

SETTLEMENT PROCEEDS NOT EXCLUDABLE

Yet another employment action has been the subject of a Tax Court memo decision. In *Steven P. Cade, et ux. v. Commissioner*, T.C. Memo 1999-394, a corporate officer received an amount to settle all his claims against his former employer. The amount was held not to be excludable under Section 104 because it was not attributable to personal injury. The court specifically found that \$2.3 million of Mr. Cade's \$4.5 million settlement constituted compensation for economic damages (future compensation and benefits arising from the breach of his employment contract).

Obviously, said the Tax Court, that portion of the recovery could not have been for personal tort-like injuries. Noting that Mr. Cade only claimed damages for nonpersonal injuries with respect to the breach of contract claim, Judge Laro of the Tax Court pointed out that the other portions of the settlement were excludable because they involved claims arising in tort. (Of course, this case considers the law prior to the enactment of the August 20, 1996 changes to Section 104 requiring a "physical" component.)