a temporary $10,000 limit, or "SALT cap," on annual SALT deduction claims. By limiting the amount of the SALT deduction, the SALT cap increases the tax liability of certain taxpayers, which increases federal tax revenues relative to what otherwise would have been collected without a limitation in place. The SALT cap's effect on tax liability varies significantly with taxpayer income and with state and local tax rates. A number of bills introduced in the 116th Congress would modify the SALT cap, and federal regulatory efforts responding to related state and local government activity are ongoing. This report discusses the SALT cap's features, analyzes its potential impact, and summarizes recent legislation and regulatory action to modify the cap.

Cap Mechanics and Revenue Effects

Under current law, taxpayers itemizing deductions (in lieu of claiming the standard deduction) may reduce their taxable income by claiming the SALT deduction for certain state and local taxes paid during the tax year. The state and local taxes eligible for the SALT deduction are income taxes, sales taxes (claimed in lieu of income taxes), personal property taxes, and certain real property taxes not paid in the carrying on of a trade or business.[1]

For taxpayers who would have itemized deductions without access to the SALT deduction, it generates tax savings equal to the amount deducted multiplied by the taxpayer's marginal income tax rate. For example, a taxpayer with $20,000 of eligible state and local taxes and a top marginal tax rate of 35% would save $7,000 from the SALT deduction (i.e., $20,000*0.35). For taxpayers who would have claimed the standard deduction without access to the SALT deduction, it generates tax savings equal to the difference between their tax liability if they had claimed the standard deduction and their total tax liability with itemized deductions (inclusive of the SALT deduction). (Throughout this report, the *tax savings* attributable to the SALT deduction is also referred to as the *benefit* from the deduction.)

The TCJA established a temporary SALT cap for tax years 2018 through 2025. The SALT cap is set at $10,000 for single taxpayers or married couples filing jointly and $5,000 for married taxpayers filing separately. By limiting the SALT deduction available to certain taxpayers, the SALT cap decreases the tax savings associated with the deduction relative to prior law, thereby increasing federal revenues.

The TCJA also changed a number of tax code features (e.g., standard deduction amounts, marginal tax rates)[2] that indirectly affect SALT deduction eligibility and the value of the tax savings it generates. The TCJA roughly doubled the standard deduction and limited other

[1] More detail on the SALT deduction is available in CRS Report RL32781, *Federal Deductibility of State and Local Taxes*, by Grant A. Driessen and Steven Maguire.

[2] For examples of how marginal tax rates changed as a result of P.L. 115-97, see CRS Insight IN11039, *The Federal Income Tax: How Did P.L. 115-97 Change Marginal Income Tax Rates?*, by Margot L. Crandall-Hollick.

itemized deductions.[3] The TCJA also prohibited SALT deduction claims on taxes paid on foreign real property for tax years 2018 through 2025.[4]

The SALT cap, the increased value of the standard deduction, and other tax changes enacted by the TCJA have reduced the number of taxpayers claiming the SALT deduction and the total tax savings from those claims. **Table 1** shows the most recent estimates of reductions in federal revenues attributable to the SALT deduction for FY2017, the last full year before enactment of P.L. 115-97, and FY2019 through FY2023.[5] Revenue losses from the SALT deduction in FY2017 ($100.9 billion) nearly equaled the total losses projected from FY2019 through FY2023 ($117.2 billion). The Joint Committee on Taxation (JCT) projects that 16.4 million taxpayers will claim a SALT deduction for tax year 2019,[6] compared to 46.6 million taxpayers who the Internal Revenue Service (IRS) reported claiming the deduction in 2017.[7]

Table 1. Projected Revenue Losses from the SALT Deduction

(in billions of dollars)

FY2017	FY2019	FY2020	FY2021	FY2022	FY2023
100.9	21.2	22.5	23.6	24.6	25.3

Source: Joint Committee on Taxation, *Estimates of Federal Tax Expenditures For Fiscal Years 2017-2021*, May 2018, JCX-34-18; and Joint Committee on Taxation, *Estimates of Federal Tax Expenditures For Fiscal Years 2019-2023*, December 2019, JCX-55-19.

Notes: FY2017 projections were estimated in May 2018, and FY2019-FY2023 projections were estimated in December 2019. Figures are not adjusted for inflation.

Recent research has estimated the SALT cap's effect on SALT deduction claims independent of other tax changes enacted through the TCJA. A 2019 Treasury Inspector General report examined the SALT cap's hypothetical effect had it been imposed in tax year 2017, prior to the other TCJA changes taking effect.[8] The report found that the cap would have reduced SALT deduction benefits for 10.9 million taxpayers (about 25% of all households claiming the deduction) and reduced deduction amounts by $323 billion, or just over half of the actual amounts deducted in that year.[9] In June 2019, JCT estimated that holding all other portions of the tax code constant, repealing the SALT cap for tax year 2018 would decrease FY2019 federal revenues by $77.4 billion.[10]

[3] The Joint Committee on Taxation estimated that the share of taxpayers itemizing deductions fell from 26.8% in 2017 to 10.2% in 2019. See Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2016-2020*, January 2017, Table 2, JCX-3-17; and Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2019-2023*, Table 2, December 2019, JCX-55-19.

[4] For more information on the changes made through P.L. 115-97, see CRS Report R45092, *The 2017 Tax Revision (P.L. 115-97): Comparison to 2017 Tax Law*.

[5] These revenues losses include the direct effect of the SALT cap and the indirect effect of other TCJA changes (e.g., standard deduction, marginal rates) to the tax code.

[6] Joint Committee on Taxation, *Estimates of Federal Tax Expenditures For Fiscal Years 2019-2023*, December 2019, JCX-55-19.

[7] Internal Revenue Service (IRS), *2017 Statistics of Income*, Historic Table 2; available at https://www.irs.gov/statistics/soi-tax-stats-historic-table-2.

[8] Treasury Inspector General for Tax Administration, "Review of the Issuance Process for Notice 2018-054," February 2019, p. 2.

[9] Actual amounts sourced from IRS, *2017 Statistics of Income*, Historic Table 2; available at https://www.irs.gov/statistics/soi-tax-stats-historic-table-2.

[10] Joint Committee on Taxation, *Background on the Itemized Deduction for State and Local Taxes*, Table 4, June 2019, JCX-35-19.

Effects on State and Local Governments

The SALT deduction provides state and local governments with an increased ability to levy taxes by reducing the after-tax cost of state and local taxes to taxpayers. By limiting the deduction's benefits, the SALT cap increases the cost (or "price") of state and local taxes for affected taxpayers. For example, consider a taxpayer with itemized deductions, a 35% marginal tax rate, and $20,000 in eligible SALT payments. Without a SALT cap in place, the net price of those taxes for the taxpayer would be $13,000 (or $20,000*[1-0.35]), as the taxpayer can use all $20,000 of those tax payments to reduce federal tax liability. When a $10,000 SALT cap is imposed, the final price of those taxes rises to $16,500 (or $10,000 + [$10,000*(1-0.35)]).

The basic economic law of demand—there is an inverse relationship between the price of a good and the quantity demanded—suggests that by increasing the price of state and local taxes, a SALT cap would lead to a decline in demand for state and local government activity. The size of the decrease would be a function of the sensitivity of public desire for state and local services, paid for by taxes, to changes in the price of those services (i.e., the elasticity of demand). Research has found indications that state and local governments respond to federal tax changes with shifts in their own tax and spending practices.[11]

Response to the SALT cap could be a function of its salience, that is, the public awareness of its effect on tax liability.[12] SALT cap salience may depend on awareness of the state and local taxes themselves, which can vary significantly across tax system features.[13] Salience for taxpayers who take the standard deduction, but who would be better off itemizing deductions if not for the SALT cap, may be particularly low, as the SALT cap's effects may not be apparent in tax filing software. Taxpayers could also have difficulty differentiating SALT cap-related liability changes from other changes enacted through the TCJA.

State and local governments are generally limited in their ability to respond to shifts in demand for government services with changes in fiscal outcomes (i.e., increased deficits or reduced surpluses). Unlike the federal government, which has no enforceable balanced-budget requirement, most state and local governments are statutorily required to balance operating revenues and operating expenses over a one-year or two-year period.[14] Governments with a binding balanced-budget requirement would therefore need to match any reduction in SALT revenue resulting from the cap with a reduction in spending on services provided or increases in other revenue sources.

Distributional Effects

This section explores features of localities and households that are likely to influence the distribution and intensity of SALT cap effects on tax liability.[15] The recent enactment and

[11] Bradley Heim and Yulianti Abbas, "Does Federal Deductibility Affect State and Local Revenue Sources?" *National Tax Journal*, vo. 68, no. 1 (2015), p. 33.

[12] Research has demonstrated evidence of behavioral responses to changes in tax salience. See, for example, Amy Finkelstein, "*E-Z Tax*: Tax Salience and Tax Rates," *Quarterly Journal of Economics*, vol. 124, no. 3, (2009), p. 969.

[13] For more on how features of the tax system affect tax salience, see William Congdon, Jeffrey Kling, and Sendhil Mullainathan, *Policy and Choice: Public Finance through the Lens of Behavioral Economics* (Washington, DC: Brookings Institution Press, 2011).

[14] See National Conference of State Legislatures, *NCSL Fiscal Brief: State Balanced Budget Provisions*, October 2010, available at http://www.ncsl.org/research/fiscal-policy/state-balanced-budget-requirements-provisions-and.aspx.

[15] No assumptions are made concerning the presence and intensity of state and local government responses to the SALT cap.

implementation of the SALT cap means that tax return data on its impact by state, locality, and income level are currently unavailable. However, analyzing the SALT deduction's distribution prior to the cap's imposition can provide insight into its *likely* impact. The data indicate that the SALT cap's effects will vary significantly across state and local jurisdictions and household income.

Distribution Across States and Congressional Districts

The SALT cap's effect is in part a function of state and local tax policies. For example, greater effective rates levied on taxes that qualify for the deduction (income taxes, general sales taxes, real and personal property taxes) would increase the amount of SALT-eligible tax payments and therefore increase the probability that a taxpayer will have SALT deductions that exceed the cap. State and local tax rates could thus affect both the *number* of taxpayers with higher tax liability from the SALT cap (sometimes referred to as SALT cap exposure) and the *amount of those increases* (sometimes referred to as the SALT cap burden).

Differences in local incomes and price levels are another determinant of the SALT cap's effect. Wages and prices are the bases against which state and local governments levy SALT-eligible income, sales, and property taxes. Consider two households that are in separate localities and have different incomes but the same tax rates and the same purchasing power. In other words, adjusting for their local price levels, each household is able to purchase the same sets of goods and services. Although each household faces the same set of purchasing options on the public and private markets, the household facing higher price levels is more likely to have SALT payments in excess of the SALT cap.

State and local governments raised a combined $1.30 trillion in individual income taxes, general sales taxes, and property taxes in 2017, an average of about $8,500 per federal income taxpayer.[16] Those revenues are divided almost evenly between state governments ($667 billion in revenues), which collected the majority of the income and sales taxes, and local governments ($632 billion), which collected the majority of property taxes.[17] There is considerable geographic variation in the rates at which taxes are levied and in the incomes and prices to which those taxes apply.

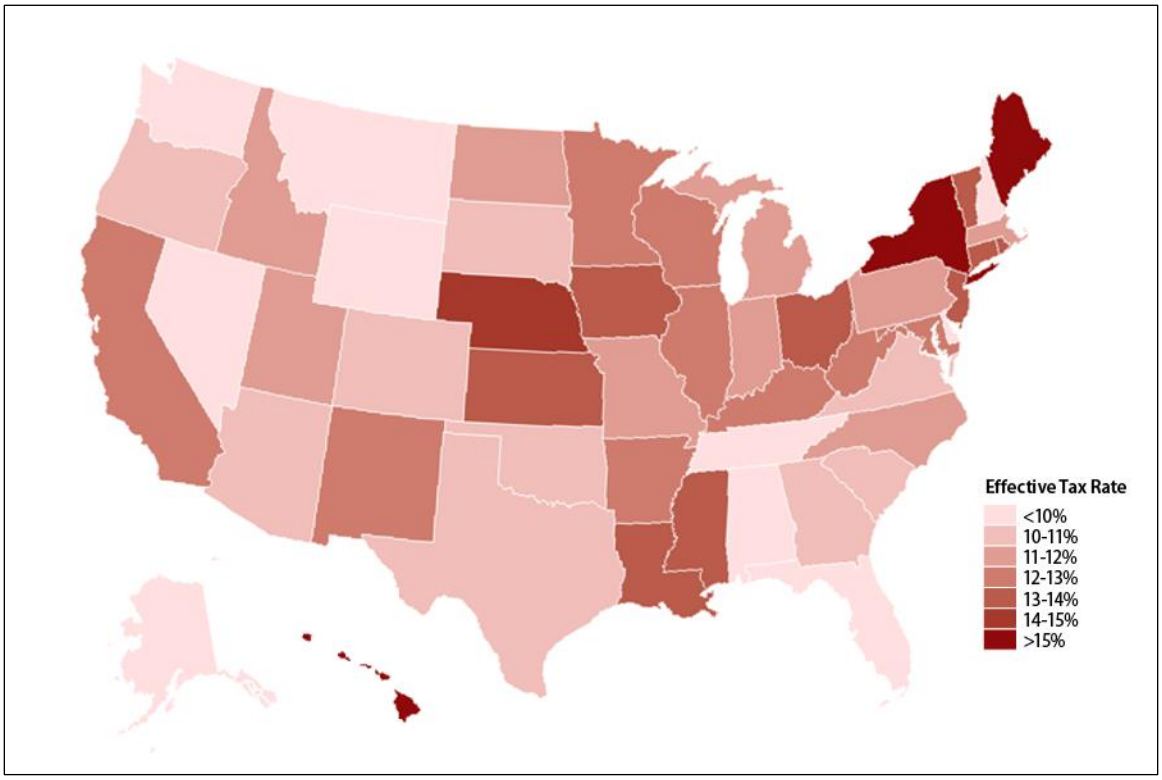
Figure 1 shows effective state and local tax rates for all SALT-eligible taxes in each state, calculated as the percentage of total adjusted gross income paid in-state and local general sales taxes, individual income taxes, and property taxes.[18] In 2017, New York (17.2% effective tax rate), Washington, DC (16.9%), Hawaii (16.1%), Maine (15.0%), and Nebraska (14.2%) had the highest combined effective state and local tax rates. Delaware (6.8%), Alaska (7.6%), Florida (7.7%), New Hampshire (8.3%) and Tennessee (8.4%) had the lowest combined tax rates. All else equal, states with higher SALT-eligible effective tax rates are likely to experience greater SALT cap effects on tax liability than states with lower rates.

[16] Sources: IRS, *2017 Statistics of Income*, Historic Table 2, available at https://www.irs.gov/statistics/soi-tax-stats-historic-table-2; and United States Census Bureau, *2017 State & Local Government Finances*, available at https://www.census.gov/data/datasets/2017/econ/local/public-use-datasets.html#. CRS calculations.

[17] IRS, *2017 Statistics of Income*, Historic Table 2; and United States Census Bureau, *2017 State & Local Government Finances*.

[18] Rates are calculated by dividing 2017 state and local general sales, individual income, and property tax collections by total adjusted gross income. Only income or general sales tax payments may be used in claiming the SALT deduction. Rates do not include corporate income, excise, or other taxes, because these taxes are not deductible as state and local taxes paid. In practice, some portion of the revenue in each state is paid by residents of other states, particularly sales tax revenue.

Figure 1. Effective State and Local Tax Rates, 2017

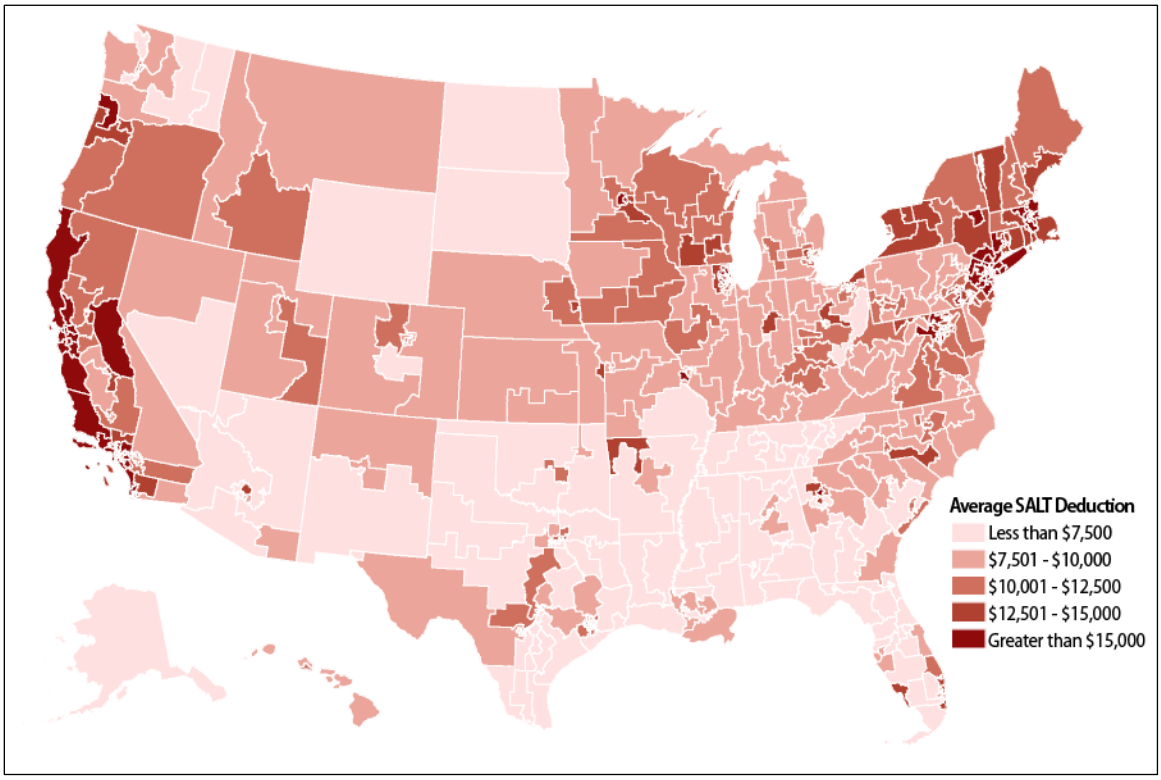


Source: U.S. Census Bureau, *2017 Annual Survey of State and Local Government Finances*, and Internal Revenue Service, *SOI Income Tax Stats*. Calculations performed by CRS.

Notes: Income categories reflect an adjusted gross income (AGI) concept. Tax rates include both income taxes and general sales taxes, while SALT deductions use either income tax general or sales tax payments. Calculations exclude taxpayers with negative income.

Figure 2 plots the average SALT deduction amount for each 2017 congressional district (districts are from the 115th Congress). The districts with the 20 highest average SALT deductions are located in states with above-average effective tax rates in **Figure 1**, including New York, California, Connecticut, and New Jersey. Nineteen of the districts with the 20 lowest average SALT deductions are located in Florida, Texas, Tennessee, Alabama, Nevada, Arizona, and Alaska, all states with below-average effective state and local tax rates. **Figure 2** shows the potential significance of local tax and economic activity on the SALT cap's effects.

Figure 2. Average SALT Deduction Amount by Congressional District, 2017

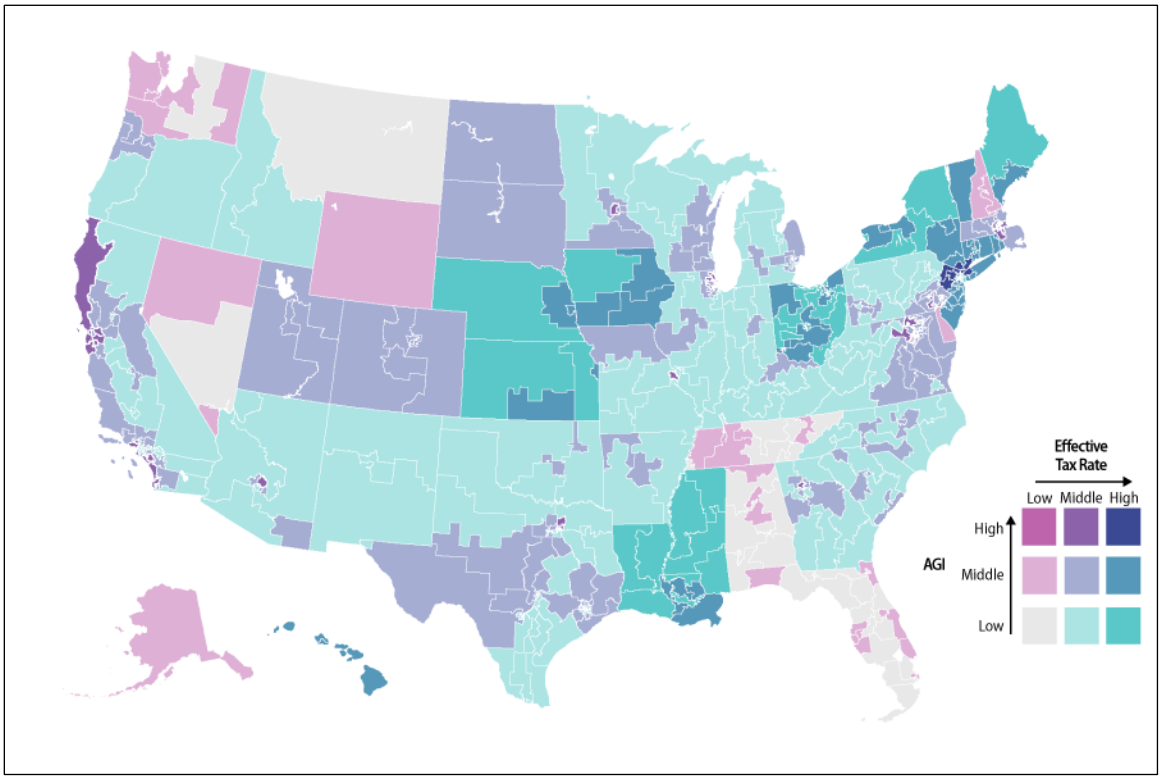


Source: Internal Revenue Service, *SOI Income Tax Stats*. Calculations performed by CRS.

Notes: Income categories reflect an adjusted gross income (AGI) concept. Calculations exclude taxpayers with negative income.

Figure 3 adds a layer of analysis by plotting two variables on each congressional district: (1) average adjusted gross income (AGI) of taxpayers and (2) average effective SALT rates. Each district categorized as having low effective SALT rates in **Figure 3** had an average AGI below $75,000, and 13 of these districts had average AGI below $50,000. Nineteen of the 20 districts with the highest effective SALT rates had an average AGI above $100,000, and four of the top five districts had an average AGI above $200,000. The distribution of SALT deductions across household income is discussed further in the next section. **Figure 3** demonstrates the importance of considering both tax rates and the tax base when examining potential SALT cap effects.

Figure 3. Average Effective SALT Rate and Adjusted Gross Income (AGI) by Congressional District, 2017



Source: U.S. Census Bureau, *2017 Annual Survey of State and Local Government Finances*, and Internal Revenue Service, *SOI Income Tax Stats*. Calculations performed by CRS.

Notes: Income categories reflect an adjusted gross income (AGI) concept. Tax rates include both income taxes and general sales taxes, while SALT deductions use either income tax general or sales tax payments. Calculations exclude taxpayers with negative income.

Distribution Across Income Levels

As with other tax deductions, SALT deduction benefits accrue more for higher-income taxpayers than lower-income taxpayers. Two factors explain this pattern: (1) higher incomes directly lead to more state and local income taxes and are correlated with higher sales and property tax payments stemming from greater consumption; and (2) taxpayers with higher incomes are subject to higher marginal tax rates, so each dollar deducted from tax liability results in greater tax savings.

Table 2 shows the JCT projections of SALT benefits by income class in tax years 2017 (the last year before the TCJA took effect) and 2019. Taxpayers with more than $100,000 of AGI received the vast majority of SALT benefits in both 2017 (93%) and 2019 (89%). Taxpayers with income between $50,000 and $200,000 received a larger share of total benefits in 2019 (44%) than 2017 (29%), whereas the opposite trend occurs for taxpayers with more than $200,000 (declining from 71% to 56%). Taxpayers with less than $50,000 received relatively little benefit from the SALT deduction in both years.

Table 2. Income Distribution of SALT Deduction Benefit, 2017 and 2019

	Tax Year 2017		Tax Year 2019	
Income Class	**SALT Benefit (in billions of $)**	**Share of SALT Benefit**	**SALT Benefit (in billions of $)**	**Share of SALT Benefit**
Less than $10,000	<0.1	0%	<0.1	0%
$10,000-$20,000	<0.1	0%	<0.1	0%
$20,000-$30,000	<0.1	0%	<0.1	0%
$30,000-$40,000	0.1	0%	<0.1	0%
$40,000-$50,000	0.2	0%	0.1	0%
$50,000-$75,000	1.7	2%	0.7	3%
$75,000-$100,000	2.9	4%	1.5	7%
$100,000-$200,000	15.5	22%	6.8	33%
More than $200,000	49.3	71%	11.7	56%

Source: Joint Committee on Taxation, *Estimates of Federal Tax Expenditures For Fiscal Years 2016-2020*, December 2019, JCX-3-17; and Joint Committee on Taxation, *Estimates of Federal Tax Expenditures For Fiscal Years 2019-2023*, December 2019, JCX-55-19.

Notes: The tax benefit from the deduction is equal to the tax savings associated with the deduction. 2017 projections were estimated in January 2017, while 2019 projections were estimated in December 2019. Income categories reflect an adjusted gross income (AGI) concept. Table excludes taxpayers with negative income.

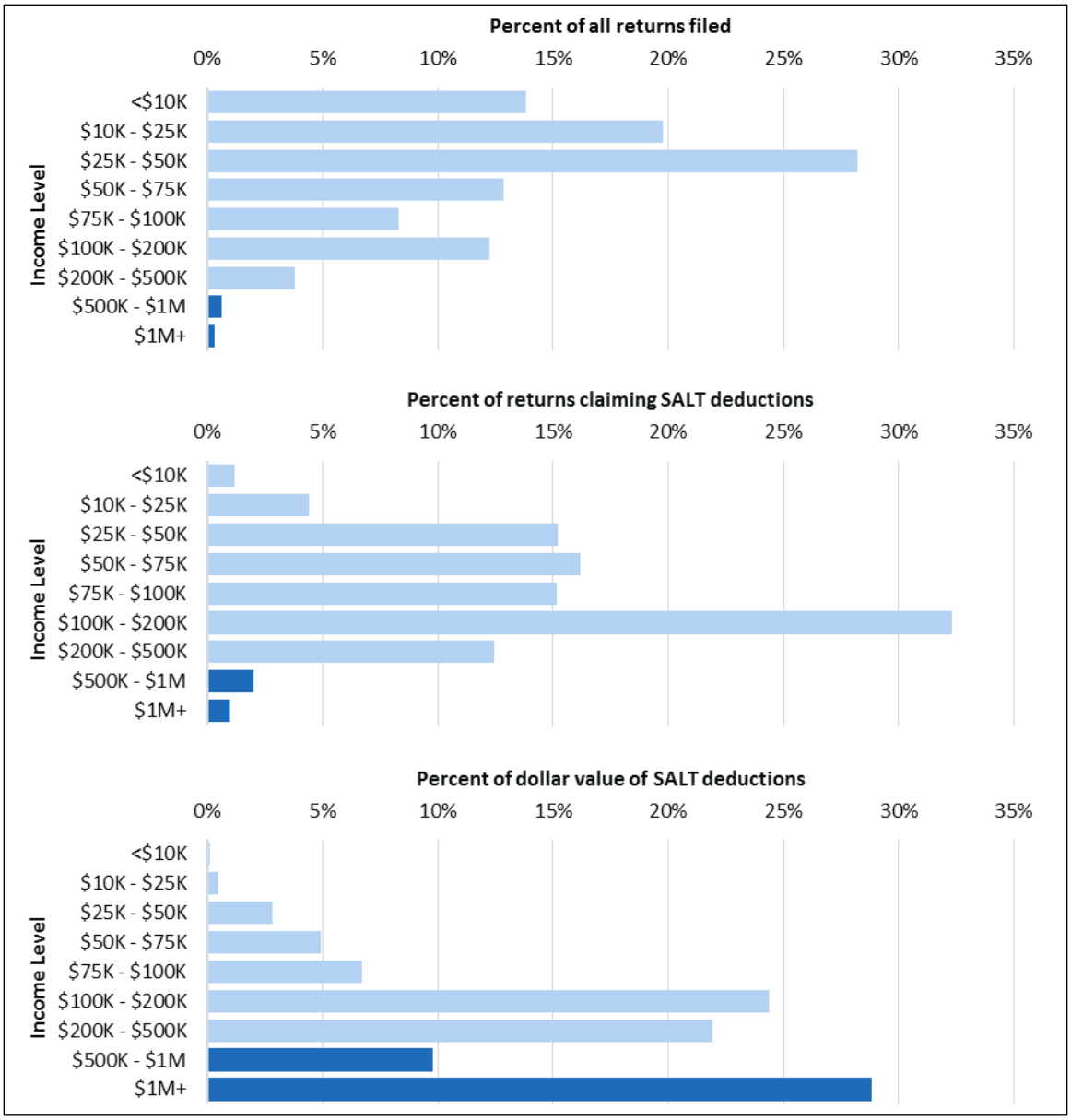
Data from **Table 2** suggest that the SALT cap increased the federal tax burden of high-income taxpayers. This occurs because the SALT cap (1) reduced the number of taxpayers claiming the SALT deduction, who disproportionately fell in higher income classes; and (2) reduced SALT benefit levels of taxpayers with more than $10,000 in SALT payments, who were particularly likely to have high levels of income.[19] JCT estimated that were the SALT cap eliminated in tax year 2019, more than half of the additional tax benefits would have been claimed by taxpayers with incomes exceeding $1 million.[20] The SALT cap's total effect on the combined federal, state, and local tax burden across income levels will depend on the state and local government response to the SALT cap, which is uncertain.

Figure 4 plots the percentage of all tax returns, the percentage of returns claiming SALT deductions, and the percentage of SALT deduction amounts claimed across income levels in tax year 2017, the latest year for which data are available. (The amount of SALT deduction claimed reflects the dollars deducted and not the tax savings associated with the deduction.) Tax returns with AGI exceeding $1 million represented less than 1% of all tax returns, but claimed over 25% of all SALT deduction amounts. Tax returns with over $100,000 in AGI claimed more than 78% of the SALT deduction amounts claimed, while returns with AGI below $50,000 claimed less than 10% of that total.

[19] Distributional effects discussed in this report reflect the tax and budgetary effects of the SALT cap only, and not those of the changes made in P.L. 115-97 as a whole.

[20] Joint Committee on Taxation, *Background on the Itemized Deduction For State and Local Taxes*, Table 4, June 2019, JCX-35-19.

Figure 4. Percentage of Returns Claiming the SALT Deduction and SALT Deduction Amounts by Income, 2017



Source: Internal Revenue Service, *SOI Income Tax Stats*. Calculations performed by CRS.

Notes: Income categories reflect an adjusted gross income (AGI) concept. Calculations exclude taxpayers with negative income.

The composition of state and local taxes also affects the SALT cap's ultimate effect on taxpayers within a local jurisdiction. **Table 3** illustrates how SALT cap burden distribution can differ when the composition of state and local taxes changes while holding total tax revenue constant. In both jurisdictions, total tax revenues are $44,000. In Jurisdiction I, relatively high income tax rates generate higher income tax payments, and the SALT cap burden falls on Tax Units A and B, the taxpayers with higher incomes. In Jurisdiction II, property tax rates are higher than income tax rates, and the SALT cap burden instead falls on Tax Units A and C, the taxpayers with high property values. More of the state and local tax revenue in Jurisdiction II is above the SALT cap,

meaning that taxpayers in Jurisdiction II are able to deduct less in SALT deductions on their federal income tax returns. This analysis highlights the importance of state and local tax structure in determining the SALT cap's effect on taxpayer liability even when holding the average level of taxes constant.

Table 3. Illustrative Example: State and Local Tax Rates and SALT Cap Effects

			Jurisdiction I Income Tax Rate > Property Tax Rate				Jurisdiction II Property Tax Rate > Income Tax Rate			
Tax Unit	**Inc.**	**Prop. Value**	**Eff. Inc. Tax %**	**Eff. Prop. Tax %**	**Total Taxes**	**Amt. Above SALT Cap**	**Eff. Inc. Tax %**	**Eff. Prop. Tax %**	**Total Taxes**	**Amt. Above SALT Cap**
A	$500K	$750K	3.0%	0.5%	$18,750	$8,750	1.0%	2.0%	$20,000	$10,000
B	$500K	$50K	3.0%	0.5%	$15,250	$5,250	1.0%	2.0%	$6,000	$0
C	$100K	$750K	3.0%	0.5%	$6,750	$0	1.0%	2.0%	$16,000	$6,000
D	$100K	$50K	3.0%	0.5%	$3,250	$0	1.0%	2.0%	$2,000	$0
Tot.					**$44K**	**$14K**			**$44K**	**$16K**

Notes: Examples not intended to correlate to specific localities. Eff.=Effective; Inc.=Income; Prop.=Property; K=Thousand. General sales taxes and other taxes subject to the SALT cap are assumed to be set to zero.

State Responses to the SALT Cap

The state and local response to the SALT cap's effect has varied across municipalities. Certain governments in states with relatively high mean SALT deduction values (see **Figure 1**) have either enacted legislation that would appear to make tax changes to reduce the SALT cap's effect on their taxpayers or taken legal action against the federal government. Recent federal and legal responses to some of these actions suggest these efforts will likely be unsuccessful. State and local governments with relatively lower levels of SALT cap exposure have taken little to no action.

Following enactment of the TCJA, several state governments made changes to their tax codes with the potential to lower their residents' SALT cap exposure. Certain states enacted laws that provided taxpayers a credit against state taxes for charitable donations to state entities, which would then be eligible for the federal charitable deduction under Section 170 of the Internal Revenue Code. The IRS has since issued a final ruling limiting the availability of Section 170 charitable deductions in such a way that would render the new charitable activity ineligible.[21] A legislative proposal that would overturn IRS regulations, S.J.Res. 50, was rejected by the Senate in October 2019.

Some states have tried to use a "pass-through work around" to reduce the SALT cap's impact on some of their taxpayers with pass-through business income. Many types of businesses that do not pay corporate income taxes (including S corporations and partnerships) pass through income to their owners, who pay taxes on that income at the individual level.[22] The SALT cap does not limit

[21] U.S. Department of Treasury, "Treasury Issues Final Regulations on Charitable Contributions and State and Local Tax Credits," press release, June 11, 2019, available at https://home.treasury.gov/news/press-releases/sm705.

[22] An S corporation is a corporation that elects to pass corporate income, losses, deductions, and credits through to their

SALT deductions associated with the carrying on of a trade or business.[23] Hence, taxpayers whose SALT tax payments are associated with pass-through business income may not be subject to the SALT cap in the same manner as other individual income tax payments. Certain state governments have adjusted for this activity by enacting laws that levy or raise taxes on the *pass-through business entity itself* that are offset (holding total tax rates constant) by tax reductions or tax credits applied to individual income liability for *pass-through business members subject to the tax increase*. The IRS has not issued guidance on the viability of such legislation or its effect on SALT cap exposure.

Several states also took legal action related to the SALT cap following enactment of the TCJA, filing suit against the U.S. government in July 2018 and challenging the cap's constitutionality.[24] A September 2019 federal district court ruling upheld the SALT cap's constitutionality, asserting that it did not unconstitutionally penalize certain jurisdictions.[25]

Legislation in the 116th Congress

Legislation introduced in the 116th Congress would modify the SALT cap, including proposals that would (1) repeal the SALT cap entirely; (2) increase the SALT cap's value for all taxpayers; (3) increase the SALT cap's value for some taxpayers; (4) make the SALT cap permanent; and (5) repeal IRS regulations affecting SALT cap liability. **Table 4** displays legislation in the 116th Congress that would directly modify the SALT cap.

Table 4. Legislative Proposals Modifying the SALT Cap, 116th Congress

Bill Number	Latest Action (Date)	Description of SALT cap effects
H.R. 188	Referred to H.Cmt. on Ways and Means (Jan. 2019)	Repeals SALT cap
H.R. 257	Referred to H.Cmt. on Ways and Means (Jan. 2019)	Repeals SALT cap
H.R. 515	Referred to H.Cmt. on Ways and Means (Jan. 2019)	Repeals SALT cap
H.R. 1142	Referred to H.Cmt. on Ways and Means (Feb. 2019)	Repeals SALT cap retroactive to tax year 2019
S. 437	Referred to S.Cmt. on Finance (Feb. 2019)	Repeals SALT cap retroactive to tax year 2019
H.R. 1757	Referred to H.Cmt. on Ways and Means (Mar. 2019)	Increases 2019 SALT cap to $30,000 for joint filers, $15,000 for single taxpayers; indexes future years to inflation

shareholders. C corporations, in contrast, form legal business entities that are taxed separately from their owners.

[23] The SALT cap would apply to state and local *corporate income taxes* which are paid by non-pass-through businesses.

[24] Jesse McKinley, "New York and New Jersey File Suit Against Trump Tax Plan," *The New York Times*, July 17, 2018, available at https://www.nytimes.com/2018/07/17/nyregion/salt-taxes-deduction-lawsuit-trump-cuomo.html.

[25] Ben Casselman, "Tax Law's Cap on State and Local Deductions Is Upheld In Court," *The New York Times*, September 30, 2019, available at https://www.nytimes.com/2019/09/30/business/economy/state-local-tax.html.

S. 1162	Referred to S.Cmt. on Finance (Apr. 2019)	Makes SALT cap permanent
H.R. 2624	Referred to H.Cmt. on Ways and Means (May 2019)	Increases SALT cap to an amount equal to the standard deduction
H.R. 2894	Referred to H.Cmt. on Ways and Means (May 2019)	Increases 2019 SALT cap to $30,000 for joint filers, $15,000 for single taxpayers, indexes future years to inflation
H.J.Res. 67	Referred to H.Cmt. on Ways and Means (Jun. 2019)	Repeals IRS regulation related to state and local tax credits
H.J.Res. 72	Referred to H.Cmt. on Ways and Means (Jul. 2019)	Repeals IRS regulation related to state and local tax credits
H.R. 4274	Referred to H.Cmt. on Ways and Means (Sep. 2019)	Repeals SALT cap
S.J.Res. 50	Failed passage in Senate (Oct. 2019)	Repeals IRS regulation related to state and local tax credits
S. 2762	Referred to S.Cmt. on Finance (Oct. 2019)	Increases the SALT cap to $20,000 for joint taxpayers and $10,000 for other taxpayers
H.R. 5377	**Passed House (Dec. 2019**), referred to S.Cmt. on Finance (Jan. 2020)	Doubles the SALT cap value for 2019, eliminates SALT cap in 2020 and 2021

Source: Congress.gov and CRS. List compiled in January 2020.

Notes: List does not include proposals with indirect SALT cap effects. Passage in either full chamber denoted in bold. H.Cmt. = House Committee; S.Cmt. = Senate Committee.

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