

CLIENT ALERT

IRS Mandates Audit of Deductibility of Settlements

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IRS has issued audit guidance on the deductibility of settlements under the FCA which provides for mandatory examination of settlements of \$10 million or more, consideration of pre-filing agreements with settling persons, and mandatory contact with the Justice Department Fraud Section pursuant to agreed procedures. Generally, civil "penalties" imposed for the purposes of enforcing the law and as punishment for violations of the law are not deductible, but civil "penalties" imposed to encourage prompt compliance with a requirement of the law or as a remedial measure to compensate another party for expenses incurred as a result of the violation are deductible.

This message is not intended to constitute tax advice. Accordingly, this message was not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding any penalties that may be imposed on such taxpayer by the Internal Revenue Service.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

Brian C. Elmer

Retired Partner – Washington, D.C.

Email: belmer@crowellretiredpartners.com