

United States Senate  
WASHINGTON, DC 20510

April 16, 2021

The Honorable Charles Rettig  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

Dear Commissioner Rettig:

We write to urge the Internal Revenue Service to use the full extent of its authority to challenge any abusive tax deductions claimed by opioid companies for expenses related to legal settlements regarding these companies' role in fueling the opioid crisis.

Recent reporting indicates that four companies involved in the multi-district opioid litigation collectively plan to claim billions of dollars in tax deductions for expenses related to a pending \$26 billion settlement with state and local governments,<sup>1</sup> which sued these companies for their role in fueling the opioid epidemic. Similarly, in 2019, a judge ordered one of these companies to pay \$572 million to the State of Oklahoma for misleading marketing of its opioid products.<sup>2</sup> Based on this reporting, we are concerned that opioid wholesalers and drug companies may mischaracterize legal settlement expenses in order to claim tax deductions under tax code section 162(f), which allows the deduction of restitution payments.

In January 2021, the IRS published TD 9946, final regulations regarding the deductibility of legal settlement expenses under section 162(f). We strongly encourage the IRS to fully enforce the tax code by challenging any erroneous interpretations of these recent regulations that opioid companies may use in an attempt to claim tax deductions for legal settlement expenses.

We thank you for your attention to this important issue.

Sincerely,

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<sup>1</sup> "Drug companies seek billion-dollar tax deductions from opioid settlement." Washington Post. February 12, 2021. <https://www.washingtonpost.com/business/2021/02/12/opioid-settlement-tax-refund/?arc404=true>

<sup>2</sup> "Johnson & Johnson Ordered to Pay \$572 Million in Landmark Opioid Trial," New York Times, August 26, 2019, <https://www.nytimes.com/2019/08/26/health/oklahoma-opioids-johnson-and-johnson.html>



Margaret Wood Hassan  
United States Senator



Ron Wyden  
United States Senator



Brian Schatz  
United States Senator



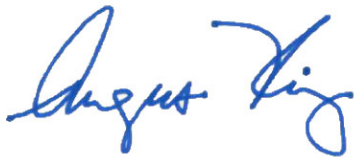
Chris Van Hollen  
United States Senator



Tammy Baldwin  
United States Senator



Sheldon Whitehouse  
United States Senator



Angus S. King, Jr.  
United States Senator



Debbie Stabenow  
United States Senator



Mark R. Warner  
United States Senator



Catherine Cortez Masto  
United States Senator

/s/

Jack Reed  
United States Senator

A handwritten signature in blue ink that reads "Robert Menendez." The signature is written in a cursive style with a period at the end.

Robert Menendez  
United States Senator