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THE TAX LAWYER

TAXES 10/12/2015

DEA Misconduct Slammed By Senator Grassley

Senator Charles Grassley wants to know [why a college student was awarded \\$4.1 million in a settlement with the DEA](#). In 2012, a 20-year-old college student from the UC San Diego was found locked up in handcuffs in a DEA detention cell five days after he was mistakenly arrested. He had received no food or water for the previous 120 hours. For more than two years, Sen. Grassley sought answers and accountability from the DEA through letters, congressional hearings, and speeches on the Senate floor.

Although the student received a financial settlement, the DEA agents got slaps on the wrist, brief suspensions, and letters of reprimand. Sen. Grassley points to other DEA misconduct, such as distributing drugs and cavorting with prostitutes. Sen. Grassley says there is an absence of meaningful discipline, keeping wrongdoers on the DEA's 11,000-person payroll. And Sen. Grassley says it isn't just the DEA. He says misdeeds at the FBI, Secret Service, and U.S. Marshals Service also tarnish the nation's institutions.



Senate Judiciary Committee Chairman Sen. Charles Grassley speaks about criminal justice reform with a bipartisan group of Senators, Oct. 1, 2015, on Capitol Hill in Washington. (AP Photo/Jacquelyn Martin)

When federal law enforcement holds itself above the law, Sen. Grassley asks how we can expect society to respect the rule of law? As chairman of the Senate Judiciary Committee, he is on a crusade for robust oversight of federal bureaucracy. As for Daniel Chong, the UC San Diego student, he was jailed with no food or water for [five days](#). He was never even formally arrested or charged. Chong and eight others were detained April 21, 2012 after DEA agents raided a house in San Diego.

The feds seized ecstasy, marijuana, prescription medications, hallucinogenic mushrooms, guns and ammunition. Chong was visiting a friend and knew nothing about the drugs or guns. He drank his own urine to survive and convinced he would die, wrote a farewell note to his mother. He lost 15 pounds and suffered [post-traumatic stress disorder](#). Although Mr. Chong got a nice settlement, it's worth noting the debate over whether the IRS can get a piece of it.

Prisoners may be [exonerated based on DNA](#) evidence or simply released like Mr. Chong, and their compensation may come in various ways. Exonerees may receive compensation via a lawsuit or by statute. Nearly 300 DNA exonerees have served an average of 13.5 years in prison, ranging from less than one year to 35 years. You might assume taxes would not be added to the ordeal, but the tax issues have been surprisingly cloudy. In the 1950s and 1960s, the IRS ruled prisoners of war, civilian internees and holocaust survivors received tax-free money for their loss of liberty.

In 2007, the IRS did away with these rulings, asking whether a wrongfully jailed person was physically injured/sick while jailed. If so, the damages are tax-free, otherwise not. In IRS [Chief Counsel Advice 201045023](#), the IRS said a recovery was tax-free, sidestepping whether being unlawfully incarcerated is itself tax-free. The Tax Court (and [Sixth Circuit](#)) in [Stadnyk](#) suggest that prisoners who are not physically injured may be taxed.

Plainly, the loss of physical freedom should be tax-free in its own right. Many exonerated individuals experience severe hardship acclimating to society, finding jobs, housing and reconnecting with family. Several years ago, Congressmen [Sam Johnson](#) (R-TX) and [John Larson](#) (D-CT) introduced [The Wrongful Convictions Tax Relief Act](#) to prohibit the IRS from taxing compensation awarded to anyone wrongfully convicted of a crime and later exonerated. But passage seems unlikely.

That contributes to the confusion over whether Daniel Chong's \$4.1M will be taxed. He'll lose a portion to attorney fees, but beyond that, tax professionals

disagree. As for the IRS, it is mum except to say that if there are physical injuries that are observable, that shouldn't be taxed. In short, not unlike his experience with the DEA, Mr. Chong could have a hard time with the IRS standards. And although it might help his tax position that he was diagnosed with [Post Traumatic Stress Disorder](#) (PTSD), even that is no tax guarantee. Whether [PTSD impacts taxes](#) is debated too.

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