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Can Rolls-Royce Deduct Bribes? How About Fines?

If Rolls-Royce paid bribes, can it deduct them on its taxes? What about fines? The vaunted British brand is in the soup over allegations sparked by a whistleblower that for at least six years Rolls-Royce paid bribes to secure deals for its civil aircraft engines in Indonesia. See [Rolls-Royce bribery claims date to 2006](#). In Britain, such matters are handled by the Serious Fraud Office or [SFO](#).

The U.S.'s major anti-bribery law is the [Foreign Corrupt Practices Act](#). Rolls-Royce [announced](#) it had found reasons for concern with regards to bribery and corruption by its

intermediaries in Indonesia and China. The company sent what it found to the SFO and informed the U.S. Department of Justice since fines under U.S. law are also possible. If it turns out bribes were paid, can Rolls-Royce deduct them?

What about fines if any are imposed? One big no-no in the tax law relates to fines or penalties paid to the government. The U.S. tax code prohibits deducting "any fine or similar penalty paid to a government for the



violation of any law.” See [Section 162\(f\)](#). That includes criminal and civil penalties as well as sums paid to settle potential liability for a fine. See [BP, Oil, and Deducting Punitive Damages](#).

Another no-no: deducting bribes and illegal payments. This too is often debated; deductions represent a big incentive. See [Cleaning Up: Tax Deductions for Restitution, Fines, and Penalties](#). Sometimes deductions land companies in court a second time. See [Tax Deductions for Damage Payments: What, Me Worry?](#)

In [SEC v. Bilzerian](#), Mr. Bilzerian paid off his stockbroker and tried to deduct it, even though Bilzerian was convicted of violating securities laws and conspiring to defraud the IRS. That didn't **necessarily** mean the payoff to his stockbroker was **itself** illegal, he argued. Bilzerian created entities to hide his ownership of stock, and when his broker lost money and found out, Bilzerian paid the broker \$125,000 to make up for the broker's loss.

Bilzerian deducted it as a business expense. Later, he was convicted of violating securities laws, making false statements and criminal conspiracy, and his disguised ownership scam was one of the counts. The IRS disallowed his tax deduction saying the \$125,000 payment was illegal.

Bilzerian fought the IRS arguing he just made good on the broker's loss. The IRS claimed the payment was nondeductible whether the payment **itself** was legal or not. After all, it was made in furtherance of an illegal activity. The Tax Court ruled that only payments illegal by **themselves** were nondeductible. See [IRS Cracking Down on Government Settlements](#).

The IRS also argued that the payment was an essential part of his conspiracy conviction so was illegal. However, the Tax Court said that the legality of the payment was not even raised in the criminal trial. That meant Bilzerian got his deduction. As this case shows, there is often considerable grey area that encourages taxpayers to claim deductions.

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