

# TaxNewsFlash

United States



No. 2021-025  
January 12, 2021

## Final regulations: Denial of deductions for fines, penalties (text of regulations)

The IRS today posted to its website a version of the final regulations (T.D. 9946) concerning the deduction of certain fines, penalties, and other amounts under section 162(f).

The [final regulations](#) [PDF 382 KB] (85 pages) also provide guidance relating to the information reporting requirements under new section 6050X with respect to those fines, penalties, and other amounts.

The final regulations affect taxpayers that pay or incur amounts, or at the direction of, governments, governmental entities or certain nongovernmental entities that are treated as governmental entities when the amounts paid relate to the violation of a law or to investigations or inquiries by the governments or nongovernmental entities about potential violations of a law. The final regulations also include related reporting requirements for the governments and nongovernmental entities relating to the payments paid or incurred by taxpayers.

The version of the final regulations released today by the IRS includes the following statement:

*This document has been submitted to the Office of the Federal Register (OFR) for publication and will be pending placement on public display at the OFR and publication in the Federal Register. The version of the final rule released today may vary slightly from the published document if minor editorial changes are made during the OFR review process. The document published in the Federal Register will be the official document.*

### 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 government, government entity, or certain nongovernmental entities treated as governmental entities 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. In general, the final regulations provide that reporting is required for payment amounts equal to or in excess of \$50,000. These exceptions do not apply to reimbursement of government investigative or litigation costs.

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