

115TH CONGRESS
1ST SESSION

S. 803

To amend the Internal Revenue Code of 1986 to deny tax deductions for corporate regulatory violations.

IN THE SENATE OF THE UNITED STATES

APRIL 3, 2017

Mr. REED (for himself and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to deny tax deductions for corporate regulatory violations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Government Settle-
5 ment Transparency and Reform Act”.

6 **SEC. 2. DENIAL OF DEDUCTION FOR CERTAIN FINES, PEN-**
7 **ALTIES, AND OTHER AMOUNTS.**

8 (a) IN GENERAL.—Subsection (f) of section 162 of
9 the Internal Revenue Code of 1986 is amended to read
10 as follows:

1 “(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

2 “(1) IN GENERAL.—Except as provided in the
3 following paragraphs of this subsection, no deduction
4 otherwise allowable shall be allowed under this chap-
5 ter for any amount paid or incurred (whether by
6 suit, agreement, or otherwise) to, or at the direction
7 of, a government or governmental entity in relation
8 to the violation of any law or the investigation or in-
9 quiry by such government or entity into the potential
10 violation of any law.

11 “(2) EXCEPTION FOR AMOUNTS CONSTITUTING
12 RESTITUTION OR PAID TO COME INTO COMPLIANCE
13 WITH LAW.—

14 “(A) IN GENERAL.—Paragraph (1) shall
15 not apply to any amount that—

16 “(i) the taxpayer establishes—

17 “(I) constitutes restitution (in-
18 cluding remediation of property) for
19 damage or harm which was or may be
20 caused by the violation of any law or
21 the potential violation of any law, or

22 “(II) is paid to come into compli-
23 ance with any law which was violated
24 or otherwise involved in the investiga-

1 tion or inquiry described in paragraph
2 (1),

3 “(ii) is identified as restitution or as
4 an amount paid to come into compliance
5 with such law, as the case may be, in the
6 court order or settlement agreement, and

7 “(iii) in the case of any amount of
8 restitution for failure to pay any tax im-
9 posed under this title in the same manner
10 as if such amount were such tax, would
11 have been allowed as a deduction under
12 this chapter if it had been timely paid.

13 The identification under clause (ii) alone shall
14 not be sufficient to make the establishment re-
15 quired under clause (i).

16 “(B) LIMITATION.—Subparagraph (A)
17 shall not apply to any amount paid or incurred
18 as reimbursement to the government or entity
19 for the costs of any investigation or litigation.

20 “(3) EXCEPTION FOR AMOUNTS PAID OR IN-
21 CURRED AS THE RESULT OF CERTAIN COURT OR-
22 DERS.—Paragraph (1) shall not apply to any
23 amount paid or incurred by reason of any order of
24 a court in a suit in which no government or govern-
25 mental entity is a party.

1 “(4) EXCEPTION FOR TAXES DUE.—Paragraph
2 (1) shall not apply to any amount paid or incurred
3 as taxes due.

4 “(5) TREATMENT OF CERTAIN NONGOVERN-
5 MENTAL REGULATORY ENTITIES.—For purposes of
6 this subsection, the following nongovernmental enti-
7 ties shall be treated as governmental entities:

8 “(A) Any nongovernmental entity which
9 exercises self-regulatory powers (including im-
10 posing sanctions) in connection with a qualified
11 board or exchange (as defined in section
12 1256(g)(7)).

13 “(B) To the extent provided in regulations,
14 any nongovernmental entity which exercises
15 self-regulatory powers (including imposing sanc-
16 tions) as part of performing an essential gov-
17 ernmental function.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to amounts paid or incurred on
20 or after the date of the enactment of this Act, except that
21 such amendments shall not apply to amounts paid or in-
22 curred under any binding order or agreement entered into
23 before such date. Such exception shall not apply to an
24 order or agreement requiring court approval unless the ap-
25 proval was obtained before such date.

1 **SEC. 3. REPORTING OF DEDUCTIBLE AMOUNTS.**

2 (a) IN GENERAL.—Subpart B of part III of sub-
3 chapter A of chapter 61 of the Internal Revenue Code of
4 1986 is amended by inserting after section 6050W the fol-
5 lowing new section:

6 **“SEC. 6050X. INFORMATION WITH RESPECT TO CERTAIN**
7 **FINES, PENALTIES, AND OTHER AMOUNTS.**

8 “(a) REQUIREMENT OF REPORTING.—

9 “(1) IN GENERAL.—The appropriate official of
10 any government or any entity described in section
11 162(f)(5) which is involved in a suit or agreement
12 described in paragraph (2) shall make a return in
13 such form as determined by the Secretary setting
14 forth—

15 “(A) the amount required to be paid as a
16 result of the suit or agreement to which para-
17 graph (1) of section 162(f) applies,

18 “(B) any amount required to be paid as a
19 result of the suit or agreement which con-
20 stitutes restitution or remediation of property,
21 and

22 “(C) any amount required to be paid as a
23 result of the suit or agreement for the purpose
24 of coming into compliance with any law which
25 was violated or involved in the investigation or
26 inquiry.

1 “(2) SUIT OR AGREEMENT DESCRIBED.—

2 “(A) IN GENERAL.—A suit or agreement is
3 described in this paragraph if—

4 “(i) it is—

5 “(I) a suit with respect to a vio-
6 lation of any law over which the gov-
7 ernment or entity has authority and
8 with respect to which there has been
9 a court order, or

10 “(II) an agreement which is en-
11 tered into with respect to a violation
12 of any law over which the government
13 or entity has authority, or with re-
14 spect to an investigation or inquiry by
15 the government or entity into the po-
16 tential violation of any law over which
17 such government or entity has author-
18 ity, and

19 “(ii) the aggregate amount involved in
20 all court orders and agreements with re-
21 spect to the violation, investigation, or in-
22 quiry is \$600 or more.

23 “(B) ADJUSTMENT OF REPORTING
24 THRESHOLD.—The Secretary may adjust the
25 \$600 amount in subparagraph (A)(ii) as nec-

1 essary in order to ensure the efficient adminis-
2 tration of the internal revenue laws.

3 “(3) TIME OF FILING.—The return required
4 under this subsection shall be filed at the time the
5 agreement is entered into, as determined by the Sec-
6 retary.

7 “(b) STATEMENTS TO BE FURNISHED TO INDIVID-
8 UALS INVOLVED IN THE SETTLEMENT.—Every person re-
9 quired to make a return under subsection (a) shall furnish
10 to each person who is a party to the suit or agreement
11 a written statement showing—

12 “(1) the name of the government or entity, and

13 “(2) the information supplied to the Secretary
14 under subsection (a)(1).

15 The written statement required under the preceding sen-
16 tence shall be furnished to the person at the same time
17 the government or entity provides the Secretary with the
18 information required under subsection (a).

19 “(c) APPROPRIATE OFFICIAL DEFINED.—For pur-
20 poses of this section, the term ‘appropriate official’ means
21 the officer or employee having control of the suit, inves-
22 tigation, or inquiry or the person appropriately designated
23 for purposes of this section.”.

24 (b) CONFORMING AMENDMENT.—The table of sec-
25 tions for subpart B of part III of subchapter A of chapter

1 61 of the Internal Revenue Code of 1986 is amended by
2 inserting after the item relating to section 6050W the fol-
3 lowing new item:

“Sec. 6050X. Information with respect to certain fines, penalties, and other
amounts.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to amounts paid or incurred on
6 or after the date of the enactment of this Act, except that
7 such amendments shall not apply to amounts paid or in-
8 curred under any binding order or agreement entered into
9 before such date. Such exception shall not apply to an
10 order or agreement requiring court approval unless the ap-
11 proval was obtained before such date.

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