

SETTLEMENT PAYMENT TRANSMITTAL

Amount of payment: _____

Payee name(s) on check: _____

Address to which to send the check: _____

INFORMATION RETURN #1: PAYMENT TO THE CLAIMANT OR PLAINTIFF:

Check one box and fill in all information:

This payment is not reportable because:

1. The payment is to an exempt recipient (corporation, government unit, tax exempt entity). An executed Form W-9 is attached.
2. The payment meets one of the exclusions provided in the instructions (narrative explanation follows):

This payment is reportable with the following information:

Payee Name: _____

Payee Address: _____

Payee City/State/ZIP: _____

Payee TIN (Form W-9 attached): _____

Taxable Backpay amount reportable on Form W-2: _____

Legal damages amount reportable on Form 1099-MISC, box 3: _____

INFORMATION RETURN #2: PAYMENT TO THE ATTORNEY OR LAW FIRM:

Note: If attorney or law firm is *not* listed as a payee on a check or other payment type, then there is no requirement to report amounts to the attorney or law firm.

Payee Name: _____

Payee Address: _____

Payee City/State/ZIP: _____

Payee TIN (Form W-9 attached): _____

Reportable Payment Amount: _____

FOR MORE INFORMATION, PLEASE NOTE "INSTRUCTIONS" (SEE NEXT PAGE)

INSTRUCTIONS

for Tax Information Reporting on Forms W-2 and 1099 on Payment for Settlement

Recent changes in federal legislation, including the 1996 narrowing of the exclusion from income of settlements for injury under I.R. Section 104, and the 1997 creation of the requirement to report “gross proceeds” payments for legal services, mean that settlement payments may now require tax information reporting on Forms W-2 and 1099. To meet the reporting requirements, the taxability and reporting information must be determined and obtained as part of the negotiated settlement. Failure to obtain the necessary information exposes the payer to liability for 28% backup withholding, and/or wage withholding, plus other penalties and interest, for both reporting requirements.

The payments that may have to be reported include:

1. Payment to the Claimant or Plaintiff.

If these payments are taxable income, they are reportable under § 6041. There are only three exclusions from taxable income:

- a. Section 104 excludes from taxable income compensatory payments for physical personal injury or sickness. Note there is no exclusion for punitive damages, nor for emotional distress incurred after September 15, 1995 if the emotional distress is not part of a physical personal injury or sickness.
- b. Reimbursements of actual medical costs
- c. Amounts that are not fixed and determinable, such as payments for property damage where the basis value of the property being repaired or replaced is not known.

Note that payments of lost wages are reportable on Form W-2 with all related required withholding, including the employer’s matching FICA contribution. Otherwise, report the amount in Box 3, Other income, of Form 1099-MISC.

2. Payment to the Attorney or Law Firm.

If the attorney or law firm has not performed services for your company (e.g., has represented a litigant in a claim against you), report the gross amount of the payment in box 14 of the Form 1099-MISC per § 6041(f). (Exception: In the regulations, the IRS has specifically exempted from legal gross proceeds reporting for payments to attorneys or law firms who are acting as settlement or closing agents in a real estate transaction.) Except for real estate transactions, a payment to an attorney or law firm is always reportable; there is no exception for payments to corporations for reporting payments for legal services.

Also note: If attorney or law firm is *not* listed on a check or other payment type, then there is no requirement to report amounts to the attorney or law firm.

This 2-sided model form ([Instructions](#) and [Transmittal](#)) provides a means of collecting and documenting the information needed for correct tax information reporting of settlement payments. Purchasers of this publication have permission to use, adapt or modify this form.