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LA Dodgers Draw \$18 Million Verdict In Fan Beating Case....Before Taxes

After deliberating for 9 days, an L.A. jury ordered the L.A. Dodgers and two attackers to pay \$18 million to injured Giants fan Brian Stow. Mr. Stow was savagely beaten on opening day 2011 in a Dodgers Stadium parking lot. His injuries require round-the-clock medical assistance.

The attackers, Louie Sanchez and Marvin Norwood, took plea deals and are in prison, so it's unlikely they will make good on the share each was ordered to pay. Former team owner Frank McCourt was found not liable. Blaming lax security, the suit said Mr. Stow was attacked while crossing a dimly illuminated parking lot. Stow's attorney argued that the team skimmed on security, budgeting only 62 cents per fan in attendance.

The suit asked for \$30 million for past and future medical costs, plus punitive damages for the team's negligence. According to a team attorney, the Dodgers' share is approximately \$13.9 million. If the Dodgers do not appeal and pay the verdict, there's no question this is a deductible business expense.



Dodger Stadium (Photo credit: Ben+Sam)

A business expense can be “ordinary and necessary” and therefore tax deductible even though it occurs only once in a lifetime. Surprisingly, even punitive damages are deductible, although in this case no punitives were awarded. Only government fines and penalties are not deductible, and even then there is often a way to finesse it.

That is why the government increasingly tries to prevent tax deductions, as it did in [Toyota’s \\$1.2 Billion Sudden Acceleration Settlement](#). Executive conduct is another matter. Had Mr. McCourt been found liable—he was alleged to have scrimped on security to fund his lavish lifestyle—it would be a closer question whether he could deduct the payment, though he probably could.

And although the Dodgers will clearly deduct the payment, Mr. Stow should not be taxed. Almost everything is income to the IRS, whether a payment is for services, selling property, settling a lawsuit, or just about anything else. But one of the few exceptions is lawsuit recoveries for physical injuries. Damages for physical injuries are tax-free under [Section 104](#) of the tax code.

But only *physical* injuries and *physical* sickness qualify. Damages for emotional distress are taxed unless the emotional distress *emanated* from physical injuries or physical sickness, in which case it's tax-free. The rules are confusing and nuanced.

If you sue for discrimination or harassment at work, you will generally be taxed. But if you suffer physical injuries or physical sickness from workplace harassment, maybe not. There is so much gray area that disputes with the IRS are common. In one case, the [U.S. Tax Court](#) overruled an IRS decision to tax a \$350,000 settlement a man received after suing his ex-employer for intentional infliction of emotional distress. The distress led to a heart attack, the court said. See [Tax-Free Physical Sickness Recoveries in 2010 and Beyond](#).

In another case, the Tax Court ruled that a settlement was partially tax-free where an employee had physical sickness from working conditions. Some cases involve post-traumatic stress disorder or PTSD. PTSD can manifest itself in physical ways, but there has been debate whether [PTSD a physical injury for tax purposes](#).

How a settlement is reported on IRS [Forms 1099](#) influences the tax treatment. So does the exact wording of a settlement agreement. How legal fees are treated can make your tax bill even higher. Usually, plaintiffs are treated as receiving money deducted by your contingent fee lawyer. That means you have to find a way to deduct those legal fees. Some plaintiffs end up paying taxes on money they never saw.

These financial impact of these issues can be surprisingly significant. And a little planning can sometimes make a striking difference in result. Considering that lawyer fees invariably consume a large portion of legal settlements, losing another large portion to the IRS can be maddening, especially if it can be prevented.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.