

EMPLOYMENT DISPUTE PAYMENTS INCOME

Several recent cases have found that payments in settlement of employment disputes constitute gross income to the settling employee. In *Joseph Henry Metelski v. Commissioner*, T.C. Memo 2000-95, Tax Analysts Doc. No. 2000-8739, 2000 TNT 56-10 (2000), the Tax Court found that a lump-sum payment received from the taxpayer's former employer was not excludable under Section 104. Metelski had agreed to participate in a "voluntary" retirement program that included a lump-sum payment. The payment was based on years of service and the age of the employee. Metelski simply failed to prove that his employer paid any portion of this lump sum on account of a tort or tort-type claim. The release included only general language releasing the employer from any and all claims.

The facts and holding in *Marsha Bland v. Commissioner*, T.C. Memo 2000-98, Tax Analysts Doc. No. 2000-8906, 2000 TNT 57-10 (2000), are quite similar. There, the Tax Court found that another lump-sum payment received by a former employee was not excludable. Marsha Bland also agreed to participate in a "voluntary" retirement program. Again, the employee was unable to prove that any amount paid under a general release was attributable to tort or tort-type claims.