

ID: CCA-181233-09

Number: **200940026**

Office:

Release Date: 10/2/2009

UILC: 3121.01-01

---

**From:**

**Sent:** Friday 7/24/2009 5:10 PM

**To:**

**Cc:**

**Subject:**

I think you make a good case for leaving the discussion of 104(a)(2) in the document. I think the discussion on the treatment of severance pay is also pertinent. I don't know if the folks in have anything to add to the discussion of federalism/ pre-emption.

I note that I was unable to find a case that is cited in the document: [Johnson v. United States](#), 949 F.2d 434. You may want to double check that citation. If you are looking for the best case to cite for the proposition that payments in settlement of a claim are not excludable from income under section 104(a)(2) unless: 1) the claim is for a tort or tort-like injury; and 2) the damages were received on account of personal physical injuries or sickness, you may want to cite [Commissioner v. Schleier](#), 515 U.S. 323 (1995) instead - as this is a Supreme Court decision and represents stronger legal authority.