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SETTLEMENT CONSULTING

TAX REFORM AND LEGAL SETTLEMENTS:

What Plaintiff Attorneys and Claimants Need to Know

In December 2017, the United States Congress passed the Tax Cuts and Jobs Act; a tax reform law that resulted in changes to allowable deductions for certain types of taxable settlements. Previously, claimants receiving taxable settlements could typically deduct attorney fees/case costs as a miscellaneous itemized deduction. Current tax law eliminates miscellaneous itemized deductions for many types of non-employment related settlement recoveries. As a result, impacted claimants are taxed on their entire gross recovery *including* attorney fees/costs.

Which types of settlements are impacted?

The law impacts many types of taxable settlement recoveries including, but not limited to: invasion of privacy or defamation, construction defect, wrongful arrest or imprisonment, and emotional distress. There are provisions that allow for a deduction in certain types of cases (e.g. employment); however, it is important to seek advice from your tax professional to determine whether a carve-out applies.

Payments on account of qualified personal physical injury are excludable from gross income under IRC § 104 and are therefore not affected. However, if the recovery includes punitive damages, that portion will be impacted.

Who receives the tax documents?

Structured settlements are often used as a planning tool for taxable settlements. In the case of a structured settlement, the payor (defendant or insurance company) generally issues IRS Form 1099-MISC to the claimant for the cash portion of the settlement, including the portion or the cash attributable to attorney fees, and a separate 1099 to the assignment company for the structured portion.

With confusion regarding the change in tax laws, some defendants/insurance companies are erroneously issuing 1099 income tax forms to claimants and/or their attorneys for funds placed in a structured settlement. In those circumstances, it may be appropriate to request that the defendant/insurance company reissue the 1099 to the appropriate structured settlement assignment company. If you or your CPA need that information from us, please contact your structured settlement consultant or call our toll-free number: (877) 737-7243.

Contact an expert today

Tax law is constantly evolving, so make sure you consult a tax advisor before filing. For information regarding comprehensive settlement planning, contact Sage Settlement Consulting today at (877) 737-7243 or info@sagesettlements.com.

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