

## Court asks resident to fill out tax form for restitution from home burglary



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ELYRIA — Lorain resident Jeanne Watkins was shocked when she received a letter from Lorain County Court of Common Pleas asking her to fill out a tax form for restitution she is receiving from a home burglary two years ago.

The letter indicated that if Watkins didn't fill out a W-9 form, the court would withhold 28 percent of any payments it received for her, as required by the Internal Revenue Service.

Watkins said she is reluctant to fill out the W-9. After all, she paid taxes for the items when she bought them.

"It really is strange. How many times do you have to pay taxes?" Watkins said.

Watkins' home was burglarized in 2011. The burglar, Leon Carter, was convicted of the crime soon after.

Carter was ordered to begin paying monthly restitution payments to Watkins for jewelry, an X-box 360, Wii video game system and video games that were missing from the home. Those items were recovered about one week after the burglary, but not before Watkins' insurance paid her for the losses.

As a result of the claim, she said her insurance premiums have increased.

Carter was ordered to pay \$2,613.71 restitution to Watkins, and it is that order — she hasn't received anything yet — that triggered the Clerk of Courts to send her the tax form.

According to a Forbes' article, "10 things to know about taxes" by tax lawyer Robert Wood, compensatory damages are tax-free, while punitive damages are fully taxable.

Larry Friedman, CPA and director of the tax department at Barnes Wendling, said a W-9 form is a federal request for taxpayer information. He said while some court awards are taxable, he doesn't believe that Watkins' should be taxed for restitution.



Jeanne Watkins, of Lorain, was shocked when she received a letter from the Lorain County Court of Common Pleas indicating she needed to fill out a tax form for the restitution she received from a home burglary two years ago. KRISTIN BAUER/CHRONICLE

"I think there's a position to take that the restitution isn't taxable," he said, quoting a New York case.

The information, which came from Bloomberg BNA, a resource used by tax professionals, indicates that awards made by a state crime victims compensation board to crime victims or their surviving spouses and beneficiaries are excluded from gross income.

Friedman said he hasn't personally dealt with anyone in Watkins' situation, however.

An IRS spokeswoman refused to comment on Watkins' case. She said the IRS's policy is not to comment on specific tax issues.

IRS policy does outline court awards and damages which must be included as income, and therefore, are taxable. Interest on any award, compensation for lost wages or profits, in most cases, and punitive damages, in most cases, should be listed as ordinary income, according to IRS guidelines.

Amounts received in a settlement of pension rights, damages of patent or copyright infringement, breach of contract or interference with business operations should also be included, as well as back pay and damages for emotional distress received to satisfy a claim under Title VII of the Civil Rights Act of 1964 and attorney fees and costs, where the underlying recovery is included in gross income.

Lorain County Court of Common Pleas Clerk Ron Nabakowski said requiring crime victims to fill out a W-9 form is new, but it doesn't mean that the income is taxable. He said the change was made to better comply with IRS regulations after record-keeping problems months ago at Lorain Municipal Court and in the City of Lorain.

"We don't think there would be any tax liability there, but we feel it's safer to record that information," he said.

The court must have a W-9 on file for people like Watkins even if they are exempt from information reporting (1099) requirements, according to a letter from the county court.

The form has raised questions from those receiving it.

"We've had people call in, too, and we've tried to explain this as best we can," Nabakowski said.

IRS spokeswoman Jennifer Jenkins said any individual who has a question about the way in which an agency is handling his or her tax reporting to the IRS can consult with an IRS taxpayer assistance representative over the phone at (800) 829-1040, in-person at a local taxpayer assistance center or should consult with a tax professional.

Watkins said, however, that worrying about whether or not she will be taxed is just another headache.

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