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# Penn State's \$60M Abuse Settlement Won't Erase Sandusky Name

Former Penn State Assistant Coach [Jerry Sandusky](#) was convicted of sexually abusing 10 boys over more than a decade. Eight young men testified at trial that Sandusky abused them. Since then, others have come forward. Meanwhile, perhaps understandably, [Jerry Sandusky's son seeks to have his name changed](#).

The elder Sandusky is serving a 30- to 60-year prison sentence, but the university is about to pay for its part in the tragedy. Employers and institutions usually end up paying, but adding to the liability here is an alleged cover-up. An investigation suggested that university officials conspired to keep silent. See [Report of Actions of Penn State Related to Child Sexual Abuse Committed by Sandusky](#).

In any event, the university is preparing to pay about \$60 million to settle approximately 25 claims. A handful of claims will remain, including one that



Former Penn State assistant football coach Jerry Sandusky leaves the Centre County Courthouse after being sentenced in his child sex abuse case on October 9, 2012 in Bellefonte, PA. (Image credit: Getty Images via @daylife)

is already a lawsuit. Which claimants will get what portions of the \$60 million isn't clear.

Yet other sex abuse settlements suggest amounts will vary depending on where the abuse occurred, its severity and duration. It is worth asking if victims will see their settlements reduced by taxes. Most people assume they won't, but that can be a dangerous assumption in some cases.

Damages for personal physical injuries or physical sickness are tax-free. Damages for emotional injuries are not. Yet if you have emotional injuries **triggered** by physical ones, the damages for the emotional injuries are also tax-free. See [10 Things To Know About Taxes On Damages](#). Sound simple?

In practice, it can be a nightmare. If you are injured in a car accident, your physical injury settlement should be tax-free under [Section 104](#) unless you receive punitive damages or interest. See [Tax-Free Wrongful Death Punitive Damages?](#) But sue for discrimination or harassment at work, and your wage loss is subject to withholding. Other monies, say for emotional distress, are usually taxed too.

One of the bones of contention is what constitutes personal physical injuries. The IRS hasn't defined it, but normally wants to see "observable bodily harm" such as bruises or broken bones. Yet if you are sexually assaulted or abused, you may not have these signs.

The interaction between physical and emotional injuries and sicknesses is starting to be explored. After all, stress at work can produce a heart attack. See [Is Physical Sickness the New Emotional Distress?](#) In one case, stressful conditions exacerbated a worker's pre-existing multiple sclerosis. See [Tax-Free Physical Sickness Recoveries in 2010 and Beyond](#). Tax-free money is possible in these cases.

The IRS has ruled some clergy sex abuse settlements tax-free even though the abuse occurred years before and only emotional injuries could be shown. The IRS **assumed** some of it was physical enough at the time to trigger the continuing emotional injuries years later. See [IRS Allows Damages Exclusion Without Proof of Physical Harm](#). Yet it's not clear if part of the IRS rationale was that the victim was a minor and many years had elapsed by the settlement. To try to maximize your chances of smooth sailing, consider these steps:

1. Keep photographs, police reports, medical or psychiatric records, and anything else documenting your claim and damages.
2. Ask for payment to be described as for your “personal physical injuries, physical sickness and emotional distress arising out of such physical injuries.”
3. If possible, mention the primary event, i.e., that you allege you were sexually assaulted or abused.
4. Ask that no IRS Form 1099 reporting the payment be issued to you or filed with the IRS. Payments of damages that are tax-free should **not** be reported on these forms. However, if you don’t get the defendant to agree in writing, one may be issued and you’ll have to put it on your tax return. See [I’m Sending An IRS 1099: 1099 Are You Outta Your Mind?](#)
5. Get tax advice **before** your settlement is documented. See [Address Taxes When You Mediate Civil Disputes](#). The IRS isn’t bound by the parties’ tax characterization, but it is often respected if reasonable.

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