

Brief

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Article Brief al Affiliation Article Brief The article is about a case law concerning the treatment of federal income taxes in personal injury and wrongful death litigations in state courts. There has been widespread appreciation of the tax-advantaged status of compensatory damages in personal injury and wrongful death litigation in relation to federal personal income taxes. Some state courts adjust this award owing to its tax-advantaged status with varying reasons. Also, the state courts differ on whether the jury need to be informed of the tax treatment by the court citing various justifications that vary with the court. The authors examined the state case law on this subject but excluded other forms of taxes with the exception of federal personal income tax. They focussed on the case law of all states and the District of Columbia. Purpose was to compile the set of course decisions that address the reasons as to whether an award adjustment and injury instruction were appropriate in light of the tax-free character of the award. They then determined if the case law cited was still good law.

Procedural History

Most of the history came from state courts from different states and the District of Columbia while some of the information was from the Journal of Legal Economics.

Issue

The focus of the results of the research is on the legal reasoning applied in deciding whether to adjust for taxes and instruct the jury on taxes. Some of the information came from articles that appeared in state law series in the Journal of Forensic Economics. The current status of tax treatment is an issue that forensic economists and the retaining counsel should address. The <https://assignbuster.com/brief/>

results offer the forensic economist the opportunity to explore the legal reasoning behind the treatment of the tax-advantaged status of awards in personal injury and wrongful death type cases for states that courts previously ruled on the matter (Guner, 2014).

Rule(S)

The states applied varied rules. For example, some states require the adjustment for taxes but only in dental or medical malpractices.

In the District of California, the courts adjust the awards but by statute ((D. C. Code § 31-

2404 [2012]) without corresponding written court decisions.

In the state of Washington, the case law allows for consideration of taxes in cases in which earnings are at the high end of the spectrum.

Other 30 states mandate that the courts do not make adjusting for taxes at least in personal injury type cases. Included among these cases are ones that in wrongful death actions permit consideration of income taxes that the decedent would have paid. However, the death is a separate issue from adjusting the award as it will be received on a tax-advantaged basis.

Some states require instructing the jury on taxes, but these vary with some confining the rule for cases of dental or medical malpractice or by statute.

Some states preclude jury instruction on taxes or do not practice jury instruction on taxes.

Montana (which does not take taxes into account) may decline to instruct Jury members explicitly on what they may not consider.

Application /Analysis

In deciding whether to adjust or not to adjust for the federal personal income tax and wrongful death litigations the courts took into account the statutes

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available for the different states. They also based their decisions on the type of cases. For example, in some states the courts only adjusted for taxes in cases of dental and medical malpractice (Gordon, 2012).

The question of instructing the juries on tax adjustment requires that a tax expert is present in most of the cases, but there is no rule of law that specifically involves instructing the jury members on the matter.

Conclusion

Most states did not instruct the jury on the treatment of taxes but wanted them to rely on the basic issues to decide on a case. The decisions on tax adjustment varied depending on the states. Some ruled based on the prevailing statutes or the type of cases.

References

Guner, N., Kaygusuz, R., & Ventura, G. (2014). Income taxation of us households: Facts and parametric estimates. *Review of Economic Dynamics*, 17(4), 559-581.

Gordon, R. H., & Kopczuk, W. (2014). The choice of the personal income tax base. *Journal of Public Economics*, 118, 97-110.