

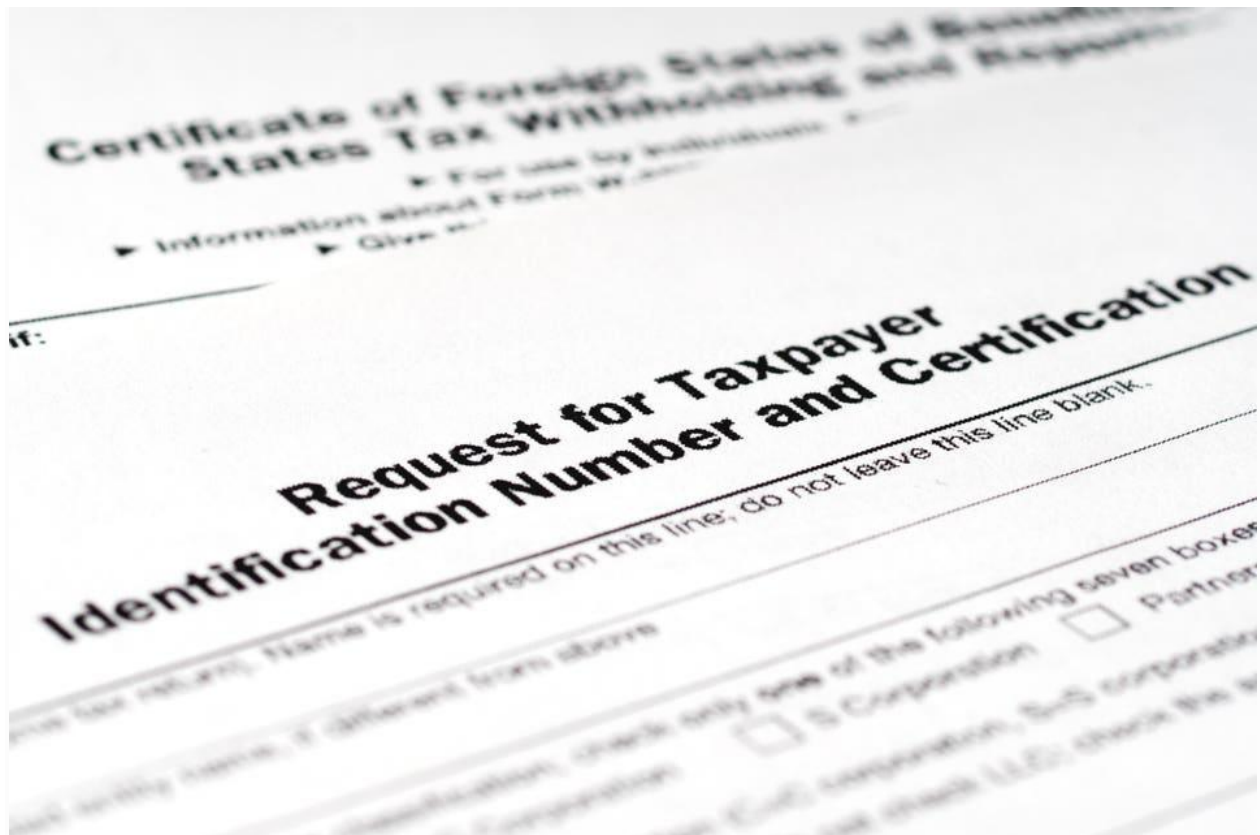


## Robert W. Wood

THE TAX LAWYER

March 18, 2026

# Lawsuit Settlements Involve Tax Forms, Here's What To Expect



If you receive money from a lawsuit, as with most legal settlements, there are going to be some tax forms in play. The settlement agreement may list some tax forms to be collected or issued. But even if the settlement agreement is silent, the defendant may insist on tax forms *before* making payment. Then, in January of the year following settlement, Forms 1099 generally arrive, since [most lawsuit settlements trigger an IRS Form 1099](#).

### Requests For IRS Form W-9

Most defendants will ask for an IRS [Form W-9](#) from the plaintiff lawyer, the plaintiff or both. A Form W-9 verifies your taxpayer ID number, typically your Social Security Number, or if you are a company, your employer identification number. If you want to be paid, refusing to hand over a W-9 may not make sense.

The IRS says that anytime a payor *thinks* they may have to report a payment on an IRS Form 1099, they should ask for a Form W-9. If they fail to get one signed, they may have to withhold taxes on the payment, even if the payee is not an employee. This backup withholding at 24% is the usual consequence of refusing to provide a Form W-9. Forms 1099 facilitate computer matching of Social Security numbers and dollar amounts, which streamlines IRS collection efforts.

### Expect an IRS Form 1099

Does providing a W-9 upon request mean that you will receive a Form 1099? It is a safe bet, since [most lawsuit settlements trigger an IRS Form 1099](#). If you receive a Form 1099, you should report it on your tax return. Form 1099 on your tax return (or to explain it) usually triggers an IRS notice asking you to pay up. A big exception from the Form 1099 rules is for physical injury

damages, an important. [rule about Form 1099 to keep in mind](#). A plaintiff in a physical injury case who has gotten the agreement of the defendant not to issue a Form 1099 will wonder why they are being asked to provide a Form W-9.

It may just mean that this defendant won't pay anything to anyone without a signed form. In addition to supplying a payee's Social Security number, the Form W-9 certifies that the recipient is a U.S. person (that is, a U.S. citizen or tax resident). Thus, some companies have a policy of requiring signed Forms W-9 for any payment.

### Disputes About IRS Form 1099

Disputes about Forms 1099 are common. The Form 1099 regulations are complex, which causes many businesses to err on the side of issuing the forms. Even lawsuits for issuing Forms 1099 are filed on occasion. Most such suits don't seem to go very far, perhaps precisely because it is often possible to justify whatever forms were issued. So, while you probably will have to provide an IRS Form W-9 to get paid if that form is requested, try to head off Form 1099 issues whenever you can. Often, you may be able to agree on what forms will be issued and to whom.

Ideally, everyone should have a sense of what to expect when they sign a settlement agreement and the money changes hands. You don't want to be surprised the following January when IRS Forms 1099 arrive. But not how careful you are, are all the tax issues completely put to bed once the settlement agreement is signed, the money is paid, and the tax forms arrive? Not hardly.

Nearly all [employment suit settlements](#) involve wages, and that means tax withholding and a [Forms W-2](#). But that doesn't mean that 100 percent of the

money is wages. Usually, a portion of the claim is for lost wages, back pay, front pay, or both. But some amount usually represents a payment for emotional distress or other non-wage damages. The IRS recognizes this, making clear in its instructions to Form 1099-MISC that non-wage damages should be reported on a Form 1099, not on a Form W-2.

If an amount is paid as wages, there's no alternative but for the recipient to treat it as wages on their tax return. You might be able to adjust the amount of tax withholding if you provide in the settlement agreement that the plaintiff will supply the employer with a new IRS [Form W 4](#). If the plaintiff was previously employed in one state but now lives in another, the plaintiff may try to sidestep the old state's taxes. The company might even agree not to withhold state taxes.

More generally, though, nearly every plaintiff will face tax issues, and some will be surprised when Forms 1099 arrive in January. Many will not have a tax system in place, or a tax adviser who knows how to handle them.