

APR 28 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LAURA DENISE SEIDEL,

Petitioner - Appellant,

v.

COMMISSIONER OF INTERNAL  
REVENUE,

Respondent - Appellee.

No. 07-72754

Tax Ct. No. 24034-04

MEMORANDUM\*

Appeal from a Decision of the  
United States Tax Court  
Juan F. Vasquez, Judge, Presiding

Submitted April 13, 2009\*\*

Before: GRABER, GOULD, and BEA, Circuit Judges.

Laura Denise Seidel appeals pro se from the Tax Court's decision that a \$157,000 payment Seidel received under a settlement agreement was not

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

excludable from her gross income. We have jurisdiction under 26 U.S.C. § 7482(a)(1). We review de novo the Tax Court's conclusions of law and review for clear error its findings of fact, *Rivera v. Baker West, Inc.*, 430 F.3d 1253, 1256 (9th Cir. 2005), and we affirm.

The Tax Court did not clearly err by finding that, under the settlement agreement, the \$157,000 payment was intended to compensate for emotional distress and thus was not excludable from Seidel's gross income. *See* 26 U.S.C. § 104(a)(2) (exempting compensation based on physical injury from taxation but not treating emotional distress as a physical injury or physical sickness ); *Rivera*, 430 F.3d at 1257 (explaining that, in analyzing a settlement agreement, the court looks to the express language of the agreement to determine whether it specifies the purpose of the compensation and, if there is no express language, the intent of the payor).

**AFFIRMED.**