

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

August 9, 2002

Number: **200246015**
Release Date: 11/15/2002
Index No.: 1033.00-00

PREF-116671-02
CC:ITA:B4

MEMORANDUM FOR: NANCY W. HALE,
ASSOCIATE AREA COUNSEL
(SB/SE Area 3)

FROM: James L. Atkinson
Acting Associate Chief Counsel
(Income Tax and Accounting)

SUBJECT: Settlement Payments for Avigation Rights

LEGEND:

Airport =
Airport Authority =
X =
\$Y =

FACTS:

This is in response to your request for help in answering questions about the treatment, for federal income tax purposes, of cash payments made in settlement of the conversion of avigation rights of affected property near Airport. Airport Authority agreed to pay a class of X affected landholders the total sum of \$Y. Part of the settlement is for legal fees and for special awards to named plaintiffs. You request our help in presenting a public response to some of the more common questions being asked.

STATEMENTS OF GENERAL PRINCIPLES:

The following are statements of general principles which we feel are responsive to most questions raised and applicable to the majority of situations in which the affected taxpayers may find themselves:

- Legal fees paid directly to class counsel are not income, profits, or gain to a taxpayer if the taxpayer does not have a separate contingency fee arrangement with the class counsel and the class action is an opt-out

Nancy W. Hale, Associate Area Counsel
(SB/SE Area 3)

(202) 622-7875.