

26 USCS § 130

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§ 130. Certain personal injury liability assignments.

(a) In general. Any amount received for agreeing to a qualified assignment shall not be included in gross income to the extent that such amount does not exceed the aggregate cost of any qualified funding assets.

(b) Treatment of qualified funding asset. In the case of any qualified funding asset--

(1) the basis of such asset shall be reduced by the amount excluded from gross income under subsection (a) by reason of the purchase of such asset, and

(2) any gain recognized on a disposition of such asset shall be treated as ordinary income.

(c) Qualified assignment. For purposes of this section, the term "qualified assignment" means any assignment of a liability to make periodic payments as damages (whether by suit or agreement), or as compensation under any workmen's compensation act, on account of personal injury or sickness (in a case involving physical injury or physical sickness)--

(1) if the assignee assumes such liability from a person who is a party to the suit or agreement, or the workmen's compensation claim, and

(2) if--

(A) such periodic payments are fixed and determinable as to amount and time of payment,

(B) such periodic payments cannot be accelerated, deferred, increased, or decreased by the recipient of such payments,

(C) the assignee's obligation on account of the personal injuries or sickness is no greater than the obligation of the person who assigned the liability, and

(D) such periodic payments are excludable from the gross income of the recipient under paragraph (1) or (2) of section 104(a) [[26 USCS § 104\(a\)](#)].

The determination for purposes of this chapter [[26 USCS §§ 1](#) et seq.] of when the recipient is treated as having received any payment with respect to which there has been a qualified assignment shall be made without regard to any provision of such assignment which grants the recipient rights as a creditor greater than those of a general creditor.

(d) Qualified funding asset. For purposes of this section, the term "qualified funding asset" means any annuity contract issued by a company licensed to do business as an insurance company under the laws of any State, or any obligation of the United States, if--

(1) such annuity contract or obligation is used by the assignee to fund periodic payments under any qualified assignment,

(2) the periods of the payments under the annuity contract or obligation are reasonably related to the periodic payments under the qualified assignment, and the amount of any such payment under the contract or obligation does not exceed the periodic payment to which it relates,

(3) such annuity contract or obligation is designated by the taxpayer (in such manner as the Secretary shall by regulations prescribe) as being taken into account under this section with respect to such qualified assignment, and

(4) such annuity contract or obligation is purchased by the taxpayer not more than 60 days before the date of the qualified assignment and not later than 60 days after the date of such assignment.

History

(Added Jan. 14, 1983, [P.L. 97-473](#), Title I, § 101(b)(1), [96 Stat. 2605](#); Oct. 22, 1986, [P.L. 99-514](#), Title X, § 1002(a), [100 Stat. 2388](#); Nov. 10, 1988, [P.L. 100-647](#), Title VI, § 6079(b)(1), [102 Stat. 3709](#); Aug. 5, 1997, [P.L. 105-34](#), Title IX, § 962(a), [111 Stat. 891](#).)

▼ Annotations

Notes

Amendments:

In 1997, [P.L. 105-34](#), Sec. 962(a) (applicable to claims under workmen's compensation acts filed after 8/5/97, as provided by Sec. 962(b), which appears as a note to this section), amended subsec. (c) by inserting ", or as compensation under any workmen's compensation act," in the introductory matter, inserting "or the workmen's compensation claim," in para. (1), and substituting "paragraph (1) or (2) of section 104(a)" for "section 104(a)(2)" in para. (2)(D).

In 1988, [P.L. 100-647](#), Sec. 6079(b)(1)(A), deleted subpara. (c)(2)(C) and redesignated subpara. (c)(2)(D) and (c)(2)(E) as subparas. (c)(2)(C) and (c)(2)(D) . . . Sec. 6079(b)(1)(B), added the last sentence to subsec. (c), effective for assignments made after 11/11/88. Prior to amendment, subpara. (c)(2)(C) read as follows:

"(C) the assignee does not provide to the recipient of such payments rights against the assignee which are greater than those of a general creditor."

In 1986, [P.L. 99-514](#), Sec. 1002(a), added "(in a case involving physical injury or physical sickness)" after "injury or sickness", in subsec. (c), effective for assignments entered into after 12/31/86, in tax. yrs. end. after 12/31/86.

In 1983, [P.L. 97-473](#), Sec. 101(b)(1), added new Code Sec. 130, effective for tax. yrs. end. after 12/31/82.

Other provisions:

Application of Aug. 5, 1997 amendments. Act Aug. 5, 1997, [P.L. 105-34](#), Title IX, Subtitle G, § 962(b), [111 Stat. 892](#), provides: "The amendments made by subsection (a) [amending subsec. (c) of this section] shall apply to claims under workmen's compensation acts filed after the date of the enactment of this Act."

Case Notes

Settlement agreement that was structured for debtor before she declared Chapter 7 bankruptcy, which met requirements for achieving favorable tax treatment under [26 USCS §§ 104\(a\)\(2\)](#) and [130\(c\)](#), was part of debtor's bankruptcy estate under [11 USCS § 541](#), even though it contained provision which prohibited debtor from alienating her rights under annuity that was part of agreement; there was no merit to debtor's claim that annuity was not part of her bankruptcy estate under § 541(c)(2) because it was spendthrift trust. [In re Greenly \(2012, BC ED Pa\) 481 BR 299](#).

Merger of related life insurers holding annuities arising from structured settlements relating to personal injury liabilities was tax-free [IRC § 368\(a\)\(1\)\(A\)](#) reorganization with neither party recognizing gain or loss; also, to extent that [IRC § 130](#) criteria were initially met, affected contracts' compliance with [IRC § 72\(s\)](#) and (u) was unaffected. [Private Letter Ruling 200813027, 2007](#) PLR LEXIS 2795.

Research References & Practice Aids

Code of Federal Regulations:

This section is referred to in [26 CFR 1.461-6](#), [1.848-1](#), 1.157.5891-1.

Related Statutes & Rules:

Exclusion from gross income of certain compensation for injuries or sickness, [26 USCS § 105](#).

This section is referred to in [26 USCS §§ 72, 5891](#).

Federal Taxation:

2 Rabkin & Johnson, Federal, Income, Gift and Estate Taxation (Matthew Bender), ch 1, The Individual § 1.05.

2 Rabkin & Johnson, Federal, Income, Gift and Estate Taxation (Matthew Bender), ch 3, Deductions: Expenses § 3.04.

Annotations:

Construction and Application of State Structured Settlement Protection Acts. [27 ALR6th 323](#).

Texts:

1A Environmental Law Practice Guide (Matthew Bender), ch 9, Federal Tax Considerations § 9.05.

Law Review Articles:

Henry. "Torts and Taxes, Taxes and Torts: The Taxation of Personal Injury Recoveries." 23 Hous L Rev 701, May 1986.

Forms

33 [Rabkin & Johnson, Current Legal Forms, § 25.05](#), Environmental Considerations in Real Estate Transactions.

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