

Publications

Another Court Rules That Severance Pay is Not FICA wages

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For over two years, everyone thought that the question regarding whether severance payments were subject to FICA taxes was finally answered. In 2008, the Court of Appeals for the Federal Circuit reversed the lower court's decision in CSX Corp v. United States, 52 Fed. Cl. 208 (2002), holding that severance payments were wages for FICA taxes and not SUBs (supplemental unemployment compensation benefits) because the payments were not contingent on receipt of state unemployment benefits as required by Revenue Ruling 90-72.

Now, the District Court for the Western District of Michigan has ruled in *United States v. Quality Stores, Inc.* that severance payments are SUBs, without regard to state unemployment benefits and Revenue Ruling 90-72, and therefore exempt from FICA taxes. Please see the attached memo for further information.

If you need assistance filing a protective claim (e.g. April 15th deadline is approaching for 2006 payments) or would like to receive updates on future developments, please [click here](#).