

Periodic Payment Settlement Act of 1982

H.R. 5470—Messrs. Jacobs, Holland, Guarini, Duncan, and Vander Jagt I

Exclusion from Gross Income of Certain Payments for Personal Injury Damages

Present law excludes from gross income certain types of compensation payments for personal injuries or sickness, including damages received under a suit or settlement of a claim, amounts received from accident and health insurance, and certain disability income allowances (sec. 104). The Internal Revenue Service has ruled that damages for personal injury are excludable from gross income under section 104 whether paid as a lump sum, or paid in periodic payments out of a fund invested and owned by the tortfeasor or an insurer.

The bill would expand the types of compensation payments for personal injuries which are listed in section 104 as excludable from gross income specifically to include amounts received by an assignee of an obligation to pay personal injury damages and used by the assignee to satisfy that obligation. Also, the bill would statutorily adopt the rulings position of the Revenue Service that the section 104 exclusion applies to certain periodic payments, by the tortfeasor or the assignee, of damages for personal injuries or sickness. Finally, the bill would amend section 162 (deduction for trade or business expenses) to provide expressly that the assignee may deduct under that section the amount of damages paid during the year.

The provisions of the bill would be effective for taxable years ending after 1981. Possible amendment: The revised Proposal would provide for the following:

- (1) Periodic damage payments received on account of personal injuries or sickness would be excluded from the plaintiff's income (notwithstanding that there could be an interest element to the payments).
- (2) A lump sum payment of damages by a tortfeasor to an assignee would be excluded from the income of the assignee to the extent that the payment is used to fund an obligation to make periodic payments of damages to the plaintiff.
- (3) The basis of any property purchased by the assignee to fund the obligation to make periodic payments of damages would be zero.
- (4) Income from investments in any one year that exceed the amount required to fund the periodic payment for that year would be includible in the assignee's income.
- (5) Amounts used to fund periodic damage payments would be deductible by the assignee.

Revenue effect:

Under the revised proposal, the revenue effect is estimated to be negligible.