



Committee On Finance

Max Baucus, Ranking Member

NEWS RELEASE

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For Immediate Release
Monday, December 15, 2003

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Sens. Grassley and Baucus Raise Concerns About Government Settlement Payments *Deductions on Penalties May Improperly Lighten Punishments*

(Washington, D.C.) U.S. Senate Finance Chairman Chuck Grassley and Ranking Member Max Baucus today sent a letter to the General Accounting Office (GAO) raising serious concerns that various settlements reached by Federal regulatory and oversight agencies may allow the payment of penalties to be tax deductible. Grassley and Baucus are especially concerned by settlements made in various Securities and Exchange Commission (SEC) investigations.

"In the aftermath of the Enron scandal, I am very concerned that full penalties are not being felt by those guilty of securities law violations," Baucus said. "By making penalty payments tax deductible, the tax burden is being shifted from the backs of the wrongdoer to the backs of the American people. This is unacceptable. We must correct this injustice in order to restore faith in corporate America."

In April, Grassley and Baucus introduced the "Government Settlement Transparency Act" to ensure that payments and fines paid in relation to the violation of any law are nondeductible. The legislation would deny deductibility for all payments, including cases where there has been no admission of guilt or liability and those made for the purpose of avoiding further investigation or litigation. The only exception would apply to individual restitution payments.

"The SEC's global settlement got a lot of headlines but not a lot of punishment of the wrongdoers," Grassley said. "Unfortunately, the SEC approved the settlement without addressing who really pays. Ultimately, the commission agreed that wrongdoers should pay the price, not the taxpayers or insurers, but it was too late. We need to know how many other commissions and agencies are letting wrongdoers off with a slap on the wrist instead of hitting them where it hurts - their bank accounts. Taxpayers could be subsidizing hundreds of millions of dollars in penalties. If so, that's unacceptable."

Grassley and Baucus have asked the GAO to review the largest settlements and determine how those settlements were reported for Federal tax purposes. The GAO will be authorized to look at all relevant IRS files, records and returns for purposes of this review.

Full text of letter attached:

December 15, 2003

The Honorable David M. Walker
Comptroller General
U.S. General Accounting Office
441 G Street, N.W.
Washington, DC 20548

Dear Mr. Walker:

Over the past several months, the Finance Committee has become increasingly concerned about the approval of various settlements reached by Federal regulatory and oversight agencies that may allow penalty payments made to the government in settlement of a violation or potential violation of the law or regulatory requirement to be tax deductible. When penalty payments are deducted, the effective cost of the penalty to the wrongdoer is reduced and the economic cost for engaging in unacceptable behavior is unfairly shifted to the taxpayer.

Given the number of settlements and significant dollars amounts involved, it is important that taxpayers adhere to the rules governing the appropriate tax treatment of settlements. To gain insight into how businesses are treating these settlements for Federal tax purposes, we request that GAO review some of the largest settlements and determine how these settlements were reported for Federal tax purposes. Please work with our staff representatives in determining how many settlements over what period of time to include in your review.

With respect to this review, the Chairman is authorizing GAO, pursuant to Section 6013(f)(4)(A) of the Internal Revenue Code, to conduct necessary work and report to the Committee. He would expect your designated representatives to have access to all relevant IRS files, records, and returns for these purposes and comply with all of the restrictions that protect taxpayer information.

We understand that GAO will need to conduct a design phase for this effort and request periodic briefings as you proceed. If you have any questions, please do not hesitate to contact Dean Zerbe or Patrick Heck at 224-4515. Thank you for your assistance.

Sincerely yours,

Max Baucus
Ranking Member

Charles E. Grassley
Chairman