

Damages and Settlement Payments (including Insurance Proceeds)

General Rules

What do the damages replace? (“In lieu of what”?)

- If replace income (profit), gross income
- If replace gift, then gift
- If replace property, treat as sale of property – IRC § 1001
- If restore damage to property, treat as return of basis –
Inaja Land
- If replace nothing, *Glenshaw Glass!*

Section 104(a)(2)

Requires personal physical injury

- Includes wrongful death

If no physical injury, no exclusion

- Exception: Reimbursement for medical expenses (e.g.,
psychiatrist)

If physical injury, damages for resulting emotional distress also
excluded

But not damages for harm to property

Punitive damages always included in gross income

Allocation problem