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MSK Client Alert

January 23, 2018

General Rule- Deduction for Settlement Payments.

If an employer settles a claim made by an employee (or former employee), the employer may generally claim a deduction for the amount that is paid to the employee to resolve his/her claims. The expense is treated as an ordinary and necessary business expense and a deduction may be claimed pursuant to Section 162(a) of the Internal Revenue Code.

For example, if an employer pays an employee \$25,000 to settle the employee's claims for back wages, emotional distress, and age discrimination, the employer may deduct the \$25,000 on its tax return (the employer's tax reporting obligations with respect to the \$25,000 payment and how the payment should be allocated among the claims made by the employee are topics for a different article).

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practice areas

tax and trusts & estates

tax planning