

Update: Tax Planning Alert - Amounts Paid at Direction of Government or Specified Non- Government Entities - New IRC sec. 162(f)

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The Internal Revenue Service has issued [Notice 2018-23](#) (dated March 27, 2018) to implement transitional guidance for application of new IRC secs. 162(f) and 6050X. As described in our [previous Client Advisory](#), those new tax sections address the deductibility and reporting of amounts paid at the direction of government or certain specified non-government entities (e.g., settlement agreements with Dept. of Justice, FCC, FTC, EPA; court ordered settlements). In general, the new provisions require identification of the amount and nature of payments and related reporting of such amounts by governmental entities. The new provisions became effective on December 22, 2017, when the Tax Cut and Jobs Act (as it is commonly known) was enacted. The Notice provides that until proposed regulations are issued, which will not occur before January 1, 2019, the reporting requirements (specified in Section 6050X) are suspended. The Notice also states that, until proposed regulations are issued, the identification requirements are satisfied if the settlement agreement or court order specifically states on its face that the amount is for restitution, remediation or for coming into compliance with the law. The IRS affirms, however, that taxpayers will have the burden of establishing the amount of deductible payment even if the identification guidance is followed. Finally, the IRS has requested comments on a variety of matters to consider in the proposed regulations.