KPMG

TaxNewsFlash

United States

No. 2020-060
February 4, 2020

Regulations pending OIRA review: Denial of deduction for fines, penalties

OMB's Office of Information and Regulatory Affairs (OIRA) reports that it has received for review from the U.S. Treasury Department proposed regulations concern the deductibility of certain fines, penalties, and other amounts under section 162(f).

Treasury regulations that are identified as "major" regulations are subject to review by OMB's OIRA before being issued, pursuant to Executive Order 13771. According to OIRA, the regulations received for review on February 3, 2020, are identified as:

- **RIN: 1545-BO67**: Rules for denial of deduction for certain fines, penalties, and other amounts

Further, OIRA describes these proposed regulations as:

> *Revising 1.162-21 regarding deductibility of certain fines, penalties, and other amounts under 162(f), as revised by the Tax Cuts and Jobs Act of 2017. Adding 1.6050X regarding information reporting with respect to certain fines, penalties, and other amounts under 6050X, as added by the Tax Cuts and Jobs Act of 2017.*

Background

Section 162(f) was revised by the 2017 tax law (Pub. L. No. 115-97, the law that is often referred to as the "Tax Cuts and Jobs Act" (TCJA)). In general, fines and penalties paid to a government are nondeductible for federal income tax purposes under section 162(f). The 2017 tax law further denied any otherwise deductible amounts paid or incurred to or at the direction of a governmental or specific nongovernmental regulatory entity for the violation (or potential violation) of any law. As had been the case under the tax law prior to enactment of the TCJA, certain exceptions apply to payments established as restitution, remediation of property, or required for correction of noncompliance, as well as amounts paid or incurred as taxes due, but only if so identified in the court order or settlement agreement. Such exceptions do not apply to reimbursement of government investigative or litigation costs.

Direct comments, including requests for subscriptions, to Washington National Tax. For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-United States, reply to Washington National Tax.

Privacy | Legal