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Final regulations on denial of deductions for fines, penalties; OIRA review completed

OMB's Office of Information and Regulatory Affairs (OIRA) reported it completed its review of final regulations concerning 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. Accordingly, knowing the status of OIRA review of Treasury regulations can help in predicting when regulations may be issued by Treasury and the IRS.

OIRA's review was completed on January 8, 2021, and the final regulations are listed on the OIRA website as:

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

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 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 situation 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.

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