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Bill Cosby's Sexual Assault Hush Money...And Taxes

Bill Cosby has probably paid considerable hush money in the past. But now, [Cosby is demanding money back from accuser](#) Andrea Constand. He paid her off in 2006, and she was supposed to remain silent. Now that she has talked to the police, Cosby claims she breached the agreement. The suit claims that Ms. Constand had no legal duty to cooperate with Pennsylvania authorities.

Cosby's lawsuit goes after others too, including Ms. Constand's mother and lawyers! The suit accuses them of inviting media coverage or making public statements about the case. The 78-year-old Cosby is fighting a criminal case, suing for defamation, and now for breach-of-contract. He could face up to 10 years in prison if he is convicted of sexually assaulting Constand in 2004. He has not entered a plea, but his lawyers have vowed to clear his name.



Bill Cosby arrives for the second day of hearings at the Montgomery County Courthouse February 3, 2016 in Norristown, Pennsylvania. Cosby has been accused of sexually abusing several women.

Clearing his name seems like a tough job. But whatever happens, these payments may make you think about taxes, especially at this time of year. Call them legal settlements, hush money, or even blackmail, settlements are usually income to the recipient. But are they tax deductible by the defendant?

That may sound like a horrible thought when you consider the conduct of which Mr. Cosby stands accused. But he is an entertainer, and his business empire is arguably at stake. Many taxpayers try to find a business connection to virtually any legal mess. Whether they succeed depends on the facts and what motivated the payment. Lawsuits are by their nature adverse. One [thing you should know about taxes on legal settlements](#) is that most legal settlements in a business or investment context are tax deductible.

Just consider the legal problems of some of these examples in the "they could be deductible" category:

- [Charlie Sheen's \\$10 million blackmail](#);
- [Winona Ryder](#), over alleged shoplifting;
- [Robert Blake](#), accused of killing his wife;
- Supermodel [Naomi Campbell](#) over throwing telephones; and
- [Lindsay Lohan](#), for DUIs, probation violations, and more.

Remember [Martha Stewart](#)? She paid huge legal fees on an obstruction of justice charge from the sale of Imclone stock. To pay legal fees, she sold 75,000 shares of Martha Stewart Living stock (raising \$4.67 million). SEC filings revealed she sought reimbursement (as an officer and director) for \$3.7 million of fees for her successful defense on the charge that she tried to lift her own company's share price by declaring that she was innocent of insider trading.

The granddaddy celebrity legal fiasco was Michael Jackson's molestation trial. His acquittal on child molestation charges came at a price. Some estimates put the King of Pop's legal expenses at \$20 million. I don't know if he deducted them, but ironically, Dr. Murray, convicted in connection with his death, could probably deduct his fees as a business expense even though he was convicted. Whether facing a civil malpractice trial or a criminal trial, his legal expenses relate to his trade or business. He was treating Michael Jackson and being paid for it.

Technically expenses must be [ordinary, necessary and reasonable](#) to be deductible but that doesn't take much. In the tax world, an expense is "ordinary" even if it is once in a lifetime. Necessary is also easy. Even a payment in cash without a receipt can sometimes generate a tax deduction. In fact, one [tax receipts rule IRS keeps quiet is that they're optional](#).

Remember John Edwards? Although he faced a criminal trial, the charges related to his conduct in his chosen trade or business: politics. That could make it all tax [deductible](#). What about deducting payments to Rielle Hunter to keep her quiet? Edwards didn't personally pay her, and the apparent source of funds was donations. The trial was about who paid her, with what funds, and whether Mr. Edwards was personally aware of it.

Still, hush money—even blackmail—has probably been claimed on more tax returns than you might think. Bribes and illegal payments are nondeductible, but as [Bill Clinton said, it depends on what the meaning of the word "is" is](#). But here's a happy thought. Suppose that Cosby did deduct some of his settlement payments? If he gets any of the money back, he has to include them in income. In fact, it is probably income no matter what.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.